



COUNTY OF SANTA BARBARA

Planning and Development

Santa Barbara County Code Chapter 21 Land Division



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NOTE:

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APPENDIX A. TABLE OF ORDINANCES AMENDING CHAPTER 21A-1

ARTICLE I - SUBDIVISIONS**DIVISION 1 - IN GENERAL****Section 21-1. Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Generally: All words and terms used herein shall have the same meaning as defined and used in the California Subdivision Map Act except as herein provided.

ADVISORY AGENCY: Pursuant to the State Subdivision Map Act, Government Code Section 66415, the designated official or official body charged with the duty of making investigations and reports on the design and improvement of proposed divisions of real property, the imposing of requirements or conditions therein, or having the authority by this Chapter and/or State Subdivision Map Act to approve, conditionally approve or deny projects; also known as the decision-maker. *(Added by Ord. 4157, 5/3/94)*

BOARD OF SUPERVISORS: The Board of Supervisors of the County.

BORDER: That portion of the road right-of-way lying between the area designed for vehicle use and the right-of-way line.

BUILDING SITE: A validly created lot or parcel of land containing not less than the prescribed minimum area required by any applicable subdivision and zoning ordinance and regulations existing at the time of the creation of the lot or parcel and occupied or which can legally be occupied by buildings or structures.

CERTIFICATE OF COMPLIANCE: Issuance of a certificate by the County Surveyor pursuant to California Government Code Section 66499.35 stating that a parcel of land was created in compliance with the laws and ordinances in effect at the time of the creation of the parcel. *(Added by Ord. 4436, 11/20/01)*

COMPREHENSIVE PLAN: The Santa Barbara County Comprehensive Plan, including the Coastal Land Use Plan and all Community or Area Plans, as it may be amended by the Board of Supervisors from time to time. *(Added by Ord. 4805, 10/18/2011)*

CONDITIONAL CERTIFICATE OF COMPLIANCE: Issuance of a certificate by the County Surveyor pursuant to California Government Code Section 66499.35 stating that a parcel of land was not created in compliance with the laws and ordinances in effect at the time of the creation of the parcel. Conditions as authorized under Sections 66499.34 and 66499.36 of the California Government Code and defined by the Local Agency may be attached to the certificate. *(Added by Ord. 4436, 11/20/01)*

CONVERSION: A change in the form of ownership of a parcel of land, together with the existing buildings and structures, regardless of the present or prior use of such land, buildings and structures and of whether substantial improvements have been made to such buildings and structures, including conversion to two or more residential units or parcels in any of the following forms of ownership: a condominium, a community apartment project, a stock cooperative, a limited equity cooperative, or conversion to a mobile home subdivision.

COUNTY SURVEYOR: The person appointed by the Board of Supervisors as the County Surveyor. *(Added by Ord. 4805, 10/18/2011)*

DECISION-MAKER: The designated official or official body having decision-making jurisdiction under the authority of this Chapter and/or State Subdivision Map Act; also known as the advisory body. *(Added by Ord. 4157, 5/3/94)*

DIVISION, DIVISION OF LAND, OR DIVIDED: Any separation of land into two or more parts or

parcels or any modification or adjustment of lot lines.

DWELLING: A building or portion thereof designed for and occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily by one or more families and their guests and servants, but not including a boarding or lodging house, hotel, auto court, or trailer.

DWELLING UNIT: One or more rooms in a dwelling or multiple dwelling or apartment hotel used for occupancy by one family (including necessary servants and employees of such family) for living or sleeping, and having only one kitchen.

HIGHWAYS: Includes roads and streets. The terms street, road, and highway are used interchangeably and refer to the rights-of-way used or to be used for vehicular traffic and for pedestrian traffic, other than driveways or alleys.

INTERSECTION: The area embraced within the prolongation of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two roads which join one another at approximately right angles, or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.

LEASE: The renting of real property, but shall not include any lease which does not create a building site, such as, but not limited to, the renting of apartment units, offices, stores, or similar spaces within a building or separate buildings on a single parcel or agricultural, grazing, mineral, oil or gas leases or trailer spaces within trailer parks.

LOT LINE ADJUSTMENT: An adjustment of lot lines between two or more adjacent parcels, where the land, taken from one parcel is added to an adjacent parcel and where a greater number of parcels than existed is not thereby created.

MERGER: The joining of two or more lots or parcels of land by the elimination of a common property line. The resultant parcel shall be treated in all respects as a single, legal parcel. *(Added by Ord. 4436, 11/20/01)*

NONCONFORMING LOT: A lot the area, dimensions or location of which was lawful prior to the adoption of this chapter or any amendments hereto, or previously adopted County Zoning Ordinances, and which does not conform to the present regulations of the zoning district in which it is situated. *(Added by Ord. 4405, 9/12/00)*

OFFICERS: Whenever reference is made to some officer, board, or commission, department, or office, it shall mean an officer, board, commission, department, or office of the County unless otherwise specified; provided, however, that in the case of flood control matters, such reference shall be to the Flood Control and Water Conservation District of the County unless otherwise specified. All officers referred to herein shall mean the respective employees or department heads of the County or their duly authorized representative, unless a different intent is expressed herein.

MOBILE HOME: A trailer, transportable in one or more sections, with or without a permanent foundation and not including a recreational vehicle, commercial coach or factory-built housing.

MOBILE HOME RENTAL PARK: Any area or tract of land where two or more mobile home lots are rented, leased, or offered for rent or lease to accommodate mobile homes used for human habitation. The rental paid for any such mobile home shall be deemed to include rental for the lot it occupies.

MOBILE HOME SUBDIVISION: Any area or tract of land where two or more parcels are individually owned and used to accommodate mobile homes for human habitation, including, without limitation, individual ownership of underlying lots and shared ownership of common areas and facilities, or ownership of an individual interest in the land coupled with the right of exclusive occupancy of an individual lot.

MONTECITO COMMUNITY PLAN: That portion of Santa Barbara County located within the boundaries of the Montecito Community Plan as shown on the Montecito Community Plan Land Use Map. *(Added by Ord. 4805, 10/18/2011)*

OPENING OF A NEW STREET OR OPENING OF A NEW ROAD: The reservation of right-of-way or easement by map or deed, or the improvement of an existing unimproved right-of-way for the purpose of vehicular travel.

ORIGINAL PARCEL: An area of land under common ownership shown as a unit or as contiguous units on the latest available assessment rolls of the County not established as separate lots or parcels as provided in subsection (d) of Section 21-4.

OWNER: Any individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity having a legally protected interest in the land sought to be divided.

PLANNING COMMISSION: The Santa Barbara County Planning Commissions, including the Montecito Planning Commission. *(Amended by Ord. 4805, 10/18/2011)*

PLANNING DIRECTOR: The Director of the Planning and Development Department of the County. *(Added by Ord. 4805, 10/18/2011)*

STANDARD DETAILS: Those technical engineering drawings approved by the appropriate County officials.

STREET AND ROAD: Public and private rights-of-way which afford a means of vehicular access to property; provided, however, that a private easement, right-of-way, or extension thereof shall not be construed to be a "street" or "road" where such private easement, right-of-way or extension thereof cannot be reasonably expected to serve more than four existing or future building sites under the presently applicable zoning and subdivision regulations.

SUBDIVIDER: Any individual, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity commencing proceedings under this article to effect a subdivision and land hereunder for himself or for another.

SUBDIVISION: Any division of land subject to the provisions of this article. *(Amended by Ord. 1722, 6/1/66)*

ZONING ADMINISTRATOR: The Zoning Administrator of the County. *(Added by Ord. 4019, 2/21/92)*

Section 21-2. Title.

The regulations contained in this article shall be known and referred to as the "Subdivision Regulations of Santa Barbara County." *(Amended by Ord. 1722, 6/1/66)*

Section 21-3. Authority and Purpose.

This article is for the purpose of regulating the division and adjustment of the boundaries between adjacent lots, including merger, of land in the unincorporated area of the County of Santa Barbara pursuant to the requirements of the Subdivision Map Act of the State of California. In their interpretation and application, the provisions of this article shall be considered as minimum requirements adopted for the protection of the public peace, health, safety, and general welfare. *(Amended by Ord. 1722, 6/1/66; Ord. 4436, 11/20/01)*

Section 21-4. Applicability of Article. *(Amended by Ord. 3395, 8/8/83; Ord. 4436, 11/20/01)*

(a) This article shall apply to:

- (1) Any subdivision as the same now is or hereafter may be defined in Section 66424 of the California Government Code and any additions to, amendments of, or successors to Section

66424.

- (2) Any adjustment of the boundary line between two or more parcels of property which qualifies as a lot line adjustment pursuant to Section 66412 of the California Government Code.
 - (3) The merging of two or more lots or parcels of land.
 - (4) Certificates of compliance and conditional certificates of compliance.
 - (5) Modification of conditions of recorded and unrecorded maps and lot line adjustments.
- (b) This article shall not apply to leases which do not create separate building sites, nor to divisions defined in Sections 66412.1(a) and (b) of the California Government Code and any amendments or successors of such sections.
 - (c) This article shall not apply to any land dedicated for cemetery purposes under the Health and Safety Code, nor to the creation of probate homesteads pursuant to Probate Code Section 661 or successor sections, nor to boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party, nor to any separate assessment under Section 2188.7 of the Revenue and Taxation Code, nor to any division or conveyance of land for public utility purposes.
 - (d) The regulations of this article applicable to subdivisions, as defined in paragraph (a)(1) of this section, and shall not apply to any division of land as defined in Section 66426(a), (b), (c), and (d) of the California Government Code and any amendments or successors of such sections; provided, however, that the regulations of this article applicable to parcel maps shall apply to such divisions.
 - (e) Where a parcel of land was shown as separate parcels, each and every one of which was a gross area of 40 acres or more or each of which was a quarter-quarter section or larger, on a record of survey complying with the provisions of the Land Surveyor's Act, Business and Professions Code Section 8700 *et seq.* recorded in the Office of the County Recorder before March 20, 1972, and the creation of such parcel(s) by record of survey was authorized by law and the size of such separate parcels conformed to the zoning regulations applicable to the land on the date of such recording, no subdivision map shall be required to establish such parcels as separate and valid parcels.
 - (f) Where a lot or parcel of land was divided by a record of survey complying with the provisions of the California Government Code Section 66410 *et seq.*, the Land Surveyor's Act, Business and Professions Code Section 8700 *et seq.* and predecessor statutes or by deed or contract of sale recorded in the Office of the County Recorder prior to July 27, 1955, or by filing of a subdivision map or lot split plat or parcel map in the Office of the County Recorder, or by a lease made prior to July 27, 1955, which lot or parcel conformed to all subdivision and zoning ordinance requirements when created, no subdivision shall be required to establish such lot or parcel as a separate and valid lot or parcel pursuant to this article, provided, however, no such lot shall be considered to be an approved building site unless it conforms to the requirements of the applicable zoning ordinance when application for a building permit is made.
 - (g) Where the creation of a lot or parcel was exempted from the provisions of this article or its predecessor ordinances at the time that such lot or parcel was created, or where a lot or parcel was divided in conformity with this article or then applicable predecessor ordinance, no subdivision shall be required to establish such lot or parcel as a separate and valid lot or parcel pursuant to this article provided that for parcels divided by testamentary disposition, the division must have been accomplished by metes and bounds or surveyor's description and provided further that grants of easement or rights of way not consisting of a fee interest shall not be deemed to accomplish a division under such predecessor ordinances.

- (h) This article shall not apply to any division of land for the purpose of conveyance to or from a governmental agency, public entity, public utility, or for land conveyed to a subsidiary of a public utility for conveyance to that public utility for rights-of-way unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a tentative map and parcel map.
- (i) Where lots or parcels were divided or recombined in compliance with predecessor ordinances under circumstances not requiring the filing of a lot split plat or a tentative parcel map, a certificate of compliance may be issued for such divisions or recombinations notwithstanding that a later division or recombination occurred in compliance with predecessor ordinances, under circumstances not requiring the filing of a lot split plat or a tentative parcel map provided that the description of the parcel for which the certificate of compliance is sought is consistent with the property description of the most recent recorded deeds or records of survey describing or affecting the property. Where such conformity does not exist, a certificate of compliance shall be issued only for the latest division or recombination within the period during which a lot split plat or tentative parcel map was not required to accomplish the division or recombinations.
- (j) This article shall not apply to the renting or leasing of an attached residential second unit constructed in accordance with the applicable zoning ordinance, nor to the renting or leasing of the principal structure, provided, however, that this exemption shall not apply to the financing or sale of the attached residential second unit or the principal structure separately from each other.

Section 21-5. Prohibitions. *(Amended by Ord. 3077, 11/15/79; Ord. 4436, 11/20/01)*

- (a) No map or any division of land subject to the provisions of this article shall be endorsed or approved by any County officer, employee, or agent and no County officer, employee, or agent is authorized to approve the same unless it has been prepared and submitted in accordance with, and complies fully with, the provisions of this article.
- (b) No persons shall offer to sell or lease, to contract to sell or lease, to sell or lease, or to finance any parcel or parcels of real property or to commence construction of any building for sale, lease, or financing thereon except for model homes, or to allow occupancy thereof, for which a Final or Parcel Map is required by the State Subdivision Map Act or this article, until such map thereof in full compliance with the provisions of said Act and article has been filed for record by the recorder of the County.
- (c) Conveyances of any part of a division of real property for which a Final or Parcel Map is required by the State Subdivision Map Act or this article shall not be made by parcel or block number, initial or other designation, unless and until such map has been filed for record by the recorder of the County.
- (d) This section does not apply to any parcel or parcels of a subdivision offered for sale or lease, contracted for sale or lease, or sold or leased in compliance with or exempt from any law (including this article) regulating the design and improvement of subdivisions in effect at the time the subdivision was established.

Section 21-6. Discretionary Decision-Maker Jurisdiction and Designation of Responsibility.
(Amended by Ord. 4157, 5/3/94; Ord. 4436, 11/20/01)

- (a) **Planning Commission or Zoning Administrator.** The Planning Commission shall be the decision-maker, except that within the area of Santa Barbara County located outside of the Montecito Community Plan area the Zoning Administrator shall be the decision-maker for the following:
 - (1) Tentative Parcel Maps that are determined by the County to be exempt from environmental

review;

- (2) Lot Line Adjustments, as defined in State Subdivision Map Act, California Government Code Section 66412(d), and modification of approved lot line adjustments, of parcels located within the Rural Area and Existing Developed Rural Neighborhoods, as designated by the Santa Barbara County Comprehensive Plan, that do not exceed a 10 percent increase or decrease in the area of the smallest existing parcel.
- (3) Lot Line Adjustments, as defined in State Subdivision Map Act, California Government Code Section 66412.(d), and modification of approved lot line adjustments, of parcels located within the Urban and Inner-Rural Areas as designated by the Santa Barbara County Comprehensive Plan that result in four or fewer parcels.
- (4) Modifications to approved tentative and recorded maps, where the map is under the approval jurisdiction of the Zoning Administrator, pursuant to this Section and unrecorded lot splits approved pursuant to Ordinance 791 as amended; and
- (5) Conditional Certificates of Compliance.

The Planning Commission or Zoning Administrator shall make such investigations, reports, and recommendations as are necessary to accomplish the intent and purposes of this Chapter and shall have the authority to approve, conditionally approve, or deny projects within their respective jurisdictions. The action of the Planning Commission or Zoning Administrator shall be final unless appealed to the Board of Supervisors as provided in Section 21-71.4 (Appeals). *(Amended by Ord. 4019, 2/21/92; Ord. 4157, 5/3/94; Ord. 4436, 11/20/01; Ord. 4805, 10/18/2011)*

- (b) **Board of Supervisors.** The Santa Barbara County Board of Supervisors shall be the decision-maker for all Final Maps bearing the County Surveyor's statement, all tentative maps including tentative parcel maps which are companion to other discretionary cases under the approval jurisdiction of the Board of Supervisors, and shall have jurisdiction for all appeals of decisions under this Chapter by the Zoning Administrator, County Surveyor or Planning Commission, as provided in Article I, Division 10, Section 21-71.4. (Appeals). *(Added by Ord. 4157, 5/3/94; Amended by Ord. 4436, 11/20/01)*
- (c) **Applications That Are Within The Jurisdiction of More Than One Decision-Maker.** When two or more discretionary applications are submitted that relate to the same project, pursuant to either this Chapter 21 or Chapter 35 of the Santa Barbara County Code, and the applications would be under the separate jurisdictions of more than one decision-maker, all applications for the project shall be heard by the decision-maker with the highest jurisdiction as follows:
 - (1) Board of Supervisors
 - (2) Planning Commission.
 - (3) Zoning Administrator.

If the Board of Supervisors is the decision-maker on a tentative map including tentative parcel map due to a companion discretionary application(s) under Articles II, III or IV of the County Code, then either the Planning Commission or Zoning Administrator which would otherwise have had jurisdiction over the tentative map including tentative parcel map, shall make an advisory recommendation to the Board of Supervisors. *(Added by Ord. 4157, 5/3/94; Amended by Ord. 4436, 11/20/01)*

- (d) **Planning Director.** The Planning Director or designee shall be responsible for the following:
 - (1) Processing applications through the public hearing and review process, including notifying and furnishing information to the affected persons and agencies as provided herein, presenting material and data to the decision-maker and making recommendations regarding approval,

approval with conditions or denial of the application, and for ensuring compliance with the conditions of approval and the requirements of this Chapter, as such conditions and requirements relate to compliance with the Comprehensive Plan, Chapter 35 of the Santa Barbara County Code, and other relevant planning documents, for the following:

- (a) Subdivisions;
 - (b) Lot Line Adjustments;
 - (c) Modifications to approved tentative and recorded maps, unrecorded lot splits approved pursuant to Ordinance 791 as amended and approved lot line adjustments; and
 - (d) Conditional Certificates of Compliance *(Amended by Ordinance 3346, 11/20/01)*
- (2) Making recommendations relative to grading, building setbacks from natural and manmade slopes, earth stability, soil erosion control and parcel drainage, and for inspection and ensuring compliance with the Conditions of Approval and requirements of this Chapter pertaining to such items. *(Added by Ord. 4157, 5/3/94)*
- (e) **Director of Public Works.** The Director of Public Works or designee, shall be responsible for making recommendations relative to roads, improvements within road rights-of-way and drainage affecting roads, and for inspecting and ensuring compliance with the conditions of approval and the requirements of this Chapter pertaining to such items. *(Amended by Ord. 4157, 5/3/94)*
 - (f) **Health Officer.** The County Health Officer, or designee, shall be responsible for making recommendations relative to water supply, sewage disposal, and other matters affecting health, and for inspecting and ensuring compliance with the conditions of approval and the requirements of this Chapter pertaining to water supply, sewage disposal and health requirements. *(Amended by Ord. 4366, 11/20/01)*
 - (g) **Flood Control and Water Conservation District Director.** The Flood Control and Water Conservation District Director, or designee, shall be responsible for making recommendations relative to control of flooding, drainage ways, and erosion control and for inspecting and ensuring compliance with the conditions of approval and the requirements of this Chapter pertaining to such items. *(Amended by Ord. 4157, 5/3/94)*
 - (h) **Fire Chief.** For projects within the County Fire Protection District, the Fire Chief or designee shall be responsible for making recommendations relative to fire prevention and means for controlling fires and for inspecting and ensuring compliance with the conditions of approval and the requirements of this Chapter pertaining to such items. For projects outside of the County Fire Protection District, the appropriate Fire Chief, or designee, shall be responsible for making recommendations relative to fire prevention and means for controlling fires.
 - (i) **Parks Director.** The Parks Director or designee shall be responsible for making recommendations relative to open space and improvements thereof, specimen trees to be preserved, landscaping in accordance with development plans and inspecting and ensuring compliance with the conditions of approval and the requirements of this Chapter pertaining to such items.
 - (j) **County Surveyor.** The County Surveyor or designee shall be responsible for coordinating recommendations of various County departments concerned with Final or Parcel Maps, lot line adjustments, and conditional certificates of compliance and clearances after the decision-maker has approved the particular tentative map, lot line adjustment or conditional certificate of compliance concerned. The County Surveyor, or designee, shall also be responsible for the approval of voluntary mergers and certificates of compliance, and for determining whether an application for a certificate of compliance shall be filed as a conditional certificate of compliance.

In the case of determining whether an application for a certificate of compliance for a parcel that is a remainder of a subdivision of land by a government agency, the County Surveyor may make this determination in consultation with the Director of the Planning and Development Department. *(Amended by Ord. 4436, 11/20/01; Ord. 4805, 10/18/2011)*

- (k) **County Administrator.** The County Administrator, or designee, shall be responsible for making recommendations for annexation to County service areas, adhering to the County street lighting policy and ensuring compliance with the conditions of approval and requirements of this Chapter pertaining to such items. *(Amended by Ord. 1722, 6/1/112; Ord. 2199, 7/1/71; Ord. 4157, 5/3/94; Ord. 4436, 11/20/01)*
- (l) **Subdivision/Development Review Committee.** *(Added by Ord. 4436, 11/20/01)*
- (1) A Subdivision/Development Review Committee is hereby established and shall have the following powers, duties, and authorities:
- (a) To consider and make recommendations upon (1) subdivision maps, both tentative and Final or Parcel Maps, (2) lot line adjustments, (3) conditional certificates of compliance, and (4) modifications to recorded maps, unrecorded lot split plats approved pursuant to Ordinance No. 791 as amended and approved lot line adjustments, as provided in this Chapter.
 - (b) To consider and make recommendations upon development plans, specific plans and conditional use permits pursuant to the provisions of Articles II, III and IV of Chapter 35 of the Santa Barbara County Code as the same may now exist or may hereafter be amended or codified.
 - (c) To consider and coordinate recommendations of County departments on all matters which may hereafter be assigned to the Subdivision/Development Review Committee by the Director of Planning and Development, the Zoning Administrator, the Planning Commission or the Board of Supervisors.
- (2) The Subdivision/Development Review Committee shall have nine members who shall be personnel of the following County offices and/or departments:
- (a) **Planning and Development Department:** The Director and the Building Official or their designated representatives.
 - (b) **Public Works Department:** The Deputy Director of Roads/Transportation and the Deputy Director of Flood Control/Water Resources or their designated representatives.
 - (c) **Surveyor's Office:** The County Surveyor or designated representative.
 - (d) **Public Health Department:** The County Health Officer or designated representative.
 - (e) **Fire Department:** The Fire Chief or designated representative.
 - (f) **Parks Department:** The Director or designated representative.
 - (g) The Director of the Air Pollution Control District or designated representative.
- Other County officers and their assistants and deputies may sit as advisory members.
- (3) The following rules shall apply to the Subdivision/Development Review Committee:
- (a) Subdividers and all applicants and their agents, surveyors, engineers and representatives shall be entitled to be present at meetings and to discuss with the committee its recommendations and proposed reports.
 - (b) The Subdivision/Development Review Committee is hereby authorized to establish such

additional rules or procedure and elect such officers as it deems appropriate to carry on its business.

- (c) Each member of the Subdivision/Development Review Committee shall make a written report to the decision-maker as to any recommendations it may have with respect to the subdivision, lot line adjustment, modifications to recorded maps, unrecorded lot split plats approved pursuant to Ordinance No. 791 as amended and approved lot line adjustments, or conditional certificates of compliance and its bearing on the functions of that department or agency. One copy of each such report shall be forwarded to the subdivider and one copy to the subdivider's surveyor or engineer at least seven calendar days prior to the date the decision-maker agency is to take action.
- (m) The decision-maker shall approve, conditionally approve, or disapprove the subdivision map, both tentative and Final or Parcel Maps, lot line adjustment, merger, certificate of compliance, conditional certificates of compliance, and modifications to recorded maps, unrecorded lot split plats approved pursuant to Ordinance No. 791 as amended and approved lot line adjustments within the time allowed by the applicable provisions of the California Government Code as the same now are or may hereafter be amended, or within any additional time agreed to by the subdivider. The decision-maker shall report its action, in writing, to the subdivider, the subdivider's surveyor or engineer, and to each department or agency of the County concerned with conditions of approval imposed by the decision-maker. At this time, the decision-maker shall indicate all streets that are not intended to be offered for dedication as public streets on the Final Map, and all streets which are to be offered for dedication but not to be accepted at the time of approval of the Final Map. *(Added by Ord. 4436, 11/20/01)*

DIVISION 2 PROCEDURE FOR SUBDIVISION AND FORMS OF MAPS, FILING BONDS AND DEDICATION OF STREETS

Section 21-7. Submission of Tentative Maps Including Tentative Parcel Maps. *(Amended by Ord. 4436, 11/20/01)*

- (a) Prior to the preparation of the tentative map, the subdivider or his engineer or surveyor shall consult with representatives of the departments charged with review of such maps to determine requirements affecting the basic design of the subdivision such as zoning regulations, connections with existing streets, and pertinent subdivision standards.
- (b) Prior to the first meeting of the Subdivision/Development Review Committee at which the tentative map is to be considered, the subdivider or his engineer or surveyor is encouraged to consult with representatives of the departments charged with review of such map to discuss details of the subdivision, and obtain preliminary departmental recommendations in an effort to reach agreement on such recommendations, bearing in mind that such recommendations may be modified by action of the Subdivision/Development Review Committee.
- (c) Sixteen copies of the tentative map, prepared in accordance with the State Subdivision Map Act and the provisions of this article shall be submitted to the Planning Director who shall examine such map and accompanying material for compliance with the law and with this chapter. One additional map shall be submitted for each subdivision located within three miles of an incorporated city, and one additional map shall be submitted for each subdivision located adjacent to an existing state highway or to a state highway alignment approved by the state department of transportation.
- (d) At the time a tentative map is submitted to the Planning Director, it shall be accompanied by:
 - (1) Fees in amounts to be determined by resolution of the Board of Supervisors to cover the costs of processing a subdivision map.
 - (2) Two copies of a preliminary title report no older than 60 days from a title insurance company showing the record owner or owners and the recording data of the most recent trust deeds and existing easements affecting the property. If the subdivider is not the owner, he shall also submit satisfactory evidence that he has authority from the owner to subdivide the property.
 - (3) Eight copies of a letter addressed to the Planning and Development Department requesting approval of the tentative map and submitting essential information concerning the following:
 - (a) Subdivision development plan including existing and proposed uses of land and proposed zoning if applicable, including areas reserved or offered for open space, park, or recreational use.
 - (b) A list of the street improvements the subdivider proposes to install, such as paving, curbs and gutters, sidewalks, street trees, street name signs, stop signs, street lighting, and fire hydrants.
 - (c) The source of domestic water supply and the method of providing an adequate water supply to each lot. If the source is other than a recognized water district or company, the subdivider shall submit with the tentative map a copy of a letter to the County Health Officer indicating the quality and quantity of water available to the subdivision and requesting approval therefore, a copy of such approval to be forwarded to the Planning Director.
 - (d) The proposed method of sewage disposal. If connection to an existing sewage disposal system is proposed, the subdivider shall submit with the tentative map a copy of a letter

to the district operating such system requesting approval of such connection, a copy of such approval to be forwarded to the Planning Director.

- (e) Other utilities which are to serve the subdivision. The subdivider shall submit with the tentative map a copy of a letter to each utility company and agency requesting submission of utility easement requirements to the Planning Director and a copy of the reply of each affected utility company and agency. The subdivider shall be responsible for furnishing maps required for review by utility companies or agencies, including water and sanitary districts.
 - (f) Proposed drainage and flood control easements and facilities not shown on the tentative map, both within and outside of street rights-of-way, including methods of controlling erosion.
 - (g) Where any exceptions to the requirements of any applicable zoning or subdivision regulations are contemplated, such as lot area, lot width, or front, side, or rear yards around buildings, the subdivider shall so indicate either in the letter or on the map, giving reasons therefore. Failure to so indicate shall be evidence that no such exceptions are intended.
- (4) A preliminary soil report prepared by a civil engineer registered as such by the state and based upon test borings or excavations deemed adequate by the Planning Director. Such preliminary soil report may be waived by the Planning Director if, because of knowledge he has as to the soil qualities of the subdivision or lots in question, the Planning Director determines that no preliminary analysis is necessary.
 - (5) A preliminary geological report by an engineering geologist, certified as such by the state, may be required by the Planning Director.
 - (6) A preliminary grading plan showing the location and magnitude of all cuts and fills that will result from the street and lot development of the proposed subdivision shall be provided when natural slopes of 10 percent or steeper occur within the area to be subdivided.
- (e) After endorsing all copies of the tentative map as having been received, the Planning Director shall immediately forward copies of the map and accompanying letter as follows:
 - (1) County Surveyor (1 map, 1 letter, 1 preliminary title report);
 - (2) County Health Officer (1 map, 1 letter);
 - (3) County Flood Control Engineer (1 map, 1 letter);
 - (4) County Fire Chief (3 maps, 1 letter);
 - (5) County Superintendent of Schools (1 map);
 - (6) Director of Public Works (2 maps, 2 letters);
 - (7) County Parks Director (1 map, 1 letter);
 - (8) Planning and Development Department (1 map, 1 letter);
 - (9) The appropriate official of any incorporated city which has requested an opportunity to review subdivisions within the area in which the subdivision is located (1 map, 1 letter); and
 - (10) The district engineer of the California State Department of Transportation if the subdivision is adjacent to an existing state highway or to a state highway alignment approved by the California State Department of Transportation (1 map).

Section 21-8. Form of Tentative Map Including Tentative Parcel Maps and Requirements for Approval. *(Amended by Ord. 4436, 11/20/01)*

- (a) The tentative map including tentative parcel map shall be drawn at such scale preferably not less than one inch equals 100 feet so as to show all details and dimensions clearly and shall show:
- (1) The number of the subdivision, date, north arrow, scale, acreage of the property proposed for subdivision, number and average size of lots, and sufficient description to identify the property to be subdivided with respect to maps or documents of record, including but not limited to a description of the property by parcel number or numbers as assigned by the latest available County Assessor's maps;
 - (2) Printed names of the owner, subdivider and the registered civil engineer licensed to practice land surveying or licensed land surveyor with their respective addresses, zip codes and telephone numbers;
 - (3) A small-scale vicinity map showing the location of the property proposed for subdivision and its relation to surrounding streets and identifying landmarks;
 - (4) The exterior boundary lines of the original parcel or parcels with dimensions based on the latest record document;
 - (5) The location, names, widths, approximate grade and curve radii of all existing and proposed roads, streets, street intersections and alleys within or abutting the boundaries of the subdivision;
 - (6) The location, width, nature, and status of all existing and proposed easements, reservations, and rights-of-way, whether or not of record, to which the property within the subdivision is or will be subject. Where of record, each shall be clearly identified by reference to the accompanying preliminary report of title;
 - (7) The proposed division lines with dimensions, the net and gross area as defined in Chapter 35 of the Santa Barbara County Code, of each new lot created by such division and a parcel number designated on each new lot;
 - (8) The location of any existing surface structures and subsurface structures within the proposed subdivision, including but not limited to water wells, septic systems (leach lines, seepage pits and septic tanks), storm drains, active and abandoned oil wells, including their dimensions, the distance between structures, the number of stories or the height of each structure and a notation as to which buildings or structures are to be removed. If any surface structure or building is to remain, the distance from all surface structures to the boundary lines of the new parcel on which the structures are located shall be shown;
 - (9) Contour lines at five-foot intervals where average slopes exceed or equal six per cent and at two-foot intervals where average slope is less than six percent. Contour lines should extend one hundred feet beyond the tract boundary. Datum for elevations shall be indicated on the map;
 - (10) The location, width, depth, and direction of flow of all existing watercourses either within or adjacent to the boundary lines of the proposed subdivision and watercourses proposed to be established into which storm waters are to be discharged and the approximate boundaries of areas subject to inundation;
 - (11) Streets, parks, and other areas to be offered for dedication;
 - (12) Typical cross-section of proposed streets, with improvements if at variance with County

standards;

- (13) Typical lot grading and drainage plans showing finished ground floor elevations and methods of conveying drainage water from the lot, unless first waived in writing by the Director of Public Works.
- (14) The source of water and method of sewage disposal shall be noted on the map.
- (15) In the case of a tentative map that requires the recordation of a Parcel Map, the following certificate signed by the legal owner or authorized agent of the owner of the property being divided. If the agent signs, a letter of authorization shall be submitted which is signed by all owners of record.

I hereby apply for approval of the division of real property shown on this plat and certify that I am the legal owner of said property and that the information shown hereon is true and correct to the best of my knowledge and belief.

Date: _____

Signed: _____

Printed Name: _____

Street: _____

City: _____

State: _____ Zip Code: _____

- (b) The decision-maker is hereby authorized to apply, among others, the following requirements as conditions to approval of a tentative map including tentative parcel map if, in the opinion of the decision-maker, the location and nature of the subdivision and the proposed street widths, grades, and alignments indicate the need for such requirements:
 - (1) Improvement of streets with curbs, gutters, cross-gutters, sidewalks, paving, street name signs, stop signs, street lights, fire hydrants, and street tress, and provision for their maintenance, and installation of utilities underground as provided by Resolution No. 24416 of the Board of Supervisors and any successors thereto;
 - (2) Revision and alignment of streets to provide access to adjacent properties or to connect with existing or proposed streets outside the subdivision;
 - (3) Offer of dedication for public use of all streets and other parcels of land for public use;
 - (4) Connection to existing sewerage systems. Submission of percolation tests or other information for design of individual sewage disposal systems, water distribution systems, and other utilities, and installation of fire hydrants recommended by the Fire Chief or the appropriate fire district;
 - (5) Erosion control planting and structures, with provision for the maintenance of planting until growth is established;
 - (6) Support of cut and fill slopes by adequate retaining walls of concrete or masonry or other material approved by the Planning and Development Department;
 - (7) On-site and off-site drainage and drainage structures including underground pipelines, necessary to the proper use, protection and maintenance of streets and other property;
 - (8) Off-tract improvements wherever, in the opinion of the decision-maker, such improvements are required for the health, safety, and welfare of the prospective residents of the subdivision

or where conditions necessitating such improvements are caused or aggravated by the proposed subdivision;

- (9) Widening and improvement of existing roads abutting the subdivision;
 - (10) Installation of fences, walls, planting and maintenance of trees and shrubs where lots are adjacent to existing or proposed road right-of-way, railroad, or property used for public purposes. Planting strips may be required, where appropriate;
 - (11) Submission of a final grading plan showing the finish grade of all building pad areas, and the location of all proposed structures thereon, the depth, extent and slope of all cuts and fills and the finish grades of streets and structures prior to consideration of the Final Map;
 - (12) Application to the Board of Supervisors for the formation of or annexation to appropriate special districts to render services to the subdivision and its occupants including, but not limited to, County service areas, street lighting districts, sanitary and sanitation districts, water districts, and vector control districts;
 - (13) If the preliminary soil report indicates the presence of critically expansive soils or other soil problems, which if not corrected would lead to structural defects, a soil investigation shall be made and prepared by a civil engineer registered as such by the state of each lot in the subdivision. The investigation shall include a recommendation or recommendations for corrective action which is likely to prevent structural damage to each dwelling proposed to be constructed. Such corrective action may be required by the Planning and Development Department or, in lieu thereof or in addition thereto, other reasonable corrective action approved by the Planning and Development Department may be required as a condition for the issuance of any building permits for buildings on such unsafe soil in the subdivision. Appeal from such determination by the Planning and Development Department shall be to the local appeals board, or, if none has been designated, directly to the Board of Supervisors.
 - (14) Retention of specimen trees or other trees determined to be of historical or scenic value.
 - (15) Monumentation of existing and/or proposed public rights-of-way and easements as determined by the County Surveyor.
- (c) The following, among others, shall be cause for disapproval of a tentative map including tentative parcel maps, but the tentative map may nevertheless be approved in spite of the existence of such conditions where circumstances warrant: *(Amended by Ord. 2465, 8/16/73)*
- (1) Easements or rights-of-way along or across proposed County streets which are not expressly subordinated to street widening, realignment, or change of grade by an instrument in writing recorded, or capable of being recorded, in the Office of the County Recorder, provided, however, that the Director of Public Works may approve such easements or rights-of-way without such subordinations. Easements or rights-of-way shall not be granted along or across proposed County streets before filing for record of the final subdivision map by the County Recorder, unless the Director of Public Works shall approve such grants. If the Director of Public Works does not grant such approvals within fourteen days from the date they were requested, they shall be deemed to have been refused. Appeal from refusal of the Director of Public Works to grant such approvals may be made in writing to the Board of Supervisors, which may overrule the Director of Public Works and grant such requested approvals in whole or in part.
 - (2) Lack of adequate width or improvement of access roads to the property; creation of a landlocked lot or parcel without frontage on a street or other approved ingress and egress from

the street;

- (3) Cuts or fills having such steep slopes or great heights as to be unsafe under the circumstances or unattractive to view;
 - (4) Grading or construction work on any proposed street or lot. Grading or construction work shall not be commenced prior to recordation of the Final or Parcel Map without specific authority granted by and subject to conditions approved by the Board of Supervisors;
 - (5) Potential creation of hazard to life or property from floods, fire, or other catastrophe;
 - (6) Nonconformance with the County's Comprehensive Plan or with any alignment of a state highway officially approved or adopted by the State Department of Transportation;
 - (7) Creation of a lot or lots which have a ratio of depth to width in excess of 3 to 1;
 - (8) Subdivision designs with lots backing up to watercourses.
- (d) A tentative map including tentative parcel map shall not be approved if the decision-maker finds that the map design or improvement of the proposed subdivision is not consistent with this Chapter, the requirements of the State Subdivision Map Act, California Government Code Section 66410 *et seq.*, the County's Comprehensive Plan, the applicable zoning ordinance, or other applicable County regulations. *(Amended by Ord. 3551, 2/18/86; Ord. 4157, 5/3/94)*
- (e) Prior to recordation of the Final or Parcel Map, the subdivider shall furnish the following information to the Public Works Director, Flood Control Engineer, and Building Official:
- (1) Complete plans and specifications, including elevations and grades, for any roads, culverts, drainage ways, bridges, or structures necessary for drainage, erosion control, traffic circulation, or public safety;
 - (2) Any other information required by the conditional approval of the decision-maker.
- (f) When submitting a tentative map for the subdivision of only a portion of a separate legal lot, the subdivider, unless otherwise directed by the Subdivision/Development Review Committee, shall submit a possible future development plan of remaining portions of the lot on a topographic map. This plan shall indicate a general layout of streets in dotted or dashed lines and shall be clearly labeled: "NOT A PART." Approval of the tentative map shall not constitute approval of the possible future development plan. *(Amended by Ord. 1722, 6/1/66)*

Section 21-9. Form of Final Map and Parcel Map. *(Amended by Ord. 4157, 5/3/94; Ord. 4436, 11/20/01)*

After the approval of the tentative map including tentative parcel map by the decision-maker, the subdivider may cause a Final or Parcel Map to be prepared. As many copies of the proposed Final or Parcel Map as may be required by the County Surveyor and other applicable County departments and agencies, shall be submitted to each department or agency responsible for approving or reviewing such map. The proposed Final Map shall be prepared in accordance with Article 2 of Chapter 2 of the State Subdivision Map Act and in accordance with the completed survey of the subdivision based upon a field survey of the boundaries of the subdivision made as required by law. The proposed parcel Map shall be prepared in accordance with Article 3 of Chapter 2 of the State Subdivision Map Act and in accordance with the completed survey of the subdivision based upon a field survey or from compiled recorded data if authorized by the County Surveyor. Both proposed Final or Parcel Maps shall be prepared according to the following standards:

- (a) **Sizes and material.** The Final or Parcel Map shall be clearly and legibly drawn upon tracing cloth

or polyester film of good quality. All lines, letters, figures shall be printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. The size of the sheets of tracing cloth or polyester film shall be eighteen by twenty-six inches, leaving an entirely blank margin of one inch from the edges of the sheets. The Final or Parcel Map number and all drawings, affidavits, statements, acknowledgements, endorsements, acceptances of dedication, and notarial statement must be within the margin line. The scale shall be not less than one inch equals 60 feet unless approved otherwise by the County Surveyor prior to the first submittal of the Final or Parcel Map in order to show the details clearly and enough sheets shall be used to accomplish this end. Each sheet shall be numbered “# of # sheets”. The relation of one sheet to another shall be clearly shown and the number of sheets used shall be set forth in the title of the map.

- (b) **Title.** The first sheet shall contain the Final or Parcel Map number conspicuously placed. Below the Final or Parcel Map number shall be a subtitle consisting of a general description of all the property being subdivided, by reference to deeds or to maps which have been recorded or to official United States surveys. References to tracts and subdivisions shall be spelled out and worded identically with original records, with complete reference to proper book and page of such record.

Maps filed for the purpose of reverting subdivided land to acreage shall be so designated on the title sheet by an appropriate note containing the words "MAP OF VACATION" followed by "REVERSION TO ACREAGE."

Every sheet, other than the title sheet, shall bear the Final or Parcel Map number (but no subtitle), scale, north arrow, the basis of bearings (or reference to), legend and sheet number.

- (c) **Statements.** A statement of the licensed surveyor or civil engineer licensed to practice land surveying, accompanied by his seal, shall appear stating to the accuracy of the Final or Parcel Map and of all data shown thereon. In addition, there shall be such other certificates or statements as may be required by law including:
- (1) Statement of owner, consenting to subdivision (Final and Parcel Maps).
 - (2) Statement of owner, offering to dedicate streets and other lands and reserving the right to convey easements to public utilities as shown on such map.
 - (3) Clerk of the Board of Supervisors' statement indicating official approval of the Final or Parcel Map and acceptance of dedications.
 - (4) Statement of County Surveyor indicating that the Final or Parcel Map complies with state law and local ordinance.
 - (5) Statement of the County Recorder accepting the Final or Parcel Map for recordation.
- (d) **Surveying data for lots.** Sufficient data shall be shown to determine readily the bearing and length of every lot line, block line, easement line and boundary line. Linear dimensions shall be expressed in feet and decimals of a foot. Dimensions of lots shall reflect net and gross dimensions as defined by Chapter 35 where applicable. All lots more shall show net and gross acreage to nearest hundredth, where applicable. Length, radius, and total delta of all curves and the bearing of radial lines to each non-tangent curve shall be shown. All data shall be shown upon the line or segment of curve to which it pertains unless different is authorized by the County Surveyor. Bearings and distances shall be given for all lines.
- (e) **Surveying data for streets.** The Final or Parcel Map shall show the center lines of all streets, the total width of each street, the width of the portion being dedicated, and the width of existing

dedication, and the widths each side of the center line, also the width of railroad right-of-ways, flood control or drainage channels, and of any other easements appearing on the map. Where streets are to be private or public easements, sidelines of lots shall be shown as solid lines to centerline of street and sidelines of streets shown as broken lines. Where streets are to be public (fee), the sidelines of lots common with the streets shall be shown as solid lines.

- (f) **Record easements.** The Final or Parcel Map shall show the lines of all easements to which the lots are subject. If the easement is not definitely located of record, a statement of the easement shall appear on the title sheet. Easements for storm drains, sewers and other purposes shall be denoted by fine dashed lines. Distances and bearings on the sidelines of lots which are cut by an easement shall be arrowed or so shown that the Final or Parcel Map will indicate clearly the actual lengths of the lot lines. The width of the easement or the lengths and bearings of the lines thereof and sufficient ties to locate the easement definitely with respect to the individual lots and the subdivision shall be shown. The easement shall be clearly labeled and identified, and if already of record, proper reference to the records given, including the name of the current easement holder if available, nature, and recording information. Easements for public utilities shall be so designated on the Final or Parcel Map. If an easement is being dedicated by the Final or Parcel Map, it shall be properly set out in the owner's certificate of dedication. All easements whether existing or created by the Final or Parcel Map shall be labeled as public or private.
- (g) **Existing monuments.** The Final or Parcel Map shall show clearly what stakes, monuments, or other evidence was found to determine the boundaries of the subdivision. The corners of all adjoining subdivisions or portions thereof shall be identified by lot number, tract number, and place of record with all found monuments being shown with measured data thereto (both record and measured data shall be shown), or by section, township, and range, or by other proper designation.
- (h) **Established lines.** Wherever the County Surveyor or a city engineer has established the center line of a street or alley, that data shall be shown on the Final or Parcel Map, indicating all monuments found and making proper references to field books or maps bearing records of surveys of such monuments. If the points were reset by ties, that fact shall be stated. The Final or Parcel Map shall show all city boundaries crossing or adjoining the subdivision clearly designated and tied in.
- (i) **Lot and block identification.** There shall be no separate identification by individual blocks within a subdivision. All lots within a subdivision shall be numbered consecutively without omission or duplication of numbers, except street "denial" strips shall be shown as parcels with an alphabetical letter designation for each. Each lot shall be shown entirely on at least one sheet.
- (j) **Private Restrictions.** Any private restrictions to be shown on the Final or Parcel Map or reference to them made therein shall be accompanied by proper acknowledgements of owners and mortgagees accepting such restrictions.
- (k) **Open spaces.** All open spaces shall be designated by the letters "O.S." or words "open space" on the Final or Parcel Map. *(Amended by Ord. 1722, 6/1/66; Ord.. 2199, 7/1/71)*
- (l) **Dedications.** Easements being created by the Final or Parcel Map shall state if they are public or private in nature. All offers of dedication shall state if they are public or private in nature.
- (m) **Monuments.** All monuments shall be set in accordance with the monumentation policy as defined herein. In the case of Final Maps, all monuments shall be set within one year after recordation of the map. In the case of Parcel Maps, all monuments shall be set prior to recordation.
- (n) **Basis of Bearings.** The acceptable methods used to determine a basis of bearings are:
 - (1) Astronomic observation.

- (2) A line, appearing between two found monuments, shown on a recorded map.
- (3) California Coordinate system as defined and regulated by the California Public Resources Code Section 8801 *et seq.*
- (o) Additional mapping standards consistent with this ordinance and state laws may be established by the County Surveyor by guidelines as necessary.
- (p) **Survey procedures.** Where the real property being subdivided is described by sectionalized description, the surveying procedure used to establish the boundary of the Final or Parcel Map shall follow the procedures as defined by the Manual of Instructions for the Survey of Public Lands of the United States, 1973 or its successor.
- (q) **Distinctive Border.** Both Final and Parcel Map shall delineate the land to be included within the subdivision by distinctive symbol or heavier line weight and clearly designated as such.

Section 21-9.1. Separate Document to Record Additional Information. *(Added by Ord. 3618, 1/24/86)*

- (a) In accordance with Section 66445(g) and Section 66434(f) of the California Government Code, on or after January 1, 1987, no additional survey or map requirements shall be included on a Parcel Map which do not affect record title interests. However, the map shall contain a notation of reference to survey and map information required by this Section.
- (b) Pursuant to the State Subdivision Map Act, Government Code Section 66434.2., additional information may be required in the form of a separate document or an additional map sheet to be filed or recorded simultaneously with a Final or Parcel Map. The additional information shall be in the form of a separate document or an additional map sheet which shall indicate its relationship to the Final or Parcel Map, and shall contain a statement that the additional information is for informational purposes, describing conditions as of the date of filing and is not intended to affect record title interest. The document or additional map sheet may also contain a notation that the additional information is derived from public records or reports, and does not imply the correctness or sufficiency of those records or reports by the preparer of the document or additional map sheet.

Additional survey and map information may include, but shall not be limited to: building setback lines, flood hazard zones, seismic lines and setbacks, geologic mapping and archaeological sites.
(Amended by Ord. 4157, 5/3/94)

- (c) A Final Map or Parcel Map for a subdivision approved prior to January 1, 1987, and conditioned on recordation of additional information thereon, shall be found in substantial compliance with the previously approved tentative map provided the required additional information is separately recorded pursuant to Section 21-9.1(b).

Section 21-10. Submission of Final Maps and Parcel Maps. *(Amended by Ord. 4436, 11/20/01)*

An approved or conditionally approved tentative map including tentative parcel map shall expire 36 months after its approval or conditional approval by the decision-maker unless otherwise provided pursuant to State Subdivision Map Act, California Government Code Section 66452.6. *(Amended by Ord. 3331, 9/20/82; Ord. 4157, 5/3/94)*

To record a Final or Parcel Map, a subdivider shall submit to the County Surveyor two prints of the proposed Final Map; traverse sheets giving latitudes and departures, showing the mathematical closure within the allowable limits of error (1:25000 or +/- 0.02' whichever is greater) of the exterior boundaries of the subdivision, blocks to the center of adjoining streets and all lots whose closure is not ascertainable from the map without trigonometric calculations; and the County Surveyor's checking fees as the same are established by the Board of Supervisors.

The County Surveyor shall examine the map as to its technical accuracy, conformity with the approved tentative map and compliance with all applicable laws and regulations. In the event the County Surveyor determines that there is noncompliance, the subdivider shall cause the map to conform, shall comply with the regulations or shall petition for approval of changes or alterations.

Where the subdivider desires to obtain approval of alterations on the Final or Parcel Map from the approved tentative map or of changes made in conditions imposed as conditions of approval of the tentative map, he shall petition, in writing, the Subdivision/Development Review Committee for its recommendation on such alterations or changes and submit with the petition the number of map prints requested by the Planning Director. Changes and alterations shall be approved in the same manner as the original tentative map was approved.

Each department or agency affected by conditions of approval imposed on the subdivision shall file written clearance notices with the County Surveyor certifying that the requirements of the department or agency have been satisfied. The County Surveyor shall also obtain written notice from the County Clerk that all required bonds or cash deposits have been received by him.

When the County Surveyor is satisfied that the map is technically correct, conforms to the approved tentative map or any approved alterations thereof and complies with all applicable laws and regulations, the County Surveyor will notify in writing the licensed land surveyor or engineer licensed to practice land surveying who prepared the map and request delivery of the original tracing of the Final or Parcel Map. Upon receipt of the original tracings of the Final or Parcel Map and upon receipt of written notice that all departments and agencies have certified that their requirements have been satisfied and all bonds or cash deposits have been received by the County Clerk, the County Surveyor shall execute his statement on the original tracing of the map as provided in Section 66442 of the California Government Code in the case of a Final Map and Section 66450 of the California Government Code in the case of a Parcel Map. In the case of a Final Map or in the case of a Parcel Map that dedicates an interest to the County, the County Surveyor will transmit the same to the Clerk of the Board of Supervisors for filing for approval. The Board of Supervisors shall approve the map at its next regular meeting if it conforms with all the requirements of applicable laws and regulations made thereunder. The Board of Supervisors shall, at that time, also accept or reject any or all offers of dedications and shall, as a condition precedent to the acceptance of any streets or easements or other dedications for public purposes, require the subdivider to make or agree to make such improvements as are required by law and regulations adopted pursuant thereto.

When the Final or Parcel Map and all cash deposits and bonds and all conditions have been approved, the Clerk of the Board of Supervisors shall execute his statement on the Final or Parcel Map as provided in Section 66464 of the California Government Code and shall transmit such Final or Parcel Map to the County Recorder for recording. *(Amended by Ord. 1722, 6/1/66; Ord. 2199, 7/1/71)*

Section 21-11. Submission of Maps of Dedicating Streets. *(Amended by Ord. 4436, 11/20/01)*

At the time of submission of the tentative map for a subdivision the subdivider shall offer to dedicate all streets, highways, and ways for public use, but the Board of Supervisors may, at its discretion, or upon the recommendation of the advisory agency or decision-maker, accept such streets, highways, or ways as it deems necessary for public purposes at the time of its approval. At its own discretion or upon recommendation of the advisory agency or decision-maker that certain streets should not be offered for dedication, the Board of Supervisors may waive the requirement of the offer of dedication of such streets or some of them. All streets not accepted and made public shall be designated upon the Final or Parcel Map showing such streets by letters "NOT A PUBLIC STREET" printed plainly and legibly within the lines of the streets upon each sheet whereon such streets are shown. All dedications shall state whether they are in fee or as an easement. *(Amended by Ord. 1722, 6/1/66)*

Section 21-12. Filing Agreements and Bonds Covering Streets.

The subdivider or owner of the land embraced by every subdivision map and by every map of dedication shall, before presenting any Final Map to the Board of Supervisors, make, execute, acknowledge and deliver to the Board of Supervisors, in consideration of the acceptance of dedication, a valid warranty agreement and contract to improve all streets, highways and ways offered for public use, designating the same by the name and an appropriate description thereof, such improvements to consist of such structures, improvements and equipment as may be deemed necessary by the Board of Supervisors for the use of such streets, highways and ways or the proper drainage thereof and may include domestic water supply, sewers, street grading and drainage, street lighting, street surfacing, sidewalks, curbs, storm drains, culverts and bridges when not covered by cash deposits or bonds of other public agencies. Actual work thereon shall be commenced not later than ninety days after the date the subdivision map is recorded, and all work shall be fully completed on or before two years after the date of such recordation. These time limits may be extended, by the Board of Supervisors upon recommendation of the Planning Commission, for additional one-year periods for good cause shown subject to conditions imposed to protect and preserve the public health, safety or general welfare.

The warranty agreement and contract shall specifically warrant and guarantee, among other things, that all street, water, sewer, and storm drain improvements and equipment deemed necessary for the use of such subdivision or the proper drainage thereof and including, but not limited to, street surfacing, sidewalks, curbs, culverts and bridges, sewer and water systems, and storm drains, shall be free from defects of material or workmanship and shall perform satisfactorily for a period of at least one year from and after acceptance of such improvements as completed by the road commissioner of the County. The subdivider shall agree in writing to repair any defects in any such improvements and to replace any defective improvements which cannot be repaired and which occur or arise within the one-year period at his own expense.

Attached to the warranty agreement and contract herein before provided, and accompanying the same as an integral part thereof and as security for the performance thereof, there shall be submitted to the Board of Supervisors:

- (a) A good and sufficient bond, acceptable by the Board of Supervisors, signed and executed by the subdivider or owner of the land as principal, not to exceed the estimated cost of the improvements, which bond, together with the warranty agreement and contract, shall be the terms thereof inure to and be in favor of the County and shall be conditioned for the faithful performance of the warranty agreement and contract.
- (b) In lieu of any bond, a deposit may be made, either with the proper governing body or a responsible escrow agent or trust company, subject to the approval of such governing body, or money or negotiable bonds of the kind approved for securing deposits of public money. Upon the execution by the subdivider of either one of the aforesaid agreements or contracts and the posting of the required bond, or the deposit of the required money or negotiable bonds, the map of such subdivision shall forthwith be approved and accepted for recordation. Title to property so accepted shall not pass until the Final Map is duly recorded under the provisions of these regulations.

At such time as the road commissioner of the County shall accept all street improvements as completed, as aforesaid, he shall release 85 per cent of the bond or return 85 per cent of the deposit as the case may be. The remaining 15 per cent of the bond or deposit shall remain posted or deposited for a period of one year after such acceptance of street improvements to guarantee satisfactory performance and repair (or replacement, if necessary) of all such street improvements which fail under normal use because of defects in workmanship or materials. All of the bond shall be exonerated or all of the deposit returned if at the time the street improvements are accepted by the road commissioner a separate bond is posted to

guarantee satisfactory performance and repair or replacement (if necessary) of all street improvements which fail under normal use because of defects in workmanship or materials within one year after the acceptance of such street improvements, which separate bond shall be in the amount of fifteen per cent of the bond guaranteeing installation of such street improvements.

In calculating the amounts for bonds securing performance of the warranty, agreement, and contract of the subdivider covering street improvements and drainage thereof, amounts shall be included to cover the full cost of proper excavation and proper back filling and tamping of all utility lines to be placed in the street rights-of-way, except that where such excavation, back filling, and tamping are to be done by utility companies subject to regulation by the Public Utilities Commission of the state, and which have assets in excess of one million dollars, no such amounts shall be included unless the road commissioner of the County shall for good cause require inclusion of such amounts after written notice of such requirement shall first have been given to such utility company. *(Amended by Ord. 1722, 6/1/66; Ord. 2076, 5/20/70)*

Section 21-13. Other Bonds.

The Board of Supervisors may, upon its own motion or upon recommendation of the advisory agency, require the subdivider to post a bond in an amount as fixed by the Board of Supervisors, such bond to be conditioned upon the subdivider's complying with any or all conditions or requirements imposed by the Board of Supervisors as conditions of approval of the tentative or Final Map.

Subdividers shall, prior to the approval of any final subdivision map, post a bond or bonds or other security satisfactory to the Board of Supervisors in an amount fixed by the Board of Supervisors to guarantee payment of all persons who shall furnish labor or materials, or both, as such persons are now or may hereafter be defined in section 1181 of the State Code of Civil Procedure or any successor to such section, for all of the public improvements to be made on the subdivision, completion of which is guaranteed by bonds or other improvement security posted with the County. *(Amended by Ord. 1722, 6/1/66)*

Section 21-14. Agreements - Construction of Improvements. *(Amended by Ord. 4436, 11/20/01)*

Pursuant to the State Subdivision Map Act, Government Code Section 66411.1 the County of Santa Barbara is hereby authorized to enter into agreements with subdividers for division of land into four or fewer lots. Such agreements may require that construction of on site and off site improvements for the parcels being created prior to the issuance of a permit for development of the parcels. Unless otherwise required by the decision-maker, such agreements shall require that construction of the improvements be completed within one year after recordation of the Final or Parcel Map. The decision-maker may require subdividers to secure the performance of such agreements by any form of improvement security described in Government Code Section 66499(a)(1)(3).

Section 21-15. Reserved for future legislation. *(Deleted by Ord. 4436, 11/20/01)*

Section 21-15.1. Reserved for future legislation. *(Deleted by Ord. 4436, 11/20/01)*

Sections 21-15.2 through 21-15.3. Reserved for future legislation.

Sections 21-15.4 through 21.15.8. Omitted.

DIVISION 3 MODIFICATION TO RECORDED MAPS

Section 21-15.9. Modifications to Recorded Maps, Lot Split Plats and Lot Line Adjustments. (Amended by Ord. 4436, 11/20/01)

- (a) **Purpose.** For the purposes of this section, a recorded map shall mean a subdivision recorded as either a Final or Parcel Map, a lot split plat shall mean a division of property approved prior to February 17, 1966 pursuant to Ordinance No. 791 as amended, and a lot line adjustment shall mean a lot line adjustment approved pursuant to Article III of this Chapter. The provisions of this Section set forth findings, procedures and fees for modification of the conditions of approval for recorded Final or Parcel Map, lot splits plats and lot line adjustments where changes in circumstance(s) occurring after recordation of a Final or Parcel Map or other method by which a lot shown on an approved lot split plan or approved lot line adjustment is legally established render any or all of the conditions of the Final or Parcel Map or approved lot split plat or lot line adjustment no longer appropriate or necessary.
- (b) **Fees.** The fee or fees for processing, recording and other services, as established from time to time by the Board of Supervisors by resolution or order, shall be paid by the applicant as provided in such resolution or order. The Board of Supervisors may for good cause shown amend, reduce or waive the fee for a modification application.
- (c) **Materials for Filing.** Any applicant proposing a modification to a recorded Final or Parcel Map, lot split plat or lot line adjustment pursuant to this section shall submit the following information:
- (1) The materials described in Sections 21-7 and 21-8 of this Chapter;
 - (2) A complete description of the proposed modification;
 - (3) A detailed written description of the manner in which the proposed modification meets the findings described in subsection (h) of this Section; and
 - (4) Any additional materials required by the County at the time of application submission.
- (d) **Applicant.** An application for a modification to a recorded Final or Parcel Map or lot split plat or lot line adjustment shall be signed by all parties having any record title interest that may be affected by the requested modification.
- (e) **Easements.** For the purpose of this section, the modification of a condition relating to an easement (e.g. location or use) shall not be found to alter any right, title or interest in the real property if the application is signed by all parties having any record title interest in the real property subject to the recorded Final or Parcel Map or shown on an approved lot split plan or approved lot line adjustment.
- (f) **Review.** The proposed modification shall be reviewed by the Subdivision/Development Review Committee, which shall submit its recommendation to the decision-maker. (Amended by Ord. 4154, 5/3/94)
- (g) **Procedure for modification of a Final or Parcel Map, Lot Split Plat or Lot Line Adjustment.** Any proposed modification of a Final or Parcel Map or lot line adjustment shall require a public hearing before the decision-maker with current jurisdiction as determined by this Chapter for the Final or Parcel Map or lot line adjustment proposed to be modified, according to the procedures specified in Section 21-7 of this Chapter. Any proposed modification of a lot split plat shall require a public hearing and be under the jurisdiction of the Zoning Administrator. The subject of the hearing shall be confined to consideration of and action on the proposed modification(s). Notice of such hearing shall be provided as prescribed by State Subdivision Map Act, California Government Code Section 66451.3 and this Chapter as provided in Division 10, Section 21-71.3. (Public

Division 3 - Modification to Recorded Maps

Hearing Notice). The action of the decision-maker shall be final, unless appealed to the Board of Supervisors as provided in Section 21-71.4. (Appeals). *(Amended by Ord. 4157, 5/3/94)*

- (h) **Findings.** Modifications to recorded Final or Parcel Map, lot split plats or lot line adjustments shall be approved only if all of the following findings can be made:
- (1) There are changes in circumstances that make any or all of the conditions of such a recorded Final or Parcel Map, lot split plat or lot line adjustment no longer appropriate or necessary;
 - (2) The modification does not impose any additional burden on the present fee owner(s) of the property;
 - (3) The modifications does not alter any right, interest or title reflected by the recorded Final or Parcel Map, lot split plat or lot line adjustment;
 - (4) The recorded Final or Parcel Map, lot split plat or lot line adjustment as modified conforms to the provisions of Section 66474 of the California Government Code;
 - (5) The recorded Final or Parcel Map, lot split plat or lot line adjustment as modified is consistent with the applicable zoning ordinance;
 - (6) The property for which the modification is sought is in compliance will all laws, rules and regulations pertaining to zoning uses, subdivisions, height and setbacks, and any other provisions applicable to the property for which the modification is sought, and such enforcement fees as established from time to time by the Board of Supervisors have been paid;
 - (7) The recorded Final or Parcel Map or lot line adjustment as modified does not result in an increased number of dwelling units or a greater density than the recorded final or parcel map or lot line adjustment.
- (i) **Final Action.** Upon approval of the requested modification, the applicant shall submit to the County Surveyor, consistent with such approval, either an amending map, Certificate of Correction or other documents as the County Surveyor shall determine to be appropriate, which amending map, Certificate of Correction or other documents shall be recorded with the Santa Barbara County Recorder.
- (j) **Certificate of Correction.** A Certificate of Correction amending a Final or Parcel Map shall be prepared in accordance with Section 66470 of the California Government Code. Submittal requirements of the document shall include:
- (1) Two copies of the Certificate of Correction.
 - (2) Current Lot Book Guarantee or suitable document listing the present fee owners and all holders of record title interest of the real property affected by the Certificate of Correction.
 - (3) Assessor Parcel Numbers shall be listed on the Certificate of Correction for all affected property.
 - (4) Fees as prescribed by the Board of Supervisors.

Sections 21-15.10 Omitted.

DIVISION 3.1 VESTING TENTATIVE MAPS

(Added by Ord. 3552, 2/18/86)

Section 21-15.11. Approval of Vesting Tentative Map.

A tentative map including a tentative parcel map filed in compliance with the provisions of this chapter may be approved for residential development as a vesting tentative map if it is in conformity with the provisions of this Division 3.5 and with the applicable provisions of Division 2, Title 7, of the California Government Code (the Subdivision Map Act). Such map shall have printed conspicuously on its face the words "Vesting Tentative Map" in compliance with California Government Code Section 66452. *(Amended by Ord. 4436, 11/20/01)*

Section 21-15.12. Development Rights.

A vesting tentative map approved pursuant to this Division shall be subject to the provisions of Chapter 4.5 (Development Rights) of Division 2 of Title 7 of the California Government Code. The rights conferred by a vesting tentative map as provided herein shall last for an initial period of one year beyond the date of the recording of the Final or Parcel Map. This one-year time period may be extended by the decision-maker for an additional one year in accordance with State Subdivision Map Act California Government Code Section 66452.6(g) and Section 66463.5(g) provided an application is filed with the Planning and Development Department prior to the expiration of the initial time period. *(Amended by Ord. 4157, 5/3/94; Ord. 4436, 11/20/01)*

Section 21-15.13. Final Development Plan Required.

No tentative map shall be approved as a vesting tentative map within any zoning district requiring a Development Plan for any project requiring a Development Plan unless a Final Development Plan in conformity with the provisions of Chapter 35 of the Santa Barbara County Code is approved before or concurrently with the approval of the vesting tentative map. A vesting tentative map may be approved without a Final Development Plan in those zoning districts in which there is no requirement for a Development Plan. Projects within a zoning district requiring a Development Plan for only certain kinds of development will acquire vested rights to such development only for the improvements included in an approved Development Plan.

Section 21-15.14. Rights Vested For Development Plan Proposals Only.

Approval of a vesting tentative map under the provisions of this division is made upon the condition that all development which is to acquire vested rights to be made in substantial compliance with the ordinances, policies, and standards in effect at the time of the approval or conditional approval must be disclosed and incorporated in any Final Development Plan required under this division or in an amendment to such Final Development Plan.

Section 21-15.15. Amendments of Final Development Plans.

A Final Development Plan approved in connection with a vesting tentative map may be amended on application of the owner in conformity with any requirements provided in Chapter 35 of the County Code for the amendment of Final Development Plans. During the time such vested rights are effective, such amendment of a Final Development Plan filed in connection with a vesting tentative map shall be made in substantial compliance with the ordinances, policies, and standards in effect at the time of the approval or conditional approval of the vesting tentative map. *(Amended by Ord. 4436, 11/20/01)*

Section 21-15.16. Maps Requiring Coastal Development Permit.

A vesting tentative map shall not be approved for a parcel, any portion of which is within a zoning district which is subject to the Coastal Land Use Plan and Coastal Zoning Ordinance, unless a Coastal

Division 3.1 - Vesting Tentative Maps

Development Permit for the subdivision and any required Final Development Plan is obtained or required before the recording of the Final or Parcel Map. *(Amended by Ord. 4436, 11/20/01)*

Section 21-15.17. Tentative Map Approval Instead of Vesting Tentative Map.

A subdivision of property which has a zoning designation subject to Santa Barbara County Ordinance No. 661 or other, similar, outdated zoning designation, filed for approval as a vesting tentative map, may be approved as a tentative map without the development rights of a vesting tentative map.

DIVISION 4 MONUMENTS AND SURVEY PROCEDURE

Section 21-16. Monuments and Survey Procedure. *(Amended by Ord. 4436, 11/20/01)*

- (a) The survey to be used in preparation of a Final or Parcel Map shall be made in accordance with the California Business and Professions Code Section 8700 *et seq.* and in a manner satisfactory to the County Surveyor. The location, size and type of all monuments shall be subject to the inspection and approval of the County Surveyor before approval of the map.
- (b) Markers and monuments shall be set as follows:
 - (1) Along exterior boundaries at all angle points and the beginning and ending of curves.
 - (2) County-approved monument wells shall be set along the center lines of all public streets at the intersection of all streets, centerline angle points, beginning and ending of curves, the center of all cul-de-sacs, and at the intersection with the exterior boundary as to maintain line of sight from monument to monument within the specified right-of-way. All monuments set in monument wells shall be no less in size than two inch brass or aluminum caps set on one and one-half inch galvanized steel pipe eighteen inches in length.
 - (3) Monument kind, size, and location may be modified by the County Surveyor as necessary on a case by case basis.
- (c) All street centerline intersections and centers of cul-de-sacs shall be referenced to four lead plugs and tags in curbs or permanently affixed with epoxy or similar adhesive except where well monuments have been set. Where no curbs are installed, such points shall be referenced to four lot corner monuments. Distances to said reference monuments shall be shown on eight and one-half by 11 inch transparent material and shall be filed in the County Surveyor's office.
- (d) All lot corners shall be marked by permanent monuments with brass tags, aluminum or brass caps set on galvanized iron pipe a minimum of one-half inch in inside diameter by eighteen inches in length driven flush with the ground. All exterior subdivision corners shall be marked by permanent monuments with a minimum size of two inch brass or aluminum caps set on galvanized steel pipe a minimum of one and one-half inch inside diameter by eighteen inches in length driven flush with the ground
- (e) Front lot corners may be lead plugs and brass tags or tags permanently affixed with epoxy or similar adhesive set in the sidewalk or permanently affixed in the top of curb on prolongation of lot line or radially where point falls on a curve. Where no concrete curbs or sidewalks exist, actual front lot corners shall be monumented.
- (f) The types of markers and the sizes used at the above locations, and ties, where necessary, shall all be clearly indicated on the Final or Parcel Map legend.
- (g) All monuments set shall be permanently and visibly marked with the certificate number preceded by the letters "L.S." or "R.C.E." as the case may be.
- (h) A traverse of the boundaries of the tract and all lots and blocks shall close within a limit of error ratio of 1:25000 or 0.02', whichever is greater.
- (i) For the subdivision of public lands or section property, for the restoration of lost section corners, and for the retracement of section lines, the method to be followed shall be in accord with the instructions set forth in the "Manual of Instructions" for the Survey of Public Lands of the United States, 1973 published by the Commissioner of the General Land Office, Department of the Interior, Washington, D.C. or its successor. *(Amended by Ord. 1722, 6/1/66; Ord. 4436, 11/20/01)*

Section 21-17. Improvements Required.

The Board of Supervisors shall, upon recommendation of the advisory agency and prior to approval of the Final Map, require such street improvements, utilities, drainage facilities, and structures, erosion control, fences, planting, right-of-way dedication, and other provisions for public safety, health and general welfare, both within the subdivision and off the site as are, in its opinion, necessary and in accord with the law and the terms of this chapter. Such requirements may include provisions for maintenance, and all construction shall be in accord with official County standards.

Paving of roads prior to occupancy of any dwellings shall be required in all subdivisions. All underground utilities, including sewer connections, located within street rights-of-way shall be stubbed out to the property line of each lot abutting the right-of-way. *(Amended by Ord. 1722, 6/1/66)*

DIVISION 5 SUBDIVISION STANDARDS AND PRINCIPLES

Section 21-18. Compliance with Division.

In the subdivision of land lying wholly or partly within the unincorporated territory of the County, the following regulations shall apply, and no tentative or final subdivision map shall be approved by the advisory agency until and unless such map or maps indicate a full compliance with the requirements of this division. *(Amended by Ord. 1722, 6/1/66)*

Section 21-18.1. Limiting Approval of Maps. *(Added by Ord. 3610, 10/6/86)*

No tentative or final subdivision map shall be approved by the advisory agency unless it finds that the subject property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, height and setbacks, and any other provisions applicable to the property for which the map is sought, and such zoning violation enforcement fees as established from time to time by the Board of Supervisors have been paid. This subsection shall not be interpreted to impose new requirements on legal non-conforming uses and structures.

Section 21-19. Blocks.

- (a) **Block Lengths.** Blocks shall not exceed one thousand five hundred feet between street lines except where topographic conditions require longer blocks.
- (b) **Block widths.** Blocks should be of sufficient width to permit the platting of two tiers of lots of normal depth. No block shall be less than two hundred feet wide. *(Amended by Ord. 1722, 6/1/66)*

Section 21-20. Streets and Highways. *(Amended by Ord. 4436, 11/20/01)*

- (a) **Relation to general plan.** The street and highway arrangement of every subdivision shall not conflict with the circulation element of the County's Comprehensive Plan with respect to the placement of such streets, highways, or ways as may be shown thereon.
- (b) **Relation to topography.** Topographic conditions shall determine the general pattern of blocks, and natural contours shall control the placement and alignment of streets, highways, and ways.
- (c) **Relation to adjoining and adjacent street system.** Streets may be required to be laid out so as to directly continue the centerlines of the principal existing streets or highways in adjacent or adjoining subdivided areas. In general, such streets shall have a width at least as great as the existing streets.
- (d) **Waterfront streets.** In the subdivision of land abutting the Pacific Ocean or tidewater thereof, where conditions warrant, a street, walk, or roadway may be required parallel to the line of mean high tide, and no private development shall be permitted between such street, walk, or roadway and the Pacific Ocean.
- (e) **Street names.** The names of new streets shall be subject to the approval of the decision-maker after review by the County Surveyor and shall not duplicate existing street names where confusion is likely to result.
- (f) **Dead-end streets.** Where necessary to give access to or permit a satisfactory subdivision of adjoining land, streets shall run through to the boundary of the property and the resulting dead-end streets may be approved without a turn-around.
- (g) **Road standards.** In addition to the foregoing, road standards and principles shall be as prescribed by resolution of the Board of Supervisors. In cases where the Director of Public Works deems that circumstances warrant, minor deviations may be permitted from any of the foregoing requirements or any other requirements adopted by the Board of Supervisors pursuant to the terms of this division

relating to roads, road standards and specifications. *(Amended by Ord. 1722; Ord. 4436, 11/20/01)*

Section 21-21. Reserve Strips.

Narrow parcels or reserve strips controlling access to streets or highways from adjoining property will not be approved unless the control or disposal of such land is placed under the jurisdiction of the Board of Supervisors under conditions satisfactory to the board and the advisory agency. *(Amended by Ord. 1722, 6/1/66)*

Section 21-22. Alleyways.

The advisory agency may require that alleys be provided at the rear of commercial or multiple family parcels. *(Amended by Ord. 1722, 6/1/66)*

Section 21-23. Rights of Way.

Easements for public utility purposes shall be provided at the location and of a width approved by the serving utilities and the advisory agency.

Rights-of-way as required by the advisory agency for access shall be provided along all natural watercourses where access is necessary for flood control maintenance and improvement and for other public purposes. Depending on topography, such rights-of-way shall be required to include the natural channel plus a strip of land twenty feet wide on the flat land along the edge of channels which do not exceed 25 feet in width. Such rights-of-way shall include strips of land 20 feet wide on both sides of all natural channels wider than 25 feet. These requirements may be modified or deleted for good cause shown. *(Amended by Ord. 1722, 6/1/66; Ord. 2199, 7/1/71)*

Section 21-24. Lots.

(a) Lot area.

- (1) No residential lot shall be created which contains less than seven thousand square feet of area exclusive of street right-of-way, except as provided in this article.
- (2) In any area zoned to require a development plan, no change in the size, shape, or area of the original parcel shall be approved by lot split, subdivision or otherwise, except in substantial conformity with an approved development plan and with the size, shape, and area of the parcels shown on the development plan. As an alternative to filing a development plan, approval may be given when all parcels conform substantially to the size, shape, and area requirements of the most restrictive abutting zone district unless otherwise provided in the applicable zoning regulations.
- (3) In determining the minimum lot area of lots less than 10,000 square feet in size, public utilities transmitting line easements may be required to be excluded from the minimum lot area, required by the zoning ordinance, or this article but may be included in the lot design.

(b) Lot width. No residential lot shall be created which has an average width of less than 65 feet except as otherwise provided by open space requirements of the zoning ordinance. All corner lots shall have an average width of at least 75 feet.

(c) Lot depth. No lot shall be created the rear line of which is less than 100 feet from the front line of the lot, except that one sideline may be less than 100 feet in length if it terminates at a corner curve or cul-de-sac turn-around curve. In the case of through lots or corner lots, at least one lot line must be parallel to and not less than 100 feet distant from the street on which the lot fronts. The rear line of a lot shall be considered as any lot line other than a front line which does not intersect the right-of-way line of the street on which the lot fronts.

(d) Lot lines. The sidelines of all lots shall be approximately at right angles to the street on which the

lot faces, or approximately radial if the street is curved. Lot lines which cross any city boundary shall not be approved.

- (e) **Corner radius.** Property lines of corner lots shall be rounded at the street corner by a radius of not less than 15 feet. Corner business lots shall have an angular cut-off measuring not less than 15 feet along each street from the corner. *(Amended by Ord. 1722, 6/1/66)*

Section 21-25. Planned Development and Open Space Subdivisions.

The regulations of Section 21-24 may be modified by the advisory agency in the case of a subdivision being developed pursuant to a development plan or open space provisions in accord with zoning regulations. The advisory agency shall prescribe conditions deemed necessary to the public interest. *(Amended by Ord. 1722, 6/1/66)*

Section 21-26. Parks, Schools, etc.

In subdividing property, due consideration shall be given to the dedication or reservation of parkways, landscaped right-of-ways and open spaces, of suitable sites for parks, playgrounds, and schools, and the establishing of other open area for public use. The location of these features shall conform as nearly as possible to any adopted general plan of the County. *(Amended by Ord. 1722, 6/1/66)*

Section 21-27. Proposed Change to Uses Not Permitted by Zoning.

Whenever property is proposed to be subdivided for a use or purpose different from that permitted by the applicable zoning regulations, or which is in conflict with the general plan, a formal request for rezoning of the subject property to appropriate zone districts, and where deemed appropriate by the planning director, a formal request for amendment of the general plan shall be filed concurrently with the filing of the tentative subdivision map. No tentative subdivision map shall be approved unless and until appropriate changes in zoning regulations to permit the proposed use and purposes of such subdivision have first been recommended and acted upon by the advisory agency in the first instance and by the board of supervisors where its action is needed. *(Amended by Ord. 1722, 6/1/66)*

Section 21-28. Preservation of Natural Features.

In all subdivisions, due regard shall be given to the preservation of all natural features such as large trees, natural groves, watercourses, scenic points, historic spots, and similar community assets which will add attractiveness and value to the property if preserved. *(Amended by Ord. 1722, 6/1/66)*

Section 21-29. Fire Hydrants.

Fire hydrants may be required where recommended by the County fire chief or appropriate special fire district and failure to provide for them may be cause for denial for the subdivision or lot split. *(Amended by Ord. 1722, 6/1/66; Ord. 2199, 7/1/71)*

Section 21-30. Provisions for Utilities.

At the time the subdivider presents a Final Map to the Board of Supervisors there shall be presented certificates executed respectively by the various public utility companies authorized to serve in the area of the subdivision, certifying that satisfactory provisions have been made with each of such public utility companies as to location of their facilities and that satisfactory easements where required by such companies have been executed and delivered to the certifying companies for recording. Easements for public utility companies shall be designated on the Final Map as "easements for public utilities." *(Amended by Ord. 1722, 6/1/66; Ord. 2199, 7/1/71)*

Section 21-31. Modification.

The advisory agency may authorize modifications from these regulations when in its opinion better design will result. The advisory agency shall prescribe conditions deemed necessary to the public interest and

which have a direct relation to the granting of the modification. *(Amended by Ord. 1722, 6/1/66)*

Section 21-32. Increase in Setbacks for Drainage.

Where necessary to obtain adequate drainage from a lot, setback distances may be required to be increased. *(Amended by Ord. 1722, 6/1/66)*

DIVISION 6 WATER SUPPLY REQUIREMENTS

Section 21-33. Intent of Division.

The following sections and such resolutions as may be adopted by the Board of Supervisors are intended to insure an adequate supply of potable water for domestic use in areas where no existing water systems are available to supply such water. *(Amended by Ord. 1722, 6/1/66)*

Section 21-34. Community Water Systems.

Whenever a subdivider proposes to form a community water system to supply domestic water from one source to the proposed subdivision lots, the subdivider may be required to set up a mutual water company composed of property owners or some other single business proprietorship or business entity to construct, operate, control, maintain, repair, and, if necessary, enlarge such community water supply system. All of the provisions of state law relating to such water supply systems shall be strictly complied with. *(Amended by Ord. 1722, 6/1/66)*

Section 21-35. Permits. *(Amended by Ord. 4436, 11/20/01)*

State law requires the water purveyor to obtain a permit before furnishing water to a user. Permits are issued on small water systems (less than two hundred connections) by the County Public Health Department. In order to obtain adequate data, all or part of the following information when related to the proposed water supply system may be required before an application for a water supply permit will be accepted for processing:

- (a) A plot plan of all wells indicating property boundary lines and the location of all possible sources of contamination, including sewer or waste lines, septic tanks, dry wells, cesspools, or seepage pits or any surface or subsurface sewage or sewage effluent discharge that is located within two hundred feet of the well.
- (b) Means of protecting well sites by restrictions or by the purchasing of surrounding property to prevent the location of future possible sources of contamination in the vicinity of the well.
- (c) The logs of all wells and well construction plans, including depth of annular seal, casings, perforations, bacteriological sampling cock, and facilities for disinfection of the well if necessary.
- (d) Report by a registered geologist, certified hydro-geologist or certified engineering geologist that the underground water basin is of sufficient quantity to supply the development to be served by the wells.
- (e) Complete chemical analysis, including nitrates, and analysis for any other chemical suspected to be present, of the water supply from each well in a laboratory approved by the State Department of Public Health.
- (f) Information on the bacteriological quality of the water supply from each source.
- (g) Complete plans and specification for the water works system, including storage facilities.
- (h) Certificate by a registered civil engineer that the sources, distribution works, and storage are adequate to serve the proposed development.
- (i) A certificate from a registered engineer that the size of the water lines is adequate to serve the subdivision.
- (j) Methods that will be used to disinfect new and repaired lines.
- (k) Outline of the cross-connection control program to be maintained.

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- (l) Method of treatment and complete plans on treatment facilities.
- (m) Map of the service area and an indication of the number of services to be installed. *(Amended by Ord. 1722, 6/1/66)*

Section 21-36. Engineering Check.

In all areas where any water system having up to 199 connections is to be installed that is not within the boundaries of or proposed to be annexed to a special district having the power to check and approve engineering designs and inspect and make requirements for water systems, the Public Health Department will check all engineering designs and specify requirements, inspect and approve all construction of water systems. *(Amended by Ord. 1722, 6/1/66; Ord. 4436, 11/20/01)*

Section 21-37. Where No Community Water System.

Wherever an applicant proposes to create lots without a community water system or without supplying water from an approved source to each lot, before a lot is sold the applicant or his agents shall notify the purchaser in writing that there is no approved water supply furnished to such lot, that the development of a private water supply on the lot in question will be at the purchaser's own risk and expense, and furthermore, that the health department accepts no responsibility for the approval or disapproval of water supplies which are to be developed privately on an individual lot basis. The applicant shall obtain a written receipt from each original purchaser of a lot for the notice. He shall keep such receipts and a copy of the notice on file in his principal place of business in the County or other convenient location and shall make the file available for inspection by any County official or employee during ordinary business hours.

The requirements of this section may be met by the subdivision report required to be furnished to each lot purchaser under the provisions of the State Business and Professions Code, Sections 11000 *et seq.* provided such report furnishes the information required in this section. In such event, all of the provisions of Section 11000 of the State Business and Professions Code shall govern the procedure for this section. *(Amended by Ord. 1722, 6/1/66)*

DIVISION 7 SEWAGE DISPOSAL

Section 21-38. Purpose of Division.

The purpose of this division is to insure that there will be adequate and sanitary methods provided for the disposal of sewage which will not pollute water supplies, bathing and swimming areas, nor permit sewage to come out of the surface land nor create erosion or earth subsidence or slippage problems and in general to prevent hazards to health and safety. *(Amended by Ord. 1722, 6/1/66)*

Section 21-39. Community Sewage Systems.

In cases where a community sewage system is to be installed, conditions may be imposed by the County and the State of California Regional Water Quality Control Board relating to the location of the sewage treatment plant, method and location of plant effluent disposal, location, excavation, backfilling, and compaction of trenches for sewage lines in order to prevent erosion and damages to sewer lines or to improvements such as sidewalks and roadways crossing such lines. *(Amended by Ord. 1722, 6/1/66; Ord. 4436, 11/20/01)*

Section 21-40. Individual Sewage Systems. *(Amended by Ord. 4436, 11/20/01)*

In all cases where sewage disposal is to be by individual systems, in order to determine appropriate conditions to prescribe, each proposed subdivision shall be considered on its own merits. Such factors as lot size, usable lot area, topography, degree of saturation of the soil, location of the underground water table, the general soil and rock structure and geology with results of percolation and other tests, the proximity of nearby domestic water supplies, and all other pertinent factors shall be considered. Accepted sanitary engineering principles shall be employed. Industry standards may be used as guides. Among other conditions, some or all of the following may be prescribed as are deemed appropriate on the basis of known factors affecting the proposed subdivision:

- (a) Creation and use of lots or building sites may be prohibited on all or certain parts of proposed subdivisions unless connected to an approved community sewage system.
- (b) Various types of percolation tests, including "drywell" type tests or "leach line" tests, or both, may be required at locations, depths, and in numbers and under specific conditions prescribed by County health officer. Either a tentative subdivision map or other maps may be required to show the location of such percolation tests and reports on each test may be required in writing from a registered civil engineer performing such tests.
- (c) The use of community septic tank systems may be prohibited in any case where there is danger of flooding or where adequate provisions for maintenance thereof cannot reasonably be made.
- (d) No lot shall be considered an approved building site where the installation of an individual sewage disposal system of special design has been proposed unless such installation has been first approved by the Environmental Health Division of the Public Health Department.
- (e) The Subdivision/Development Review Committee may require special systems to be designed by a consulting engineer who qualifies as an expert in the field of sanitary engineering.
- (f) Formation of a district or other public agency, having owners appropriate to completely handle community sewage disposal and treatment may be required in all cases where a private sewage company is to handle the community sewage disposal system in order to provide for sewage disposal in the event of business or other failure of the private company or the existence of an emergency beyond the capabilities or capacities of the private company. *(Amended by Ord. 1722, 6/1/66)*

Section 21-41. Engineering check.

In all areas where any community sewage disposal system is to be installed which is not within the boundaries of or proposed to be annexed to a special district having the power to check and approve engineering design and inspect and make requirements for sewage disposal systems, the appropriate County official or officials will check all engineering designs and specify requirements, inspect and approve all construction of sewage disposal system. *(Amended by Ord. 1722, 6/1/66)*

DIVISION 8 SPECIAL TREATMENT AREAS

Section 21-42. Purpose.

The Board of Supervisors has recognized that the general provisions, definitions, procedures, improvements and design requirements, standards and principles set out in Divisions 1, 2, 3 and 4 of this Article, although adequate for most subdivisions and lot splits in the County, need modification and supplementation to protect and preserve the public health, public safety and public welfare, in regard to certain areas. Accordingly, the Board has adopted Resolution No. 23789 setting out its general policies in regard to "Special Treatment Areas," particularly hillsides. It shall be the purpose of this division to carry out in more detail the general policy considerations set out in that resolution. Among other things, the resolution recited that the natural scenic beauty of the County is a major economic asset of the County; that urban and suburban development of many portions of the County is imminent and inevitable; and that certain types of developments and appurtenances thereto tend to destroy the natural scenic beauty of the County. Furthermore, the County recognizes that when many areas are subdivided or developed, such features as hillside terrain, special soil and geological conditions, water frontage, highly combustible native vegetation and other conditions may cause one or more serious consequences such as increased fire, flood and erosion hazards, traffic circulation problems, sewage disposal problems, property damage from expansive soil, slippage and subsidence and adverse effects on the general economy of the County from destruction of natural scenic beauty and unsightly developments. Such consequences may be avoided if special consideration is given to those subdivisions and lot splits where one or more special conditions exist. Since conditions vary greatly between different land areas in the "Special Treatment Areas," design criteria and other requirements must vary in many cases in order to achieve necessary flexibility of design. The Board of Supervisors, acting on its own initiative or upon the advice and recommendation of the Planning Commission or any County official, may adopt resolutions setting forth detailed policy and specific limitations and maximum and minimum standards covering certain situations and conditions and designating particular areas as "Special Treatment Areas". Such resolutions shall be in line with the principles of Resolution No. 23789, including the following:

- (a) Encouraging flexibility of development design to adjust to natural terrain features.
- (b) Preserving of natural slopes, existing trees and foliage, and natural topographic features.
- (c) Permitting, where appropriate, cluster development, varied land uses patterns and varied housing types relating to topography.
- (d) Continuing and expanding programs now existing on acquiring and preserving "open spaces."
- (e) Encouraging underground utilities and central television antenna facilities.
- (f) Permitting and encouraging varying lot sizes, setbacks and house locations on property.
- (g) Requiring that an area be demonstrated entitled to such treatment before it receives the benefit or burden of regulations and provisions under this division. *(Amended by Ord. 1751, 11/2/66)*

Section 21-43. Objectives.

In the administration of the provisions of this division, the County shall strive to achieve the following objectives when considering and applying conditions to the approval of a tentative subdivision map.

In general, extensive hillside areas in the County dominate the view from most of the heavily traveled and highly developed areas. Building construction, road construction, grading operations and the removal of native cover therefore substantially affect the natural scenic background for such traveled and developed areas. In order to preserve a basic and valuable resource which has made the County unique and is an

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important factor in its basic economy, subdivisions and other developments shall be designed to preserve, to the extent that it is reasonable and feasible, the natural appearance of extensive hillsides. To accomplish this end, the Subdivision/Development Review Committee shall encourage and, where necessary, require:

- (a) Grading which preserves the natural curves of the land especially at the horizon and which does not result in "staircase" or "rice paddy" effects.
- (b) Retention of trees and other native vegetation (except in those cases where a high fire hazard results) which stabilize steep hillsides, retain moisture, prevent erosion and enhance the natural scenic beauty.
- (c) Construction of roads where the same are necessary on steep hillsides in such a way as to minimize scars from cuts and fills and avoid permanent scarring of the hillsides.
- (d) Placement of building sites in such a manner as to permit ample room for adequate landscaping and drainage between and around the buildings.
- (e) Grading which will round off, in a natural manner, sharp angles at the top and toe of cut and fill slopes, both with respect to building sites and to road cross-sections.
- (f) Sloping lot designs so that split-level and divided unit homes will be appropriate in order to reduce the amount of grading and disturbance of natural contours.
- (g) "Cluster" type developments or other new concepts where appropriate in order to eliminate as far as possible construction on steep or dangerous terrain without significantly reducing population density otherwise permitted by zoning ordinances applicable to the property in question.
- (h) Early temporary or permanent planting, or both, wherever appropriate to maintain necessary cut and fill slopes to stabilize them by plant roots and to conceal the raw soil from view. *(Amended by Ord. 1751, 11/2/66)*

Section 21-44. Special Definitions.

Average slope of a parcel of land or any portion thereof shall be computed by applying the formula $S = (.00229 \text{ IL})/A$ to the natural slope of the land, before grading is commenced, as determined from a topographic map conforming to National Mapping Standards and having a scale of not less than one inch equals two hundred feet and a contour interval of not less than five feet. The letters in this formula shall have the following significance.

S = The average cross slope of the land in percent.

I = The contour interval.

L = The combined length of all contours in feet, excluding the length of contours in drainage channels below the twenty-five year flood level.

A = The net area of parcel or portion thereof, in acres, after deducting all areas in drainage channels below the twenty-five year flood level, for which the slope is to be determined.

Unstable geological or soil formations includes but is not limited to formations having stability problems, susceptibility to slippage or subsidence, vulnerability to erosion and other special geological and soil conditions potentially hazardous to persons or property, or both.

Special treatment area means and includes land having physical characteristics which require application of one or more special conditions in order to protect and preserve the public health, safety and welfare. It shall include many areas of land containing extensive hillsides or rugged terrain. The Board of Supervisors, upon recommendation of the Planning Commission, may by resolution or minute order

designate by map or metes and bounds description, or otherwise, areas in the County which shall be deemed to be "Special Treatment Areas" by reason of conditions affecting such areas generally. *(Amended by Ord.1751, 11/2/66)*

Section 21-45. Procedure.

- (a) It shall be the responsibility of all persons desiring to subdivide land in the unincorporated territory of the County, and of their agents and representatives, to inform the Department of Public Works of the County in writing of the exact boundaries of the land proposed to be so subdivided. Topographical maps may be required to be submitted wherever deemed appropriate by the Department of Public Works, the Planning and Development Department or Subdivision/Development Review Committee of the County. Further, the Planning and Development Department shall notify the Department of Public Works in writing of all formal written applications for the subdivision of land and the boundaries thereof forthwith upon receipt of such applications.

Where a proposed subdivision contains land designated by metes and bounds description or map as a special treatment area by the Board of Supervisors, then the subdivider shall not be required to follow the procedure set out in subsections (a) and (b) of this section relating to determination of whether or not a subdivision is, or contains, a special treatment area. The subdivider, however, shall follow all of the other procedures and meet all of the requirements imposed pursuant to this division.

Within 10 days after receipt of such information by the Department of Public Works, that Department shall notify the Subdivision/Development Review Committee and the applicant, or his agents and representatives, in writing of its recommendation as to whether or not the land proposed to be subdivided contains special treatment areas.

- (b) At the next meeting after the meeting where the recommendation of the Department of Public Works is received and before any other consideration of such proposed division of land, the Subdivision/Development Review Committee will consider the recommendation and thereafter determine whether or not the land to be subdivided, or any portion thereof, is a special treatment area. The Subdivision/Development Review Committee shall not be bound by the recommendation of the Department of Public Works and shall make its determination on the basis of a consideration for all of the purposes set out in this division. The applicant, his agents and representatives shall be entitled to be present when such determination is to be made and may present evidence on the matter.

In the event the applicant or his agents or representatives are dissatisfied with the determination of the Subdivision/Development Review Committee, they may appeal in writing from such determination within 10 days from the date thereof to the Planning Commission which may sustain, modify or reverse the determination of the Subdivision/Development Review Committee.

In the event the applicant or his agents or representatives are dissatisfied with the decision of the Planning Commission, they may appeal in writing from such decision within 10 days from the date thereof to the Board of Supervisors, which may sustain, modify or reverse the determination of the Planning Commission.

- (c) Where land is being subdivided and is shown on a map or designated by metes and bounds or other description as being or containing within it a special treatment area, the applicant or his agents or representatives may request the Planning Commission to recommend to the Board of Supervisors that such land, or portions thereof, not be deemed to be a special treatment area, and the applicant, his agents and representatives shall be entitled to present evidence in support of their position. The

Planning Commission shall consider such application and make its recommendation to the Board of Supervisors. If such recommendation approves in whole or in part the request of the applicant or his agents or representatives, the Board of Supervisors shall hear the matter, and, without being bound by the recommendation of the Planning Commission, may take such action as it deems appropriate. If the recommendation of the Planning Commission is contrary to the request of the applicant and recommends denial of the applicant's entire request, the Board of Supervisors may, but need not, hold a hearing on the matter and, without being bound by the recommendation of the Planning Commission, may, if it holds a hearing, take such action as it deems appropriate.

- (d) After final determination that a proposed subdivision, or any portion thereof, is a special treatment area, the applicant or his agents and representatives shall hold design conferences with appropriate members of the Subdivision/Development Review Committee before submitting a tentative map. The applicant, his agents or representatives may be required by the Subdivision/Development Review Committee to present any one or more of the following: A preliminary subdivision map; a contour map for the land affected with five foot contours to a scale of at least one inch equals one foot; plans, cross sections and profiles of the proposed grading of the land; preliminary geological report by an engineering geologist; a soil report by a registered civil engineer experienced in the field of soil mechanics; representative percolation tests where community sewer systems are not to be used; and other relevant data. The date of filing which commences the period for action on a proposed subdivision shall not be prior to the date of determination as to whether the subdivision or any portion thereof is a special treatment area.
- (e) After tentative criteria for the subdivision are established at the design conferences, the Subdivision/Development Review Committee may, at its option, require submission by the applicant of a preliminary map. The Subdivision/Development Review Committee may also require a proposed grading plan and any other maps or data which are reasonable or appropriate in order to assist the Subdivision/Development Review Committee in determining what conditions it should recommend from those set out in this division. It is understood that the Subdivision/Development Review Committee may apply any one or more of the special provisions of this division or of any other sections of this Code or any County ordinance or any special regulations set up by the Board of Supervisors which are reasonable and appropriate in order to carry out the express purposes of this division and are not in conflict with general law relating to these matters. Special treatment subdivisions shall always be treated as other subdivisions except as expressly provided by this division or by resolution of the Board of Supervisors adopted pursuant hereto.
- (f) On all lot splits, the Subdivision/Development Review Committee may determine that the land concerned includes areas which are special treatment areas as defined herein and may impose these special treatment conditions as conditions of approval of such lot splits as provided in subsection (e) of this section. In the event the applicant or his agents or representatives are dissatisfied with the determination of the Subdivision/Development Review Committee as to a special treatment area, they may appeal in writing from such determination within 10 days of the date thereof to the Planning Commission which may sustain, modify, or reverse the determination of the Subdivision/Development Review Committee. If a proposed lot split is already shown on a map or otherwise designated as a special treatment area, then appeal may be made as set out in subsection (c) of this section, to have the land declared not to be a special treatment area. Otherwise, if so designated as a special treatment area, these special treatment conditions may be imposed as conditions of approval for the lot split as provided in subsection (e) of this section. *(Amended by Ord. 1751, 11/2/66; Ord. 2380, 1/7/73)*

Section 21-46. Special Grading and Landscaping Provisions.

The following provisions are intended to prevent flooding, creation of unsightly raw earth areas, erosion and stability problems, and to promote proper drainage and attractive appearance.

- (a) In order to keep all graded areas and cuts and fills to a minimum, to eliminate unsightly grading, and to preserve the natural appearance and beauty of the property as far as possible as well as to serve the other specified purposes of these special provisions, limitations may be placed on the size of areas to be graded or to be used for building pads, and on the size, height and angles of cut slopes and fill slopes and the shape thereof. In appropriate cases, retaining walls may be specified.
- (b) Submission for approval of planting plans or elements thereof on special treatment areas within a subdivision may be required particularly in connection with proposed reshaping of sloping land. Reshaping of sloping land rather than mass "pad" grading of steep terrain may be permitted provided the resulting appearance is as natural as possible, adequate drainage is provided and the slopes are properly stabilized and foundation conditions will be sound. In all cases numerous and extensive steep cut and fill slopes shall be avoided and conditions imposed to eliminate such dangerous and unattractive grading.
- (c) Either drainage to the street on which the lots front, or acceptable artificial drainage facilities may be required wherever such drainage is necessary.
- (d) Sheet drainage between building sites may be permitted on lots twenty thousand square feet or more in net area where no appreciable damage is likely to be caused thereby.
- (e) Drainage facilities including but not limited to terraces, storm drains, roof gutters and downspouts, ground gutters and berms may be required.
- (f) The date when grading is to be commenced and the date when it is to be completed may be prescribed and grading operations may be prohibited during certain months because of anticipated seasonal weather conditions. In subdivisions being developed in successive units, grading and drainage requirements may be applied to any proposed units whether development is current or pending where necessary in order to protect units already graded or to protect the land in the ungraded units or adjoining land.
- (g) Lot line locations in relation to cut or fill slopes may be prescribed.
- (h) Minimum spaces between structures and the tops or toes of slopes may be prescribed.
- (i) In order to avoid detrimental effects to neighboring property, contour maps of appropriate portions of property adjacent to the subdivision may be required and conditions may be prescribed so that the grading will not detrimentally affect such adjacent property. This requirement shall not be imposed unless the right of entry is available to the subdivider or the County takes necessary steps to acquire and provide such right of entry for the subdivider. *(Amended by Ord. 1751,11/2/66)*

Section 21-47. Special Fire Prevention and Suppression Provisions.

- (a) Public interest in protecting Southern California's mountains from fire stems from the need to protect improvements below from the threat of aggravated flood damage due to burning of the vegetation, and to preserve the natural function of these mountains as watersheds in absorbing rainfall needed to replenish underground water storage basins. Because of dry climate, combustible vegetation, and rugged terrain, fire hazard in these mountains is great and fire control is difficult.
- (b) Increasing population has complicated the mountain fire problem and has intensified the public health and safety aspects of watershed resource fire protections. Homes and other structures have been built in the mountain watersheds without regard to the hazards involved. Such development

and use not only increases the chances of disastrous brush fires, but the dwellings and people themselves are exposed to serious threats.

- (c) Uncontrolled development of the hazardous mountain areas sets the scene for disaster. Structural fire losses from brush fires have been great, and losses have been increasing in recent years. Fire fighting forces alone cannot always furnish protection; measures to compensate for hazardous conditions must be planned and built into subdivisions.
- (d) The dominant vegetation in the County's mountainous areas is brush or chaparral - the dense growth of many shrub species, mainly chemise, scrub oak, manzanita, and ceanothus. It makes pleasant surroundings for homesites, but it is deceptively flammable. The natural dryness of the brush, its structure, and dense growth present a fire hazard which becomes critical during the summer and fall months, especially when the hot, dry winds blow in from the deserts. This native brush is a good protective watershed cover, but in developed areas it is extremely hazardous around homes and communities.
- (e) The drying effects of several days of wind can evaporate the beneficial moisture of rain, creating fire weather conditions during the winter months. Disastrous fires can occur any month of the year.
- (f) The mountains in the County rise abruptly from densely populated valleys and coastal areas. These rugged mountains make fire control difficult because of the physical obstacles involved and the influence of the terrain on fire behavior. The same characteristics which intensify the fire problem - the rugged terrain, steep slopes, and loose soils - also intensify interlocking problems of flood prevention and control, water supply and distribution, roads, and building construction.
- (g) Dense, dry explosive brush growing on rugged slopes, ridges, and in canyons is a condition of environment which is hostile to uncontrolled development. Ever-increasing numbers of people have compounded the wildland fire problem and have made the protection of life and property of utmost importance.
- (h) In Southern California, subdivisions have been located within high fire hazard areas. In the County, encroachment of urban areas into the watershed lands - moving up the mountain slopes and into the canyons - into areas of increasing hazard and more difficult fire control has commenced and will increase.
- (i) The fire problem is no longer solely one of protecting a valuable natural resource - it is also one of people, lives, and property.
- (j) Direct fire losses and losses due to ensuing flood damage are costly to the individual and to the public. Public benefits must be protected, and the exposure charges of fire insurance in hazardous areas brought down to a level comparable to similar developments in other areas.
- (k) Mountain land considered for subdivision, or mountainous land within or adjacent to cities, is not "wildland" - it is undeveloped "urban" land. It must be regarded in this light and be developed properly. The development of private lands in Southern California is inevitable. Comprehensive land use planning is necessary for orderly growth and realization of the full economic and social benefits of this resource.
- (l) Fire protection is a fundamental need - a common denominator - to man's safe habitation and use of these mountainous lands.
- (m) Elements of integrated fire protection planning include:
 - (1) **Topography.** A study of the slopes and the relation to the proposed developments to the configuration of the land.

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- (2) **Land use.** A determination of centers of development, and zoning to include the various residential, business, agricultural, and manufacturing districts, the location of schools, and the location of open areas such as parks, green belts, and golf courses.
- (3) **Traffic flow.** The road network, consisting of arterial and collector streets, should circulate to provide for fire access and public evacuation.
- (4) **Water system.** The distribution and source facilities should be of a design sufficient to support necessary fire flow.
- (n) Areas of extreme fire hazard shall be deemed to be special treatment areas. In general, areas of extreme fire hazard shall be deemed to be any area which is covered with a continuous or nearly continuous highly inflammable vegetative growth as determined by the Planning Commission or the Board of Supervisors as provided in this division.
- (o) For the protection of present and future improvements and their users and occupants, the following fire safety requirements are recommended, and where appropriate, may be required:
- (1) **Safe ingress and egress.** Area development should provide for ready access as to fire and other emergency equipment and for routes of escape to safely handle evacuations. Therefore, road and street system designs should provide maximum circulation consistent with topography to meet fire safety needs and the following conditions or such of them as are appropriate may be imposed.
- (a) Require at least two different routes of entrance and egress to the subdivision or lot split.
- (b) Require a sixty-foot right-of-way for the construction of two twelve-foot traffic lanes, two eight-foot parking lanes, and two ten-foot roadside strips upon which the fire hazard should be abated.
- (c) Limit cul-de-sacs to six hundred feet terminated by a turn-around right-of-way of not less than ninety feet in diameter.
- (d) Street grades should be limited to 10 percent except for such distances as topographic conditions make greater grades practical.
- (e) No street or road should have a center line radius of less than fifty feet.
- (f) The responsible fire agency may remove and clear within twenty feet on each side of every roadway all flammable vegetation or other combustible growth and may enter upon private property to do so. This should not apply to single specimens of trees, ornamental shrubbery or cultivated ground cover such as green grass, ivy, succulents or similar plants used as ground covers provided that they do not form means of readily transmitting fire. As used in this section, "roadway" means that portion of a highway or private street improved, designed, or ordinarily used for vehicular travel.
- (2) **Street names and numbers.** To facilitate fire location and to avoid delays in response, all roads, streets, and buildings shall be designated by name or number clearly visible from the main traveled roadway.
- (3) **Community firebreaks.** Firebreaks separating communities or clusters of structures from the native vegetation may be required. Such firebreaks would be more properly termed "fuel-breaks" or "green belts" because all vegetation need not be removed, but thinned out or landscaped so as to reduce the volume of fuel.
- (a) All easements for firebreaks for fire safety of built-up areas shall encompass access for

fire fighting personnel and equipment, which may mean motorized travel in some cases; such easements shall be dedicated to this specific purpose by being recorded.

- (b) Community firebreaks shall be coordinated with overall firebreak and fuelbreak plans of the mountain area.
- (4) **Fire protection water facilities.** Water is the most important single factor in fighting structural fires. Therefore, to assure adequate and reliable water supplies for community fire protection in hazardous areas, the following requirements or such of them as are appropriate may be imposed:
- (a) Except in rural desert and rural mountain areas with a planned population density of one or less dwelling per acre, the minimum size of water distribution mains on which fire hydrants are located shall be a minimum six inches in a system designed to permit circulating water flow as may be practical. Hydrant spacing shall not exceed six hundred and sixty feet with minimum fire flow of five hundred and fifty gallons per minute required for population densities of two or less single family residences per acre; for population densities of more than two dwellings per acre hydrant spacing shall not exceed three hundred and thirty feet with a minimum fire flow of seven hundred and fifty gallons per minute, and more where structural conditions require. Water source facilities shall have the capacity to support the required fire flow for a minimum duration of two hours in addition to the maximum daily flow requirements for other consumptive uses. Water storage may be required to assure the required minimum duration fire flow of two hours with the single most serious interruption to power lines, water mains, and to pump units.
- The local fire authority may adjust the water quantities set forth on the basis of local conditions, exposure, congestion, and construction of buildings.
- (b) The size, type and location of fire hydrants shall meet the approval of the responsible fire authority and of applicable State and County regulations, with a minimum size of waterway not smaller than the size of the street main up to a nominal six-inch size. A gate shall be placed on the connection between main and hydrants.
 - (c) Those rural mountain and rural desert areas planned for a population density on one or less dwelling per acre shall be encouraged to obtain water service from a single system which shall conform to minimum state regulations as to pipe size and supply. Fire hydrants shall be installed at least each one-fourth mile with individual locations as near as possible to structures to be protected - specific locations to be approved by the responsible fire authority.
 - (d) Those separately developed dwellings with an individual private water supply shall provide an acceptable guaranteed minimum supply of water, above the amount required for domestic needs, that will be adequate in the judgment of the fire authority for fire protection for the structures.
- (5) **Refuse disposal.** All areas planned for intensive development shall include a suitable plan for the disposal of flammable refuse. Refuse disposal shall be in accord with County or local plans or ordinances, and shall not be less than state requirements. Where practical, disposal shall be by methods other than open burning. *(Amended by Ord. 1751, 11/2/66)*

Section 21-48. Special Sewage Disposal Provisions.

- (a) The purposes of this section are to insure that in special treatment areas there will be adequate and

sanitary methods provided for the disposal of sewage which will not pollute water supplies, bathing and swimming areas, permit sewage to come onto the surface of the land, create erosion or earth subsidence or slippage problems and generally prevent other hazards to health and safety.

- (b) In order to protect lift stations, manholes and other appurtenances of community sewer systems from flooding, land movement and other possible sources of damages, locations and protective measures may be prescribed. In order to insure adequate operation, the type and method of operation of lift stations may be prescribed. Such conditions may be in addition to those required by other governmental agencies.
- (c) The use of individual sewage disposal systems may be limited or prohibited where pollution of the underground water table will endanger supplies of domestic water, where seepage of water into unstable or potentially unstable soil or rock formations is likely to cause earth movements dangerous to life or property, and in other cases where a danger to life, limb or health may result from the use of individual sewage disposal systems. *(Amended by Ord. 1751, 11/2/66)*

Section 21-49. Special Water Supply Provisions.

Where the elevation of all or a portion of the land proposed to be subdivided is such that tanks, pumps or reservoirs need to be installed, this fact must be indicated at the time the tentative map is filed, although the exact locations of such facilities need not be indicated prior to submission of the final subdivision map. *(Amended by Ord. 1751, 11/2/66)*

Section 21-50. Special Road Provisions.

The provisions relating to special road requirements are to be found in division nine of this article and in policy resolutions of the Board of Supervisors. Any one or more of such special provisions relating to roads may be applied when appropriate and reasonable in order to carry out the purposes of this division. *(Amended by Ord. 1751, 11/2/66)*

DIVISION 9 CLASSIFICATION OF STREETS

Section 21-51. Alley.

An alley is a secondary means of access usually lying along the rear of lots or property, the front of which abuts on and has primary access from a street. *(Amended by Ord. 1722, 6/1/66)*

Section 21-52. Arterial Road.

An arterial road is a street so designated by a general or specific plan adopted by the Board of Supervisors, or any street which by reason of its through-route characteristics or uses of land served now carried, or is expected to carry in the next 20 years, more than 10,000 vehicles per day. *(Amended by Ord. 1722, 6/1/66)*

Section 21-53. Boundary Street.

A boundary street is a street lying along a subdivision boundary. *(Amended by Ord. 1722, 6/1/66)*

Section 21-54. Collector Street.

A collector street is a primary residential street designed to connect streets of a higher classification (carrying more traffic) designed to have a minimum interference of traffic from driveways. *(Amended by Ord. 1722, 6/1/66)*

Section 21-55. Commercial Street.

A commercial street is a street which is to provide access to abutting property zoned for commercial purposes. *(Amended by Ord. 1722, 6/1/66)*

Section 21-56. Expressway.

An expressway is a divided arterial highway for through traffic which may provide "at grade" crossings or may have partial control of access. *(Amended by Ord. 1722, 6/1/66)*

Section 21-57. Freeway.

A freeway is a divided arterial highway for through traffic having full control of access with no "at grade" crossings. *(Amended by Ord. 1722, 6/1/66)*

Section 21-58. Frontage Road.

A frontage road is a road which is auxiliary to and located adjacent to a freeway, or other highway, and which may provide service to abutting property on only one side of the road and with controlled access to the adjacent major route. A frontage road may be of any classification.

(Amended by Ord. 1722, 6/1/66)

Section 21-59. Hillside Residential Street.

A hillside residential street is a street used as a residential, residential cul-de-sac, or residential loop street with special design features deemed appropriate by the road commissioner on the basis of slope and terrain. In general, this shall include areas where the natural cross-slope to be graded for the street exceeds fifteen percent. *(Amended by Ord. 1722, 6/1/66)*

Section 21-60. Industrial Street.

An industrial street is a street which is to provide access to abutting industrial lots and which at present or in the future will not serve as an arterial road or major road. *(Amended by Ord. 1722, 6/1/66)*

Section 21-61. Major Road.

A major road is a street so designated by a general or specific plan adopted by the Board of Supervisors,

or any street which by reason of its route characteristics or uses of land served now carries, or is expected to carry in the next twenty years, more than five thousand but less than 10,000 vehicles per day. *(Amended by Ord. 1722, 6/1/66)*

Section 21-62. Primary Residential Street.

A primary residential street is a street other than an arterial road or major road which:

- (a) Is so designated by a general or specific plan adopted by the Board of Supervisors; or
- (b) Is expected to collect and carry a traffic volume of from one thousand to 5,000 vehicles per day within the next 20 years; or
- (c) Constitutes a principal entrance to a residential subdivision of more than 75 dwelling units and is not expected to serve in the future as a major road or collector street; or
- (d) Serves residential development having a density in excess of four and five tenths dwelling units per gross acre. *(Amended by Ord. 1722, 6/1/66)*

Section 21-63. Residential Cul-De-Sac Street.

A residential cul-de-sac street is a dead-end residential street which is designated to provide access to a limited number of abutting dwelling units and which cannot be extended to serve a greater number of dwelling units. *(Amended by Ord. 1722, 6/1/66)*

Section 21-64. Residential Loop Street.

A residential loop street is a local purpose street which is to provide access to a limited number of abutting dwelling units, and which begins on and terminates at the same cross-street, or on two streets if both are secondary residential streets. *(Amended by Ord. 1722, 6/1/66)*

Section 21-65. Rural Residential Street.

A rural residential street is a street which is abutted by residential lots zoned for a density of less than two and five tenths dwelling units per gross acre and is designed to carry a traffic volume not to exceed one thousand vehicles per day for at least twenty years. *(Amended by Ord. 1722, 6/1/66)*

Section 21-66. Secondary Residential Street.

A secondary residential street is a street which provides access to residential lots and is expected to carry a traffic volume of less than one thousand vehicles per day. *(Amended by Ord. 1722, 6/1/66)*

Section 21-67. Split-Level Street.

A split-level street is a street of any classification having the improvements and capacity provided in a normal street of the same classification but with each direction of traffic at different elevations separated by a median strip. *(Amended by Ord. 1722, 6/1/66)*

DIVISION 10 LEGAL PROCEDURE AND REMEDIES

Section 21-68. Building and Zoning Permits.

Compliance with this article is a condition precedent to the issuance of a building permit or zoning permit by any person authorized to issue such permits in the unincorporated territory of the County.

Building permits and zoning permits issued without prior compliance with this article are void. Upon the discovery of the issuance of such permits without compliance herewith, it shall be the duty of the building official and planning director to notify the person to whom such permit was issued of the requirements of this article and to demand all building and construction work to cease immediately until this article has been complied with. *(Amended by Ord. 1722)*

Section 21-69. Voidability of Conveyances.

Any conveyance of contract made contrary to the provisions of this article is voidable to the extent and in the same manner provided in Section 66499.32 of the California Government Code. *(Amended by Ord. 1722, 6/1/66; Ord. 4436, 11/20/01)*

Section 21-70. Enforcement, Legal Procedures, and Penalties. *(Amended by Ord. 3818, 1/9/90; Ord. 4436, 11/20/01)*

Section 21-70.1. Investigation.

The Director, or any person within the Planning and Development Department authorized by the Director, is hereby authorized to investigate all reported or apparent violations of any of the provisions of this Chapter. If a violation is determined to exist or to be impending, the Director is hereby authorized to take such measures as he deems necessary or expedient to enforce and secure compliance with the provisions of this Chapter.

- 1. Director defined.** As used in this section, the term "Director" refers to the Director of the Planning and Development Department and also to any person within the Planning and Development Department who is authorized by the Director to act on his or her behalf.
- 2. Cooperation of other officials.** The Director or his or her agents may request, and shall receive, the assistance and cooperation of other officials of the County to assist in the discharge of their duties.
- 3. Right of entry and inspection.** The Director may enter at all reasonable times any building, structure, or premise in the County of Santa Barbara for the purpose of carrying out any act necessary to perform any duty imposed by this Chapter. Upon request the Director shall provide adequate identification. Except under exigent circumstances, an inspection warrant shall be obtained if entry is refused.
- 4. Liability.** The Director or any other person charged with the enforcement of this Chapter, if acting in good faith and within the course and scope of his or her employment, shall not thereby be liable personally, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as the result of, or by reason of, any act or omission occurring in the discharge of his or her duties. Any suit brought against the Director, or his or her agents or employees, because of such act or omission, performed in the enforcement of any provision of this Chapter, shall be defended by the County Counsel of Santa Barbara County.

Section 21-70.2. Work Stoppage.

Where any building construction work is being done contrary to the provisions of this Chapter, the Director may order the work stopped by giving notice in writing and serving such notice and order on any persons engaged in doing or causing such work to be done. Any such persons, their agents, employees, or servants, shall forthwith stop such work until such time as re-commencement is authorized by the

Director.

Section 21-70.3. Referral for Legal Action.

If unable to otherwise enforce the terms of this Chapter, the Director shall refer the matter to the District Attorney and/or County Counsel of the County of Santa Barbara for appropriate legal action.

Section 21-70.4. Legal Actions.

1. Civil Actions.

- a. Public Nuisance.** Any building or structure which is set up, erected, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Chapter, and any use of any lands, building, or premise established, conducted, operated, or maintained contrary to the provisions of this Chapter, shall be and the same is hereby declared to be unlawful and a public nuisance.

Any division or attempted division of land for any purpose, including gift, without prior compliance with the requirements of this Chapter shall be and is hereby declared to be unlawful and a public nuisance.

Any offer to sell, contract to sell, or finance sale or deed of conveyance made contrary to the provisions of this chapter shall be and is hereby declared to be unlawful and a public nuisance.

- b. Injunctive Relief.** Whenever, in the judgment of the Director, any person, firm, or corporation is engaged in or is about to engage in any act or practice which constitute or will constitute a violation of any provision of this Chapter or any rule, regulation, order, or permit issued thereunder, and at the request of the Director, the District Attorney or County Counsel of the County may make application to the Superior Court for an order enjoining such act or practice, or for an order directing compliance, and upon a showing by the Department that such person, firm, or corporation has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order, or other order may be granted.
- c. Abatement.** In the event that any person, firm, or corporation shall fail to abate a violation hereunder after notice of same and opportunity to correct or end the violation, the Director of the Planning and Development Department may request the County Counsel or District Attorney to apply to the Superior Court of this County for an order authorizing the Planning and Development Department to undertake those actions necessary to abate the violations and requiring the violator to pay for the costs of such undertaking.

2. Civil Remedies and Penalties.

- a. Civil Penalties.** Any person, whether acting as principal, agent, employee, or otherwise, who willfully violates the provisions of this Chapter or any rule, regulation, order, or permit issued thereunder, shall be liable for a civil penalty not to exceed \$25,000 for each day that the violation continues to exist.
- b. Costs and Damages.** Any persons, whether as principal, agent, employee, or otherwise, violating any provisions of this Chapter or the rules, regulations, orders, or permits issued hereunder, shall be liable to the County of Santa Barbara for the costs incurred and the damages suffered by the County, its agents, and agencies as a direct and proximate result of such violations.
- c. Procedure.** In determining the amount of the civil penalty to impose, the court shall consider

all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by defendant.

3. Criminal Actions and Penalties.

- a. **Infractions.** Any person, firm, or corporation, whether as a principal, agent, employee, or otherwise, violating any provisions of this Chapter, or the rules, regulations, orders, or permits issued thereunder, shall be guilty of an infraction, and upon conviction thereof, shall be punishable by 1) a fine not exceeding one hundred dollars (\$100.00) for a first violation; 2) a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same ordinance within one year; and 3) a fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same ordinance within one year.
- b. **Misdemeanors.** Any offense which would otherwise be an infraction may, at the discretion of the District Attorney, be filed as a misdemeanor if the defendant has been convicted of two or more violations of any of the provisions of this Chapter within the 12-month period immediately preceding the commission of the offense or has been convicted of three or more violations of any of the provisions of this Chapter within the 24-month period immediately preceding the commission of the offense. Upon conviction of a misdemeanor the punishment shall be a fine of not less than \$500.00 nor more than \$25,000.00 or imprisonment in the County jail for a period not to exceed 60 days or by both such fine and imprisonment, except that where such prior convictions are alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by pleas of guilty or *nolo contendere* or by trial by the court sitting without a jury, the punishment shall be a fine of no less than \$1,000.00 nor more than \$25,000 or by imprisonment in the County jail for a period not to exceed six months or by both such fine and imprisonment.
- c. **Violations.** Each and every day during any portion of which any violation of this Chapter or the rules, regulations, orders, or permits issued thereunder, is committed, continued or permitted by such person, firm, or corporation shall be deemed a separate and distinct offense.

Section 21-70.5. Cumulative Remedies and Penalties.

The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state.

Section 21-70.6. Violations of Conditions - Penalty.

If any portion of a privilege authorized by a Modification, Coastal Development Permit, Variance, Conditional Use Permit, Development Plan, Parcel Map or Final Map, or other permit approved under this chapter is utilized, the conditions of the Modification, Coastal Development Permit, Variance, Conditional Use Permit, Development Plan, Parcel Map or Final Map, or other permit approved under this chapter, immediately become effective and must be strictly complied with. The violation of any valid condition imposed by the Planning Commission, Board of Supervisors, Zoning Administrator, or Planning and Development Department in connection with the granting of any Modification, Coastal Development Permit, Variance, Conditional Use Permit, Development Permit, Parcel Map or Final Map, or other permit taken pursuant to the authority of Chapter 21, shall constitute a violation and shall be subject to the same penalties as defined in Section 21-70. (Amended by Ord. 4436, 11/20/01)

Section 21-71. (Deleted by Ord. 3618, 11/24/86)

Section 21-71.1 Recovery of Costs. *(Added by Ord. 3609, 10/6/86; Amended by Ord. 4436, 11/20/01)*

1. **Purpose and Intent.** This section establishes procedures for the recovery of administrative costs, including staff time expended on the enforcement of the provisions of this Chapter in cases where no permit is required in order to cure a violation. The intent of this section is to recoup administrative costs reasonably related to enforcement.

2. **Definitions.** For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them herein.

Department: The Planning and Development Department of the County of Santa Barbara;

Director: The Director of the Planning and Development Department, or any person within the Department authorized by the Director;

Owner: The record owner or any person having possession and control of the subject property;

Costs: Administrative costs, including staff time expended and reasonably related to enforcement, for items including site inspections, summaries, reports, telephone contacts and correspondence. Travel time for site inspections shall not be included.

3. The Planning and Development Department shall maintain records of all administrative costs, incurred by responsible County departments, associated with the processing of violations and enforcement of this Chapter and shall recover such costs from the property owner as provided herein. Staff time shall be calculated at an hourly rate as established and revised from time to time by the Board of Supervisors.

4. **Notice.** Upon investigation and a determination that a violation of any of the provisions of this Chapter is found to exist, the Director, or any person within the Department authorized by the Director, shall notify the record owner or any person having possession or control of the subject property by mail of the existence of the violation, the Department's intent to charge the property owner for all administrative costs associated with enforcement, and of the owner's right to a hearing on objections thereto.

The notice shall be in substantially the following form:

NOTICE

The Planning and Development Department has determined that conditions exist at the property a _____ which violate Section _____ of the County Code, to wit:

(description of violation)

Notice is hereby given that at the conclusion of this case you will receive a summary of administrative costs associated with the processing of this violation, at an hourly rate as established and adjusted from time to time by the Board of Supervisors. The hourly rate presently in effect is _____ per hour of staff time.

You will have the right to object to these charges by filing a Request for Hearing with the Planning and Development Department within 10 days of service of the summary of charges, pursuant to Section 21-71.1.6.

5. At the conclusion of the case, the Director shall send a summary of costs associated with enforcement to the owner and/or person having possession or control of the subject property by certified mail. Said summary shall include a notice in substantially the following form:

NOTICE

If you object to these charges you must file a Request for Hearing on the enclosed form within 10 days of the date of this notice.

IF YOU FAIL TO TIMELY REQUEST A HEARING, YOUR RIGHT TO OBJECT WILL BE WAIVED AND YOU WILL BE LIABLE TO THE COUNTY FOR THESE CHARGES, TO BE RECOVERED IN A CIVIL ACTION IN THE NAME OF THE COUNTY, IN ANY COURT OF COMPETENT JURISDICTION WITHIN THE COUNTY.

Dated: _____

Director

In the event that (a) a Request for Hearing is not timely filed or, (b) after a hearing the Director affirms the validity of the costs, the property owner or person in control and possession shall be liable to the County in the amount stated in the summary or any lesser amount as determined by the Director. These costs shall be recoverable in a civil action in the name of the County, in any court of competent jurisdiction within the County.

6. Any property owner, or other person having possession and control thereof, who receives a summary of costs under this section shall have the right to a hearing before the Director on his objections to the proposed costs in accordance with the procedures set forth herein.
 - a. A request for hearing shall be filed with the Department within 10 days of the service by mail of the Department's summary of costs, on a form provided by the Department.
 - b. Within 30 days of the filing of the request, and on 10 days written notice to the owner, the Director shall hold a hearing on the owner's objections, and determine the validity thereof.
 - c. In determining the validity of the costs, the Director shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include, but are not limited to, the following: Whether the present owner created the violation; whether there is a present ability to correct the violation; whether the owner moved promptly to correct the violation; the degree of cooperation provided by the owner; whether reasonable minds can differ as to whether a violation exists.
 - d. The Director's decision shall be appealable to the Board of Supervisors.

Section 21-71.2. Processing Fee Assessment.

Any person who shall erect, construct, alter, enlarge, move or maintain any building or structure, or institute a use for which a permit is required by this Article without first having obtained a permit therefor, shall, if subsequently granted a permit for that building, structure or use, or any related building, structure or use on the property, first pay such additional permit processing fees as established from time to time by the Board of Supervisors.

Section 21-71.3. Public Hearing Notice. *(Added by Ord. 4157, 5/3/94)*

Section 21-71.3.1. Purpose and Intent.

The purpose of this section is to set forth the minimum requirements for providing notice of a public hearing.

Section. 21-71.3.2. Notice of Public Hearing.

For all projects that require a noticed public hearing, notice shall be given pursuant to Sections 65090-

65096 of the California Government Code. The minimum requirements for such notice shall be as follows:

- a. Notice shall be published in at least one newspaper of general circulation within the County, and circulated in the area affected by the project, at least 10 days prior to the hearing.
- b. Notice shall be mailed to any person who has filed a written request therefore and has supplied the County with self-addressed stamped envelopes.
- c. Notice shall be mailed to the applicant(s) and appellant(s).
- d. Notice shall be mailed to the owners of the affected property and the owners of property within 300 feet of the exterior boundaries of the affected property. The names and addresses used for such notice shall be those appearing on the equalized County assessment roll, as updated from time to time.
- e. If the number of owners to whom notice would be mailed or delivered pursuant to Section 21-71.3. is greater than 1000, the County may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the County at least 10 days prior to the hearing.

Section 21-71.3.3. Contents of Notice.

The notice shall contain the following information:

- a. The date of filing of the application and the name of the applicant.
- b. The Planning and Development Department number assigned to the application.
- c. A description of the project and its location.
- d. The place, date and general time of the hearing.
- e. The procedure for the submission of public comments in writing before the hearing.
- f. The procedure for public comments at the hearing.

Section 21-71.4. Appeals. *(Added by Ord. 4157, 5/3/94; Amended by Ord. 4436, 11/20/01; Ord. 4805, 10/18/2011)*

Section 21-71.4.010 Purpose and Intent.

The purpose of this Section is to provide procedures for accepting and processing appeals to the Board of Supervisors and the Planning Commission.

Section 21-71.4.020 General Appeal Procedures.

A. Who may appeal. An appeal may only be filed by an applicant or any aggrieved person. An aggrieved person is defined as any person who in person, or through a representative, appeared at a public hearing in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing or decision, informed the decision-maker of the nature of their concerns or who for good cause was unable to do either.

B. Appeals of decisions of the County Surveyor or the Planning Commission.

1. An appeal, which shall be in writing, and accompanying fee, of a decision of the County Surveyor or the Planning Commission shall be filed with the Clerk of the Board of Supervisors within the 10 calendar days following the date of the decision that is the subject of the appeal.
 - a. The time within which the appeal shall be filed shall commence on the day following the day on which the decision or determination was made. In the event the last day for

filing an appeal falls on a non-business day of the County, the appeal may be timely filed on the next business day.

2. The appellant shall use the form provided by the Clerk of the Board of Supervisors in addition to any other supporting materials the appellant may wish to furnish explaining the reasons for the appeal. The appellant shall state specifically how the decision or determination of the County Surveyor or the Planning Commission is inconsistent with the provisions and purposes of Chapter 21 (Land Division) of the County Code or other applicable law, or the error or abuse of discretion committed by the County Surveyor or the Planning Commission.

C. Appeals of decisions of the Planning Director or the Zoning Administrator.

1. Filing, form and timing of an appeal.

- a. An appeal, which shall be in writing, and accompanying fee, of a determination of the Planning Director or a decision of the Zoning Administrator shall be filed with the Planning and Development Department within the 10 calendar days following the date of the decision that is the subject of the appeal.

(1) The time within which the appeal shall be filed shall commence on the day following the day on which the decision or determination was made. In the event the last day for filing an appeal falls on a non-business day of the County, the appeal may be timely filed on the next business day.

- b. The appellant shall use the form provided by the Planning and Development Department in addition to any other supporting materials the appellant may wish to furnish in compliance with Subsection C.2 (Requirements for contents of an appeal) below, explaining the reasons for the appeal.

2. Requirements for contents of an appeal. The appellant shall specifically provide in the appeal all of the following:

- a. The identity of the appellant and their interest in the decision.
- b. The identity of the decision or determination appealed which may include the conditions of that decision or determination.
- c. A clear, complete, and concise statement of the reasons why the decision or determination is inconsistent with the provisions and purposes of Chapter 21 (Land Division) of the County Code or other applicable law.
- d. If it is claimed that there was an error or abuse of discretion on the part of the decision-maker, or other officer or authorized employee, or that there was a lack of a fair and impartial hearing, or that the decision is not supported by the evidence presented for consideration leading to the making of the decision or determination that is being appealed, or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision was made, then these grounds shall be specifically stated.

3. Acceptance of an appeal. An appeal shall not be accepted by the Planning Director unless it is complete and complies with all requirements of Subsection C.2 (Requirements for contents of an appeal) above. This decision of the Planning Director is final and not subject to appeal.

D. Appeal fees. The appellant shall pay the required filing fee in compliance with the applicable fee

established by the Board of Supervisors at the time of the filing of the appeal.

- E. Effect of filing an appeal.** The filing of the appeal shall have the effect of staying the issuance of any permit or approval that is dependent on the decision that is the subject of the appeal until a final action has occurred on the appeal.
- F. Public hearing required.** The decision-maker shall consider all appeals of decisions of the County Surveyor, Planning Commission or Zoning Administrator in a noticed public hearing. Notice of the time and place of the hearing shall be given and the hearing shall be conducted in compliance with Section 21-71.3. (Public Hearing Notice).

Section 21-71.4.030 Appeals to the Planning Commission.

- A. Decisions appealed to the Planning Commission.** The following decisions and determinations may be appealed to the Planning Commission provided the appeal complies with the requirements of Section 21-71.020, above.
 1. A determination by the Planning Director that an application for a Conditional Certificate of Compliance is incomplete for processing in compliance with Section 21.71.30.B.2.d.(2) (Appeal of determination).
 2. Any final action of the Zoning Administrator to approve, conditionally approve, or deny an application where the Zoning Administrator is designated as the decision-maker in compliance with Section 21-6 (Discretionary Decision-Maker Jurisdiction and Designation of Responsibility) and the property that is the subject of the application is located outside of the Montecito Community Plan area may be appealed to the Planning Commission.
- B. Report to the Planning Commission.** The Planning and Development Department shall transmit to the Planning Commission copies of the permit application including all maps and data and a statement identifying the reasons for the decision by the Zoning Administrator before the hearing on an appeal.
- C. Scope of appeal hearings.** The hearings on the appeal shall be de novo.
- D. Action on appeal.** The Planning Commission shall affirm, reverse, or modify the decision of the Zoning Administrator.

Section 21-71.4.040 Appeals to the Board of Supervisors.

The following decisions and determinations may be appealed to the Board of Supervisors provided the appeal complies with the requirements of Section 21-71.020, above.

- A. Decisions appealed to the Board of Supervisors.**
 - 1. County Surveyor.** Any final action on decisions of the County Surveyor to approve or deny an application where the County Surveyor is designated as the decision-maker in compliance with Section 21-6 (Discretionary Decision-Maker Jurisdiction and Designation of Responsibility), including a decision that an application for a Certificate of Compliance shall be processed as a Conditional Certificate of Compliance.
 - 2. Planning Commission.** The following decisions of the Planning Commission may be appealed to the Board of Supervisors provided the appeal complies with the requirements of Section 21-71.4.020, above.
 - a. Any final action on decisions or determinations that are appealed to the Planning Commission in compliance with Section 21-71.4.030 (Appeals to the Planning Commission) above.

- b. Any final action of the Planning Commission to approve, conditionally approve, or deny an application where the Planning Commission is designated as the decision-maker in compliance with Section 21-6 (Discretionary Decision-Maker Jurisdiction and Designation of Responsibility).

B. Report to the Board of Supervisors.

- 1. **Appeals of decisions of the Planning Commission.** The Planning and Development Department shall transmit to the Board of Supervisors copies of the permit application including all maps and data and a statement identifying the reasons for the decision by the Planning Commission before the hearing on an appeal.

C. Scope of appeal hearings. The hearings on the appeal shall be de novo.

D. Action on appeal. The Board of Supervisors shall affirm, reverse, or modify the decision of the County Surveyor or the Planning Commission. The decision of the Board of Supervisors shall be final.

DIVISION 11 VOLUNTARY MERGER*(Added by Ord. 3560, 3/10/86)***Section 21-71.01 Voluntary Merger.** *(Amended by Ord. 4436, 11/20/01)*

Pursuant to the provisions of California Government Code Section 66499.20 3/4, a merger and certificate of merger of existing adjoining parcels of real property may be authorized by the County Surveyor and filed for record by the County Recorder only where the County Surveyor makes all of the following findings: *(Amended by Ord. 4176, 12/20/94)*

- (a) The merger will not affect any fees, grants, easements, agreements, conditions, dedications, offers to dedicate or security provided in connection with any approvals of divisions of real property or lot line adjustments; and,
- (b) The boundaries of the parcels to be merged are well-defined in existing recorded documents or filed maps and were legally created or have certificates of compliance issued on them; and, *(Amended by Ord. 4176, 12/20/94)*
- (c) The merger will not alter the exterior boundary of the parcels to be merged; and
- (d) The document used to effect the merger contains an accurate description of the exterior boundaries of the resulting parcel; and,
- (e) All parties having any record title interest in the real property affected have consented to the merger upon a form and in a manner approved by the Board of Supervisors of the County of Santa Barbara, excepting all those interests that are excepted from the requirement to consent to the preparation and recordation of Final Maps under the provisions of California Government Code Section 66436 and according to the terms, provisions, reservations and restrictions provided therein for such consent; and,
- (f) All necessary fees and requirements, including a fee for recording the document have been provided.

If the finding under subsection (b) above cannot be made, the County Surveyor may nevertheless authorize the merger of two or more parcels of land of which at least one was not created in compliance with the Subdivision Map Act and/or local ordinances as an alternative to the issuance of a conditional certificate of compliance after consultation with the Director of Planning and Development or designee.

Section 21-71.02. Concurrent Filing of Record of Survey.

Where a record of survey is deemed to be necessary by the County Surveyor or the applicant in order to monument and define the boundaries of the merged parcel, such record of survey, otherwise in compliance with all requirements, may be filed at the same time as the merger and certificate of merger. *(Amended by Ord. 4176, 12/20/94)*

Section 21-71.03. Merger of Parcels.

The filing of said merger and certificate of merger for record shall constitute a merger of the separate parcels into one parcel for the purpose of the Subdivision Map Act and local ordinances enacted pursuant thereto, and the parcels shall thereafter be treated in all respects as a single parcel.

Section 21-71.04. Recording of Merger Without Approval Prohibited.

No person shall record a document merging separate legal parcels into a single legal parcel for the purposes of the Subdivision Map Act and local Ordinances enacted pursuant thereto except in conformity with the provisions of this chapter.

Section 21-71.05. Fees.

The Board of Supervisors shall establish by resolution such fees as may be required for the review and processing of a proposal for voluntary merger.

DIVISION 12 RESERVED

DIVISION 13 CERTIFICATES OF COMPLIANCE AND CONDITIONAL CERTIFICATES OF COMPLIANCE

(Added by Ord. Ord. 4805, 10/18/2011)

Section 21-71.10 Purpose and Intent.

- A. **Certificates of Compliance.** This Division provides procedures for the filing, processing, and approval or denial of applications for Certificates of Compliance, consistent with the requirements of Chapter 21 (Land Division) of the County Code, and other applicable provisions of the County Code, including predecessor ordinances, and the requirements of the California Subdivision Map Act, as applicable to the specific application.
- B. **Conditional Certificates of Compliance.** This Division provides procedures for the filing, processing, and approval, approval with conditions or denial of applications for Conditional Certificates of Compliance, consistent with the policies and standards of the Comprehensive Plan, the Local Coastal Program, Article II and Sections 35-1 and 35-2 of Chapter 35, Zoning, of the County Code (the Coastal Zoning Ordinance, the County Land Use and Development Code and the Montecito Land Use and Development Code), including predecessor ordinances, and the requirements of the California Subdivision Map Act, as applicable to the specific application.

Section 21-71.20 Applicability.

- A. **Certificates of Compliance.** A Certificate of Compliance is a document recorded by the County Recorder which acknowledges that the real property which is the subject of the application for the Certificate of Compliance is considered by the County to have been created in accordance with state law and local ordinance at the time of its creation.
- B. **Conditional Certificates of Compliance.** A Conditional Certificate of Compliance is used instead of a Certificate of Compliance to validate real property which is the subject of the application for the Conditional Certificate of Compliance that was not legally subdivided or that is a remainder of a subdivision of land by a government agency.

Section 21-71.30 Application Filing and Review.

- A. **Who may apply.** Any person owning real property, or a purchaser of the property in a contract of sale of the property, may request a Certificate of Compliance or Conditional Certificate of Compliance.
 - 1. **Certificate of Compliance.** An application for a Certificate of Compliance shall be filed with the County Surveyor.
 - 2. **Conditional Certificate of Compliance.** Upon the County Surveyor's determination that the Certificate to be recorded is required to be a Conditional Certificate of Compliance, an application for a Conditional Certificate of Compliance shall be filed with the Planning and Development Department.
- B. **Contents of application.**
 - 1. **Certificate of Compliance.** An application for a Certificate of Compliance shall be filed on a County Surveyor's Office application form, together with required fees and/or deposits, and all other information and materials as identified in the County Surveyor's Office application for a Certificate of Compliance.
 - 2. **Conditional Certificate of Compliance.** An application for a Conditional Certificate of Compliance shall be filed with the Planning and Development Department in compliance

with the following:

- a. Application contents.** Each application for a Conditional Certificate of Compliance together with required fees and/or deposits, shall be filed with the Planning Director on a Planning and Development Department application form, together with required fees and/or deposits, and all other information and materials as identified in the Planning and Development Department application for the Conditional Certificate of Compliance. Submittal requirements may be increased or waived on a project specific basis as determined necessary or appropriate by the Planning Director.
- b. Application fees.**

 - (1) Timing of payment.** Required fees and/or deposits shall be paid at the time of filing the application with the Planning Director and no processing shall commence until the fee/deposit is paid.
 - (2) Refunds and withdrawals.** The required application fees and/or deposits cover County costs for public hearings, mailings, staff time, and the other activities involved in processing applications. Therefore, a refund due to a denial is not required. In the case of an expiration or withdrawal of an application, the Planning Director shall have the discretion to authorize a partial refund based upon the pro-rated costs to-date and the status of the application at the time of expiration or withdrawal.
- c. Filing and acceptance of an application.** An application is considered to be filed after it has been accepted for processing by the Planning and Development Department and required fees and/or deposits have been paid. The Planning Director shall review each application for receipt of all submittal requirements and accuracy prior to acceptance of the application. The Planning Director's acceptance of an application for processing shall be based on the Planning and Development Department's required application contents (see Subsection B.2.a, above).
- d. Special provisions for applications in compliance with California Government Code Section 65943.**

 - (1) Notification of applicant.** Within 30 calendar days of either the initial application filing or subsequent filings after a determination of application incompleteness has been made, the applicant shall be informed in writing, either that the application is complete and has been accepted for processing, or that the application is incomplete and that additional information, specified in the Incomplete letter, shall be provided.
 - (2) Appeal of determination.** After an initial determination of application incompleteness, where the Planning Director has determined for a second or additional time that an application is incomplete, and the applicant believes that the application is complete and/or that the information requested by the Planning Director is not required, the applicant may appeal the Planning Director's determination within the 10 calendar days following the determination to the Planning Commission. The applicant may appeal the Planning Commission's action on the appeal within the 10 calendar days following the final action by the Planning Commission.
 - (3) Time for submittal of additional information.** When an application is

incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness or incompleteness shall occur. The time available to an applicant for submittal of additional information is limited by Subsection B.2.d.(4) (Expiration of application), below.

(4) Expiration of application.

- (a) If an applicant fails to provide the additional information specified in the Planning Director's letter within 90 days following the date of the letter, the application shall expire and be deemed withdrawn, without any further action by the County.
- (b) The Planning Director may grant one 90-day extension.
- (c) After the expiration of an application, future County consideration shall require the submittal of a new, complete application and associated fees.

(5) Environmental information. After an application has been accepted as complete, the Planning Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with the requirements of the California Environmental Quality Act Guidelines.

e. Referral of application. At the discretion of the Planning Director, or where otherwise required by this Chapter, the County Code, or State or Federal law, an application may be referred to any County department or public agency that may be affected by or have an interest in the application.

f. Right of entry/inspection. Every applicant seeking a Conditional Certificate of Compliance in compliance with this Chapter shall allow County staff involved in the review of the application access to any premises or property which is the subject of the application at all reasonable times.

g. Coastal Development Permit requirement.

- (1) If an application for a Conditional Certificate of Compliance is submitted for property located in the Coastal Zone, then an application for a Coastal Development Permit shall also be submitted and shall be processed concurrently and in conjunction with the Conditional Certificate of Compliance application except as follows:
 - (a) The Coastal Commission is the decision-maker for the Coastal Development Permit when the real property is located either within the retained permit jurisdiction of the Coastal Commission in compliance with Public Resources Code Section 30519(b) or in areas where the County's Local Coastal Program has not been certified by the Coastal Commission.
 - (b) The application for the Coastal Development Permit shall be submitted and processed in compliance with Section 35.82.050 of Section 35-1, the County Land Use and Development Code, of the County Code, or Section 35.472.050 of Section 35-2, the Montecito Land Use and Development Code, of the County Code, as applicable depending on the location of the property for which the Conditional Certificate of Compliance is applied for.

Section 21-71.40 Processing.

- A. In general.** After receipt of an application for a Certificate of Compliance, the County Surveyor shall review all available information and determine whether the real property was divided in compliance with Chapter 21 (Land Division) of the County Code, and other applicable provisions of the County Code, including predecessor ordinances, and the requirements of the California Subdivision Map Act, as applicable to the specific application. The determination of the County Surveyor is final subject to appeal in compliance with Section 21-71.4 (Appeals).
- B. Certificates of Compliance.** If the County Surveyor determines that the real property was divided in compliance with Subsection A, above, then the County Surveyor shall cause the Certificate of Compliance to be filed for record with the County Recorder in compliance with Subsection E, below.
- C. Conditional Certificates of Compliance.**
1. If the County Surveyor determines that the real property was not divided in compliance with Subsection A, above, then the County Surveyor shall direct that an application for a Conditional Certificate of Compliance to be filed with the Planning and Development Department.
 - (a) The County Surveyor shall also prepare a written analysis that will serve as the basis for processing of a Conditional Certificate of Compliance. The analysis shall include:
 - (1) A description of the history of the land division.
 - (2) The reason the property was not legally divided or, in the case of remainders created by transfers to a government agency, the legal status of the property at the time of the transfer together with the date of that transfer.
 - (3) References to provisions of State law and County ordinances applicable to the subdivision at the time the division or parcel creation in question occurred.
 2. After receipt of an application for a Conditional Certificate of Compliance, the Planning and Development Department shall review the application in compliance with the requirements of the California Environmental Quality Act.
 3. The Planning and Development Department shall refer the application for a Conditional Certificate of Compliance to the Subdivision/Development Review Committee for review and recommendation to the decision-maker.
 4. The decision-maker shall hold at least one noticed public hearing on the requested Conditional Certificate of Compliance and Coastal Development Permit, if applicable, and either approve or conditionally approve the request.
 5. The action of the decision-maker is final subject to appeal in compliance with Section 21-71.4 (Appeals).
 6. At the time that the Conditional Certificate of Compliance is approved or conditionally approved, the decision-maker may impose conditions as provided by Subsection D (Conditions of Approval), below.
- D. Conditions of approval.**
1. **Owners are original subdividers.** If the owners of the real property for which a Conditional Certificate of Compliance is being recorded are the original subdividers, then the decision-maker, in compliance with the Subdivision Map Act, may impose any

conditions that would be applicable to a current subdivision of the property, regardless of when the property was divided.

2. **Owners are not original subdividers.** If the owners of the real property for which a Conditional Certificate of Compliance is being recorded had no responsibility or are not “successors in interest” of the subdivision that created the real property, then the decision-maker may only impose conditions that would have been applicable to the subdivision at the time the real property was acquired by the current owners.
3. **Compliance with conditions.** Compliance with these conditions shall not be required until the time that a permit or other grant of approval for development of the property is issued by the County.

E. Completion of process.

1. **Certificate of Compliance.** The County Surveyor shall file for record a Certificate of Compliance with the County Recorder. The Certificate shall identify the property, and serve as notice to the property owner or purchaser who applied for the certificate, a grantee of the owner, or any subsequent transferee or assignee of the property that the division complies with Chapter 21 (Land Division) of the County Code, and other applicable provisions of the County Code, including predecessor ordinances, and the requirements of the California Subdivision Map Act, as applicable.
2. **Conditional Certificate of Compliance.** Following expiration of the applicable appeal period of the final action by the decision-maker, the County Surveyor shall file for record a Conditional Certificate of Compliance with the County Recorder. The Certificate shall identify the property, and serve as notice to the property owner or purchaser who applied for the certificate, a grantee of the owner, or any subsequent transferee or assignee of the property that the fulfillment and implementation of the conditions adopted in compliance with Subsection D, above, shall be required before subsequent issuance of a permit or other approval for the development of the property.

- F. Effective date of certificate.** A Certificate of Compliance or Conditional Certificate of Compliance shall not become effective until the document has been recorded by the County Recorder.

ARTICLE I SUBDIVISIONS

Division 13 - Certificates of Compliance and Conditional Certificates of Compliance

ARTICLE II - FLOOD CONTROL**DIVISION 1 FLOOD CONTROL FEES FOR DEVELOPMENT OF LAND
NOT A SUBDIVISION****Section 21-72. Findings of Fact.**

The Board of Supervisors finds that the development of property other than by means of a subdivision will contribute to the drainage, flood control and erosion problems of the areas specified in the drainage elements referred to in ordinances enacted under the State Business and Professions Code, Section 11543.5. The Board further finds that the development of land other than by subdivision will contribute to the drainage, flood control and erosion problems in the same relative proportions as the lands developed by the subdivision. The Board further finds that the development will require construction of the facilities described in the drainage element of the County master plan. The Board further finds that the fees, as hereinafter specified, are fairly apportioned within the local drainage areas on the basis of benefits conferred on the property proposed to be developed and on the need for local drainage facilities created by the proposed development within the local drainage area. The Board further finds that the fees, as hereinafter specified, do not exceed, as to any property proposed to be developed within the local drainage area, the pro rata share of the amount of the total actual or estimated cost of all facilities within the local drainage area which would be assessable on such property if such costs were apportioned uniformly on a per acre basis.

Section 21-73. Applicability of Division.

This division shall not apply to subdivisions or to building permits for alterations or additions to existing buildings or structures.

Section 21-74. Drainage Facilities Additional.

The drainage facilities planned in the drainage element of the master plan are in addition to existing local drainage facilities serving the area at the time of the adoption of the drainage plan for the area.

Section 21-75. Fees When Drainage Element Adopted.

In any area of the County where the drainage element of the County master plan has been adopted and a fee ordinance under the provisions of the State Business and Professions Code, Section 11543.5, has been enacted and is in force, no building permit shall be issued for the original construction of a residence, commercial, industrial, school, church, shopping center or other building or structure or development unless and until a fee has been paid to the County in the amount of one hundred dollars per residential lot, or at the rate of five hundred dollars per acre for property to be developed as commercial, industrial, school, church, shopping center or other similar uses which substantially cover the ground and decrease the permeability of the soil, or at the rate of one hundred dollars per acre for property to be developed as park, golf course, green belt, agricultural or other similar uses which substantially preserve the permeability of the soil.

Section 21-76. Use of Fees.

All fees paid to the County under the provisions of this division shall be deposited in the County treasury in the special fund created under the particular ordinance for that drainage area under the authority of the State of Business and Professions Code, Section 11543.5 which fund shall be maintained as a separate fund and expanded in the manner provided in the State Business and Professions Code, Section 11543.5.

Section 21-77. Credit to Subdivider.

In any case in which the owner or developer or subdivider of land contributes cash or other valuable

ARTICLE II FLOOD CONTROL

Division 1 - Flood Control Fees for Development of Land Not a Subdivision

consideration approved by the Board of Supervisors toward the construction of the facilities included in the drainage element of the master plan, then such owner, subdivider or developer shall receive credit for such contribution upon the fees specified herein at the time such land is subdivided.

DIVISION 2 ORCUTT AREA REGIONAL DRAINAGE FEES

(Amended by Ord. 4313, 6/16/98)

Section 21-78. Findings.

- (a) In order to implement the goals and objectives of the Orcutt Community Plan and to mitigate impacts caused by new development projects within the Orcutt Planning Area, a Regional Drainage Facility Development Impact Fee is necessary. The fee is needed to finance regional drainage facilities necessary to serve new development and to assure new development projects pay their fair share for these facilities.
- (b) Title 7, Chapter 5, Section 66000 *et seq.* of the California Government Code provides that Development Impact 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 and/or improvement of regional drainage facilities within the Orcutt Planning Area.
 - (2) Funds for construction, expansion and/or improvement of regional drainage facilities are not available to accommodate the needs caused by new development projects, which will result in inadequate regional drainage facilities within the Orcutt Community Planning Area.
- (c) The Orcutt Community Planning Area has different regional drainage facility needs that are impacted differently by new development and subdivisions. Four Regional Drainage Benefit Areas have been established to meet the different regional drainage needs created by new development. The four regional drainage benefit areas include, but are not limited to:
 - (1) East Clark Benefit Area
 - (2) Union Valley Benefit Area
 - (3) Orcutt Creek Benefit Area
 - (4) Pine Canyon Creek Benefit Area

Benefit areas may be further defined, added, deleted or consolidated by resolution of the Board of Supervisors.
- (d) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of a Regional Drainage Facility Development Impact Fee for the construction, expansion and/or improvement of regional drainage facilities, the need for which is caused by new development projects. In establishing a Regional Drainage Facility Development Impact Fee, the Board of Supervisors finds the fee consistent with the Santa Barbara County Comprehensive Plan/Land Use Element and the Orcutt Community Plan.
- (e) Pursuant to Government Code Section 65913.2, the Board of Supervisors has considered the effects of the fees with respect to the County's housing need as established in the housing element of the general plan.
- (f) Pursuant to Title 14 California Code of Regulations, Section 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-79. Definitions.

Words when used in this ordinance, and in resolutions adopted under the authority of this ordinance, shall have the following meanings:

Division 2 - Orcutt Area Regional Drainage Fees

- (a) “Orcutt Community Plan” is defined as the plan that updates the Santa Barbara County Comprehensive Plan for the unincorporated area of Orcutt.
- (b) “Orcutt Community Planning Area” is defined as that area of the County of Santa Barbara delineated by the Orcutt Community Plan adopted by the Board of Supervisors on July 22, 1997 and as amended from time to time.
- (c) “Development” or “Development Project” means any project that involves the issuance of a permit for new construction, and reconstruction or expansion of an existing structure, which would result in an increased impact on public services.
- (d) “Residential Unit” means a building used for the primary purpose of human habitation, such as a single family home, an individual condominium unit, or an individual apartment.
- (e) “Dwelling Unit” means a building or portion thereof designed for and occupied in whole or in part as a residence or sleeping place, either permanently or temporarily, by one family and its guests, with sanitary facilities and one kitchen provided within the unit.
- (f) “Fee” means a monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion of, the cost of Regional Drainage Facilities related to the development project or subdivision.
- (g) “Subdivision” means the division of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale or lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if separated by roads, streets, utility easement or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in subdivision (f) of Section 1351 in the California Civil Code, a community apartment project as defined in subdivision (d) of Section 1351 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the California Civil Code, as the same presently exists or may hereafter be amended.
- (h) “Regional Drainage Facilities” includes public improvements, and community amenities including but not limited to drainage systems, retention basins, storm drains, related planning, engineering, construction and administrative activity, and/or any other capital regional drainage facility projects identified in the Orcutt Community Plan Public Infrastructure Financing Program.
- (i) “Regional Drainage Impact” means any development project within the identified benefit areas which generates increased storm water runoff.
- (j) “Public Infrastructure Financing Program” means the AB 1600 Fee Justification Study, Fiscal Impact Report, and Financing Plan prepared for the Orcutt Community Planning Area dated October 17, 1997, in conjunction with the adoption of this ordinance, and may be amended from time to time.
- (k) “Capital Improvement Plan” means the plan for regional drainage capital improvements as identified in the Public Infrastructure Financing Program or its successor, as adopted or updated by the Board of Supervisors. The Capital Improvement Plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.
- (l) “Board of Supervisors” means the Board of Supervisors of the County.

(m) "County" means the County of Santa Barbara, a political subdivision of the State of California.

Section 21-80. Adoption of Regional Drainage Facility Development Impact Fees.

Pursuant to this ordinance, Regional Drainage Facility Development Impact Fees shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing. Such fee, when adopted, shall be a condition of the issuance of permits for, or the approval of, new development projects within the Orcutt Community Planning Area.

In adopting the resolution, the Board of Supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
- (4) Determine a reasonable relationship between the need for the regional drainage facility and the impacts from the type of development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the regional drainage facility, or portion of the regional drainage facility; and
- (6) Establish a schedule of fees for regional drainage facilities.

Section 21-81. Applicability of Fees.

- (a) A Regional Drainage Facility Development Impact Fee shall be charged upon the approval for any of the following new development within the Orcutt Community Planning Area:
 - (1) The construction or installation of new single family and multi-family (e.g., condos, mobile homes, apartments, duplexes, townhouses, second units) residential units.
 - (2) Additions to existing residential structures that add a new dwelling unit as defined by Section 21-79 (e).
 - (3) The construction or installation of any new non-residential buildings, including any additions to such existing buildings which add more than 500 square feet of floor area; within Old Town Orcutt, as defined in the July 22, 1997 Orcutt Community Plan, only those additions to existing buildings which add more than 1,000 square feet shall be subject to the fee.

Section 21-82. Exemptions.

The following will be exempted from payment of the Regional Drainage Development Impact fees referenced herein:

- (a) Any development project or subdivision that has no regional drainage impact, as defined by Section 21-79 (i) of this ordinance.
- (b) Any development project that does not require a building permit that allows for the erection, moving, alteration, or improvement within the County.

Section 21-83. Timing of Fee Payment.

(a) Imposition of Fees.

- (1) The schedule of fees in effect on the date the vesting tentative map or vesting tract map for a development project is approved determines the applicable fee on the subject map. If there

is no vesting map, the applicant pays according to the schedule of fees in place on the date the fees are paid.

- (2) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required unless (1) the project has been changed in a way that alters its regional drainage impact, or (2) the schedule of fees has been amended during the interim. In this event, the applicant pays the appropriate increase or decrease in the fees.
- (3) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payer shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee.

- (1) Except as set forth in section (2) and (3) below, Regional Drainage Facility Development Impact Fees shall be paid on the date the final inspection is approved.
- (2) For residential development containing more than one dwelling unit, the developer may request that the fees be paid in installments based on the phasing of their development project. The decision whether to allow installment payments shall be determined by the Public Works Director. Any fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
- (3) The County shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the County has adopted a proposed construction schedule or plan prior to final inspection, or the fees are to reimburse the local agency for expenditures previously made.
- (4) No building permit for any development project shall be issued unless a contract has been executed to pay the fees, and no final inspection for any development project shall be approved unless fees have been paid.

Section 21-84. Fee Adjustments.

- (a) A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Regional Drainage Facility Development Impact Fee based upon the absence of any reasonable relationship or nexus between the regional drainage impacts of the project or subdivision and either the amount of the fee(s) charged or the type of regional drainage facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the Director of Public Works within 15 calendar days following the determination of the fee amount.
- (b) The Director of Public Works shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision to the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

Section 21-85. Fee Reduction for Beneficial Projects.

- (a) The following types of projects may apply for fee reductions, adjustments or waivers of Regional Drainage Facility Development Impact Fees.
 - (1) Residential projects in which 50 percent of the units developed are affordable as defined by the County's affordable housing guidelines, or
 - (2) Residential projects in which 25 percent of the units developed are available to low income buyer/renters per the County's affordable housing guidelines, or
 - (3) Projects proposed by non-profit entities or governmental agencies which will provide public access to sites of significant historical, cultural, or natural resource value, and/or provide essential health, safety, welfare or other community service needs. The applicability of this provision to individual projects shall be subject to a determination by the Planning Commission and/or Board of Supervisors.
- (b) Any reduction, adjustment or waiver of Regional Drainage Facility Development Impact Fees must be accompanied by a finding of availability of substitute funds to assure that the regional drainage facilities can be constructed.
- (c) Any Regional Drainage Facility Development Impact Fee reduction or waiver granted as a result of a fee reduction policy shall apply only to the original specified land use. Any change in land use shall be subject to re-evaluation by the County and may result in the imposition of fees previously reduced or waived.

Section 21-86. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and expend the Regional Drainage Facility Development Impact Fees pursuant to California Government Code Section 66006.
- (b) Regional Drainage Facility Development Impact Fees paid shall be held by the Public Works Department in a separate Regional Drainage Facility Development Impact Fee account to be expended for the purpose for which they were collected. The Public Works Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-87. Use of Funds.

- (a) Funds collected from Regional Drainage Facility Development Impact Fees shall be used to acquire, construct, and install regional drainage facilities or reimburse costs of previously constructed facilities.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the Regional Drainage Facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-88. Developer Construction of Facilities.

In lieu fee credit for the construction of regional drainage facilities and service improvements is allowable under the following conditions:

- (a) Only the costs of regional drainage facilities listed on, or exempted from, the applicable Regional

Drainage Capital Improvement Plan shall be eligible for in-lieu credit.

- (b) With prior approval of the Director of Public Works or his/her designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of regional drainage facilities provided by the developer.
- (c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.
- (d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the Director of Public Works.
- (e) If an applicant is required, as a condition of approval for a discretionary permit or a final subdivision map, to construct any off-site regional drainage facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the Director of Public Works. The reimbursement agreement shall contain terms and conditions approved by the Public Works Director, Auditor-Controller, County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.
- (f) Regional drainage facilities specifically required exclusively to serve a project or subdivision shall not be eligible for in-lieu fee credit.
- (g) A developer or subdivider seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the Public Works Director to support the request for credit or reimbursement. The Public Works Director shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer or subdivider if so eligible.
- (h) Any claim for credit must be made at or before the time of application for a building permit. Any claim not so made shall be deemed waived.
- (i) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one project or subdivision to another without the Board of Supervisors' approval.
- (j) Determination made by the Public Works Director pursuant to this section (21-88) may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within 10 working days of the determination of the Public Works Director.

Section 21-89. Condition for Refunds.

- (a) If a permit upon which a fee was based expires without commencement of construction, the fee payer shall be entitled to a refund of the Regional Drainage Development Impact Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The fee payer shall submit a written request for a refund to the Public Works Director within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.
- (b) The Public Works Director shall report to the Board of Supervisors, once each fiscal year, any portion of Regional Drainage Facility Development Impact Fees remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the

fee was collected. In accordance with Government Code Section 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to 1) identify the purpose to which the fee is put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the regional drainage facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.

- (c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots or units of the development project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.
- (d) If the administrative costs of refunding unexpected and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 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 fees are collected pursuant to Government Code Section 66001 *et seq.* and that serves the project on which the fee was originally imposed.

Section 21-89.1. Annual report.

- (a) At least once every year a proposed Capital Improvement Plan detailing the specific regional drainage facilities to be funded by Regional Drainage Facility Development Impact Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code Sections 65090 and 66002, as they now exist or may be amended.
- (b) Except for the first year that this ordinance is in effect, no later than 60 days following the end of each fiscal year, the Public Works Director shall submit a report to the Board of Supervisors identifying the balance of fees in the Regional Drainage Facility Impact Fee Program Fund established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the report, the Public Works Director shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.
- (c) At a public hearing the Board of Supervisors shall review estimated costs of the regional drainage facilities described in the Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Regional Drainage Facility Development Impact Fees to include additional projects not previously foreseen as being needed.

Section 21-89.2. Automatic Annual Adjustment.

Regional Drainage fees imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 1999, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding 12 months.

Section 21-89.3. Fee Revision by Resolution.

The amount of the regional drainage fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-89.4. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersede County Ordinance No. 1205 (Orcutt Master Drainage Fund).

Section 21-89.5. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-89.6. Effective Date.

Pursuant to California Code Section 66017 (a), this ordinance shall be in full force and effect 60 days after the date of its adoption by the Board of Supervisors.

Section 21-89.7. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

ARTICLE III - LOT LINE ADJUSTMENTS

(Amended by Ord. 3619, 11/24/86)

Section 21-90. Filing Lot Line Adjustments for Record.

An adjustment of boundary lines between existing adjacent parcels, where land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, referred to in this Article as a "Lot Line Adjustment," may be filed for record only pursuant to the provisions of this Article and upon the approval by the decision-maker containing findings that the Lot Line Adjustment does, or will upon satisfaction of appropriate conditions, conform to the requirements of this Article. *(Amended by Ord. 4021, 2/21/92; Ord. 4157, 5/3/94)*

Section 21-91. Application and Fees.

An applicant for a lot line adjustment shall submit all of the following upon initial application:

- a. A map or drawing to such scale as will show all of the details and dimensions clearly and shall show:
 1. The location of the previous lot line or lines to be affected, the location of the lines to be approved, the date, the north point, the scale, the acreage of the parcels affected, and a description to identify the property with respect to maps or documents of record.
 2. The names and addresses of the applicant and any engineer or licensed surveyor representing applicant.
 3. A small scale vicinity map portraying and orienting the boundaries of the proposed lot line adjustment with respect to surrounding areas and roads.
 4. The exterior boundary line of the parcels affected conforming with existing records, with essential information as to dimensions and bearings.
 5. The location, names, widths, approximate grade and curve radii of all existing and proposed roads, streets, and access easements within or affecting the parcels and the existing roads, streets and easements serving the parcels.
 6. The location, width, nature and status of all existing and proposed easements, reservation and rights of way, whether or not of record, to which the property is or will be subject.
 7. The location of any existing buildings or structures within the affected parcels with a notation of set back distances from lot lines shown.
 8. Contour lines at five foot intervals where the average slopes exceed 15 percent.
 9. All identified flood hazards.
 10. The location, width, depth and direction of flow of all existing water courses affected by the application.
 11. The location of existing wells and septic systems.
 12. Any documents may be required to be prepared by a licensed land surveyor or registered civil engineer licensed to practice land surveying if locations or information shown cannot be adequately defined from existing records as determined by the County Surveyor. *(Added by Ord. 4436, 11/20/01)*

Maps, plats and other drawings prepared for a record of survey may be submitted for processing so long as all of the foregoing information is supplied in usable form.

- b. The fee or fees for processing, recording and other services, as established from time to time by the Board of Supervisors by resolution or order, shall be paid by the applicant as provided in such resolution or order. The Board of Supervisors may for good cause shown amend, reduce or waive the fee for a lot line adjustment.
- c. Two copies of a preliminary title report of a title insurance company, issued within 60 days of application and maintained in current status, or other assurance of the title to the real property approved by the Board of Supervisors by resolution. If the applicant is not the owner of the real property, the applicant shall also submit evidence of written authority from all owners for the application.
- d. A completed application on a form approved by the Planning and Development Department, including all information of concern to the decision-maker, including but not limited to: *(Amended by Ord. 4021, 2/21/92; Ord. 4157, 5/3/94)*
 - 1. The source of domestic water supply and the method of providing an adequate water supply to each parcel affected.
 - 2. The proposed method of sewage disposal.
 - 3. Other utilities which are to serve the parcels affected.
 - 4. A preliminary soil test report for a septic report, prepared by Civil Engineer registered as such and qualified to do soils engineering, based upon test borings or excavation deemed adequate by the Director of Health Care Services. Such preliminary report may be waived by the Director of Health Care Services upon determination that no preliminary analysis is necessary.
- e. Documentation supporting that the parcels involved in the lot line adjustment were created in compliance with the California Government Code and local ordinances.

Section 21-92. Procedure. *(Amended by Ord. 4021, 2/21/92; Ord. 4157, 5/3/94, by Ord. 4405, 9/12/00; Ord. 4436, 11/20/01)*

- a. The Planning and Development Department may distribute copies of the application materials to the Subdivision/Development Review Committee for review and recommendation.
- b. The Subdivision/Development Review Committee may consider and make recommendations on applications for Lot Line Adjustments to the decision-maker. One copy of such recommendation shall be forwarded to the applicant at least 10 days prior to the date on which the matter is considered by the decision-maker.
- c. The decision-maker approval with appropriate conditions as may be required under this Article shall authorize the County Surveyor to file for record the appropriate documents reflecting the Lot Line Adjustment as approved. A notice of the Lot Line Adjustment shall be recorded with the deed of each property to be adjusted. Said notice shall include the following:
 - 1. Legal description for each adjusted parcel; and,
 - 2. Statement of the findings and conditions approving the Lot Line Adjustment; and,
 - 3. For a Lot Line Adjustment resulting in nonconforming (as to size) parcels which were deemed not residentially developable, a statement that "Parcel(s) ___ were deemed not residentially developable pursuant to the findings approving this Lot Line Adjustment (Project Case No. _____)."
- d. When the County Surveyor is satisfied that the documents that are to be recorded to complete the Lot line Adjustment are technically correct, conform to the approval by the decision-maker, comply

with all applicable laws and regulations, and that all agreements and securities have been provided, the County Surveyor shall note and execute the County Surveyor's Certificate on the face of the appropriate documents, to indicate that the document(s) appears to be in conformity with the provisions of this Article and shall transmit the same to the County Clerk-Recorder for filing for record.

- e. All deeds necessary to record the Lot Line Adjustment shall be deposited with the County Surveyor for recording.
- f. A Lot Line Adjustment and all conveyances necessary to bring it into effect shall expire unless recorded within 36 months of approval. This period of time may be extended for an additional period or periods of time not to exceed a total of 36 months by the decision-maker that approved the Lot Line Adjustment for which the time extension is requested, , provided an application for a time extension(s) is submitted prior to the date of expiration of the Lot Line Adjustment.
 - 1. In addition to the 36 month time extension provided in Subsection 21-92.f, above, the Planning Director for good cause may extend the expiration of an approved, unexpired Lot Line Adjustment for additional 24 month periods in compliance with the following: *(Added by Ord. 4725; 7/14/2009; amended by Ord. 4820, December 13, 2011)*
 - (a) The Planning Director has determined that a Time Extension is necessary due to an economic hardship resulting from the continuing national economic downturn.
 - (b) The application for the Time Extension is filed with the Department in compliance with the following:
 - (1) The application shall be filed prior to the expiration of the Lot Line Adjustment that is the subject of the time extension request; however, an application may only be filed within the six month period immediately preceding the date that the Lot Line Adjustment would otherwise expire.
 - (c) A time extension application shall be approved or conditionally approved only if the Director first finds that the findings for approval required in compliance with Section 21-93 (Findings Required for Approval of a Lot Line Adjustment) that were made in conjunction with the initial approval of the Lot Line Adjustment for which the time extension is requested can still be made.
 - (d) The action of the Planning Director is final subject to appeal to the Planning Commission in compliance with Section 21-71.4 (Appeals).

This Subsection 21-92.f.1 shall expire, and be of no further force or effect, on January 12, 2015, unless extended by ordinance.

Section 21-93. Findings Required for Approval of a Lot Line Adjustment. *(Amended by Ord. 4405, 9/12/00)*

- a. A Lot Line Adjustment application shall only be approved provided the following findings are made:
 - 1. The Lot Line Adjustment is in conformity with the County General Plan and purposes and policies of Chapter 35 of this code, the Zoning Ordinance of the County of Santa Barbara.
 - 2. No parcel involved in the Lot Line Adjustment that conforms to the minimum parcel size of the zone district in which it is located shall become nonconforming as to parcel size as a result of the Lot Line Adjustment.
 - 3. Except as provided herein, all parcels resulting from the Lot Line Adjustment shall meet the

minimum parcel size requirement of the zone district in which the parcel is located. A Lot Line Adjustment may be approved that results in nonconforming (as to size) parcels provided that it complies with subsection a or b listed below:

- a. The Lot Line Adjustment satisfies all of the following requirements:
 1. Four or fewer existing parcels are involved in the adjustment; and,
 2. The Lot Line Adjustment shall not result in increased subdivision potential for any affected parcel; and,
 3. The Lot Line Adjustment shall not result in a greater number of residential developable parcels than existed prior to the adjustment. For the purposes of this subsection only, a parcel shall not be deemed residentially developable if the documents reflecting its approval and/or creation identify that: 1) the parcel is not a building site, or 2) the parcel is designated for a non-residential purpose including, but not limited to, well sites, reservoirs and roads. A parcel shall be deemed residentially developable for the purposes of this subsection if it has an existing single family dwelling constructed pursuant to a valid County permit.

Otherwise, to be deemed a residentially developable parcel for the purposes of this subsection only, existing and proposed parcels shall satisfy all of the following criteria as set forth in the County Comprehensive Plan and zoning and building ordinances:

1. **Water Supply:** The parcel shall have adequate water resources to serve the estimated interior and exterior needs for residential development as follows: 1) a letter of service from the appropriate district or company shall document that adequate water service is available to the parcel and that such service is in compliance with the Company's Domestic Water Supply Permit; or 2) a County approved onsite or offsite well or shared water system serving the parcel that meets the applicable water well requirements of the County Environmental Health Services.
2. **Sewage Disposal:** The parcel is served by a public sewer system and a letter of available service can be obtained from the appropriate public sewer district. A parcel to be served by a private sewage disposal (septic) system shall meet all applicable County requirements for permitting and installation, including percolation tests, as determined by Environmental Health Services.
3. **Access:** The parcel is currently served by an existing private road meeting applicable fire agency roadway standards that connects to a public road or right-of-way easement, or can establish legal access to a public road or right-of-way easement meeting applicable fire agency roadway standards.
4. **Slope Stability:** Development of the parcel including infrastructure avoids slopes of thirty (30) percent and greater.
5. **Agriculture Viability:** Development of the parcel shall not threaten or impair agricultural viability on productive agriculture lands within or adjacent to the property.
6. **Environmental Sensitive Habitat:** Development of the parcel avoids or minimizes impacts where appropriate to environmentally sensitive habitat and buffer areas, and riparian corridor and buffer areas.
7. **Hazards:** Development of the parcel shall not result in a hazard to life and

property. Potential hazards include, but are not limited to flood, geologic and fire.

- 8. Consistency with the Comprehensive Plan and zoning ordinances:** Development of the parcel is consistent with the setback, lot coverage and parking requirements of the zoning ordinance and consistent with the Comprehensive Plan and the public health, safety and welfare of the community.

To provide notification to existing and subsequent property owners when a finding is made that the parcel(s) is deemed not to be residentially developable, a statement of this finding shall be recorded concurrently with the deed of the parcel, pursuant to Sec. 21-92 Procedures.

- b. The parcels involved in the adjustment are within the boundaries of an Official Map for the Naples Townsite adopted by the County pursuant to Government Code Section 66499.50 *et seq.* and the subject of an approved development agreement that sets forth the standards of approval to be applied to Lot Line Adjustments of existing adjacent parcels within the boundaries of the Naples Townsite Official Map. This exception provision shall expire five years after its effective date, October 12, 2000, unless otherwise extended.
4. The Lot Line Adjustment will not increase any violation of parcel width setback, lot coverage, parking or other similar requirement of the applicable zone district or make an existing violation more onerous.
5. The subject properties are in compliance with all laws, rules and regulations pertaining to zoning uses, setbacks and any other applicable provisions of this Article or the Lot Line Adjustment has been conditioned to require compliance with such rules and regulations and such zoning violation fees imposed pursuant to applicable law have been paid. This finding shall not be interpreted to impose new requirements on legal non-conforming uses and structures under the respective County Ordinances: Article II (Section 35-161. and 35-162.), Article III (Section 35-306. and 35-307.), and Article IV (Section 35-476. and 35-477.).
6. Conditions have been imposed to facilitate the relocation of existing utilities, infrastructure and easements.
- b. A Lot Line Adjustment proposed on agricultural zoned parcels which are under Agricultural Preserve Contract pursuant to the County Agricultural Preserve Program Uniform Rules shall only be approved provided the following findings are made:
1. The Lot Line Adjustment shall comply with all the findings for Lot Line Adjustments in Sec. 21-93.a.
 2. The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.
 3. There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
 4. At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.
 5. After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use.

6. The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.
7. The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.
8. The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the Comprehensive Plan.

Section 21-94. Notice and Appeals.

Hearings before the decision-maker and, upon appeal, before the Board of Supervisors shall be noticed pursuant to California Government Code Sections 65090 - 65096 and as provided in Article I, Division 10, Section 21-71.3. (Public Hearing Notice). The action of the decision-maker shall be final subject to an appeal to the Board of Supervisors as provided in Article I, Division 10, Section 21-71.4. (Appeals).
(Amended by Ord. 4021, 2/21/92; Ord. 4157, 5/3/94)

Section 21-95. Recording of Lot Line Adjustments Without Approval Prohibited.

No person shall record a document for the purpose of adjusting the legal boundary line between two or more existing adjacent parcels except in conformity with the provisions of this Code and the Subdivision Map Act. *(Amended by Ord. 4405, 9/12/00)*

Section 21-96. Penalties for Violations.

A violation of a provision of this Article shall be punished as provided in Section 1-7.

ARTICLE IV - PARK AND RECREATION DEDICATION AND FEES**DIVISION 1***(Amended by Ord. 4317, 6/16/98)***Section 21-100. Findings.**

- (a) Certain types of new development projects and subdivisions within the County can have impacts on public park and recreational facilities.
- (b) The State of California, through the enactment of Government Code Section 66477 (Quimby Act) has decreed that local agencies may require the dedication of land or impose a requirement of the payment of fees in lieu thereof, or a combination of both, for park or recreational purposes as a condition to the approval of a tentative map or parcel map.
- (c) New development and subdivisions within Santa Barbara County should be required to mitigate their park and recreation facility impacts by constructing, or financing the construction of, the park and recreation facilities needed to serve new development and subdivisions.
- (d) The County of Santa Barbara is comprised of different regions, and each of these regions has different park and recreation facility needs that are impacted differently by new development and subdivisions.
- (e) Recreation Demand Areas have been established within the County to reflect the different park and recreation facility needs within each region, within each of the various Recreational Demand Areas of the County, park and recreation facility costs differ due to varying land values within each region.
- (f) As provided by the Quimby Act, the County of Santa Barbara has determined that the amount of neighborhood and community park and recreation acreage per 1,000 members of the population is 4.7 acres. This is based on the derived ratio of amount of neighborhood and community park and recreation acreage to the total County population indicated in the current census.
- (g) Based upon the principles and standards of the Recreation Element of the Santa Barbara County General Plan, it is hereby found and determined that the public interest, convenience, health, welfare, and safety require that 0.0128 acres of property per dwelling unit be devoted to neighborhood and community park and recreational purposes, exclusive of and in addition to school lands used cooperatively for recreational purposes. The acres per dwelling unit factor is based on 4.7 acres required park and recreation acres per 1,000 persons in accordance with the County General Plan and the average County population density of 2.72 persons per dwelling unit as per the 1990 census.
- (h) The Board of Supervisors further finds that the public interest, convenience, health, welfare and safety will be promoted by the adoption of Park and Recreation Facility Fees (Quimby Fees) for the construction, expansion and/or improvement of existing park and recreation facilities, the need for which is caused by new development and subdivisions.

Section 21-101. Definitions.

Words when used in this ordinance, and in resolutions adopted under the authority of this ordinance, shall have the following meanings:

- (a) "Recreation Demand Areas" are defined as those areas in the County of Santa Barbara as delineated by the Santa Barbara County Recreational Element of the Land Use section of the Comprehensive Plan and the Board adopted Community Plans.

Division 1

- (b) “Development” or “Development Project” means any project undertaken for the purpose of development which involves the issuance of a Santa Barbara County Land Use Permit for new construction, and reconstruction or expansion of an existing structure, which would result in an increased impact on public services.
- (c) “Subdivision” means the division of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale or lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if separated by roads, streets, utility easement or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in subdivision (f) of Section 1351 in the California Civil Code, a community apartment project as defined in subdivision (d) of Section 1351 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the California Civil Code, as the same presently exists or may hereafter be amended.
- (d) “Fee” or “Quimby Fee” means a monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion of, the cost of park and recreation facilities related to the development project or subdivision.
- (e) “Park and Recreation Facilities” includes public improvements and community amenities including but not limited to public parks, open space, riding and hiking trails, curbs, gutter, grading, drainage facilities, street lighting, stop lights, street signs, matching pavement, street trees, lawn and irrigation systems, landscaping, park roads and parking lots, driveways, restrooms, playground equipment, swimming or wading pools, tennis courts, picnic facilities, sports facilities, ranger housing, stub-in of utility line services to the parkway, related planning, engineering, construction and administrative activity, and any other capital park and recreation facilities projects identified within each Recreation Demand Area.
- (f) “Capital Improvement Plan” means the plan for capital improvements adopted or updated annually by the Board of Supervisors. The Capital Improvement Plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.
- (g) “Board of Supervisors” means the Board of Supervisors of the County.
- (h) “County Parks Department” means the Parks Department of Santa Barbara County.
- (i) “County” means the County of Santa Barbara, a political subdivision of the State of California.

Section 21-102. Adoption of Park and Recreation Dedications and Fees.

Park and Recreation Dedications and Fees may be established pursuant to this ordinance by resolution of the Board of Supervisors to address identified Park and Recreation Facility impacts within each Recreation Demand Area of the County. These fees are payable upon the approval of final subdivision maps and development projects prior to the issuance of land use permits or final map recordation for subdivisions creating four or fewer parcels, in order to finance the cost of park and recreational facilities. Recreation Demand Areas of the County currently include, but are not limited to:

- (a) South Coast East
- (b) South Coast West
- (c) Santa Ynez
- (d) Lompoc

- (e) Santa Maria
- (f) Orcutt

Recreation Demand Areas may be further defined, added, deleted or consolidated by resolution of the Board of Supervisors.

Section 21-103. Applicability of Park and Recreation Facility Dedications and Fees.

- (a) As a condition of the subdivision of land, the subdivider shall dedicate land and/or pay a fee for the purpose of developing new or rehabilitating existing park or recreation facilities to serve the subdivision. This requirement shall apply to all subdivisions except those exempted by Section 66477 of the Government Code.
- (b) If the proposed subdivision contains fifty parcels or less, the subdivider shall not be required to dedicate any land for park or recreational purposes without their consent but shall pay a fee in accordance with Section 21-105 of this ordinance.
- (c) No final subdivision map shall be deemed approved unless and until the appropriate Park and Recreation Dedications and/or Fees have been paid to the County, or unless and until the appropriate Park and Recreation Dedications and/or Fees for the subdivision have been exempted, adjusted or reduced as provided by Sections 21-104, 21-109, or 21-110 of this ordinance.

Section 21-104. Exemptions.

The following will be exempted from Park and Recreation Facility dedications and/or payment of fees referenced herein:

- (a) Commercial and industrial subdivisions;
- (b) Condominium projects or stock cooperatives which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added.

Section 21-105. Amount of 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 projected cost of acquiring and developing land for park and recreational purposes, the amount of land which would otherwise be required to be dedicated pursuant to Section 21-106.

The Board of Supervisors shall from time to time, through resolution of the Board, determine the current average cost of acquiring and developing one acre of land for park and recreational purposes within each of the Recreation Demand Areas in the County. The subdivider shall pay a fee determined by multiplying such cost by the number of dwelling units in the proposed subdivision by 0.0128.

The amount of fee required in lieu of land dedication shall be based on the fee schedule in effect within each Recreation Demand Area when the subdivider applies for land use clearance for subdivisions creating five or more parcels or records the parcel or final map for subdivisions creating four or fewer parcels.

Section 21-106. Land Dedication Formula.

The amount of acreage required to be dedicated by a residential subdivider for park and recreational purposes shall be based upon the dwelling units expected to be generated by the proposed subdivision and shall be computed on the basis of 0.0128 acres required per dwelling unit.

Section 21-107. Choice and Method of Dedication of Land and/or Payment of Fees.

The procedure for determining whether a subdivider is to dedicate land, pay a fee, or do both, shall be as follows:

- (a) At the time of filing a tentative map application for approvals, the subdivider of the property shall, as a part of his/her filing, indicate whether he/she desires to dedicate property for park and recreational purposes or whether he/she desires to pay an in-lieu fee. If he/she desires to dedicate land for such purposes, he/she shall designate the area proposed on the tentative map, or if the property is located outside the boundaries of the proposed subdivision, on another map submitted to the Planning and Development Department.
- (b) If the subdivider desires credit for common open space pursuant to Section 21-109, a written request for such must be submitted to the Director of Parks prior to tentative map approval outlining the following:
 - (1) The acreage and percentage of slope of the open space being offered for park purposes; and,
 - (2) A detailed description of on-site recreational amenities being proposed, detailing the location of said facilities within the subdivision; and,
 - (3) The proposed form of ownership and method of maintenance of the open space and facilities.
- (c) The Board of Supervisors or the Planning Commission shall determine whether to require dedication of land, the payment of a fee in lieu thereof, or a combination of both, except that for subdivision of fifty (50) parcels or less, the provisions of Section 21-103(b) shall apply. In the event that a dedication of land is required, the amount shall be determined according to Section 21-106.
- (d) When land dedication is required, it shall be accomplished in accordance with the provisions of the Subdivision Map Act and of Section 21-110. When fees are required for a subdivision creating four or fewer parcels, they shall be paid to the County Parks Department prior to recordation of the Final or Parcel Map or prior to a finding waiving the parcel map pursuant to Section 21-15.6 of the County Code and shall be held until such time as the map is recorded, withdrawn by the subdivider, or the time for recordation expires. When fees are required for a subdivision creating five or more parcels, they shall be paid prior to the issuance of a land use permit or coastal development permit, as applicable, for each parcel, respectively. If the Parcel or Final Map is withdrawn or the time for recordation expires, the funds shall be returned without interest to the subdivider.
- (e) Deeds and recorded covenants for private common open space approved pursuant to Section 21-109 must be approved by the County Counsel prior to approval of the Parcel or Final Map, and the subdivider shall make all conveyances of the parcels within the subdivision subject to such deeds and recorded covenants.
- (f) The determination whether to require a dedication of land, the payment of a fee in lieu thereof, or a combination of both, shall be made by the Board of Supervisors or the Planning Commission upon consideration of the following factors which are not deemed exclusive:
 - (1) The Recreation Element of the Santa Barbara County General Plan and adopted Community Plans; and
 - (2) Site development factors such as the topography, environmental suitability, access and location of the land in the subdivision available for dedication; the size and shape of the

subdivision and the land available for dedication; the location of existing or proposed park sites and trailways; and

- (3) The desirability of developing the land proposed for dedication for park and recreational purposes; and
- (4) The recommendation of the Santa Barbara County Parks Commission and County Parks Department.

Section 21-108. Improvements to Land Dedicated for Park and Recreational Purposes.

The dedication of land for park and recreational purposes shall not be deemed to waive any other requirements which may be imposed by the County upon the subdivider. The subdivider may, at the time of approval of the tentative map, be required by condition of said map to provide such public improvements as are deemed necessary by the County to develop the park and recreational facility. Such improvements may include, without limitation, curbs, gutters, drainage facilities, street lighting, stop lights, street signs, matching pavement and street trees, or other recreational improvements such as trails.

If the subdivider provides park and recreational improvements to the dedicated land, including without limitation playground equipment, swimming or wading pools, tennis courts, picnic units, or sport facilities, the value of the improvements located thereon shall be a credit against the payment of fees or dedication of land required by this ordinance.

Section 21-109. Credit for Recreational Improvements within Common Open Space.

Where usable recreational improvements within common open space as defined in the applicable zoning ordinance for park and recreational purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, partial credit based on approved Quimby and development fee credit schedule, not to exceed 50 percent, may be given against the requirement of land dedication or payment of fees in lieu thereof if the Planning Commission or Board of Supervisors finds that it is in the public interest to do so, and that all of the following standards are met:

- (a) That yards, setbacks, and other open areas required by the zoning and building ordinances, including areas credited against minimum lot sizes, shall not be included in computing the amount of such common open space; and,
- (b) That the private ownership and maintenance of the recreational improvements and open space shall be adequately provided for by deeds and recorded covenants in perpetuity; and,
- (c) That the use of common open space shall be restricted for park and recreational purposes by recorded covenants which run with the land in favor of the existing and future owners of the property within the subdivision and which cannot be eliminated without the consent of the County; and,
- (d) That the proposed common open space is reasonably adaptable for use for park and recreational purposes as determined by the County; and,
- (e) That the recreational improvements and open space for which credit is given will meet the needs of the future residents of the subdivision, specifically those defined as being deficient by the Recreation Element of the Comprehensive Plan for the area in which the project is to be located or, alternatively, that the land and/or facilities offered provide a special recreational benefit to the subdivision not otherwise provided in available park and recreational facilities

Section 21-110. Conveyance of Land.

Real Property conveyed under the provisions of this ordinance shall be conveyed by grant deed in fee simple absolute to the County by the subdivider free and clear of all encumbrances except those which in County's opinion, will not interfere with use of property for park and recreational purposes and which the County agrees to accept. Required deeds shall be deposited with the County prior to recordation of the Parcel or Final Map. The deeds shall be held by the County until such time as the Parcel or Final Map is recorded, withdrawn by the subdivider, or the time for recordation expires. The subdivider shall provide all fees and instruments required to convey the land plus title insurance in favor of the County in an amount equal to the value of the property being conveyed.

Section 21-111. Fee Account.

- (a) Upon receipt of a Quimby Fee subject to this ordinance, the County shall deposit, invest, account for and expend the Quimby Fees pursuant to California Government Code Section 66006.
- (b) Quimby Fees paid shall be held by the Parks Department in a separate Quimby Fee account for each Recreation Demand Area to be expended for the purpose for which they were collected. The Parks Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-112. Use of Fees and Dedicated Land

The Director of County Parks shall develop a schedule specifying how, when and where the County will use the land or fees (or both) to develop park and recreational facilities. Consideration shall be given to spending the funds in the neighborhoods where they are generated whenever possible. All fees collected under this ordinance shall be committed within five years of payment of said fee or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not committed, they shall be distributed without interest 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.

Section 21-113. Local Agencies.

In cases where the County determines that park and recreational facilities to serve the subdivision should be or are provided by a local agency other than the County, the County may require that land be dedicated or fees be paid to such other local agency if the local agency agrees to accept the land or fees. In such an event, the amount and location of land to be dedicated or fees to be paid shall be jointly determined by the County and such local agency in accordance with the terms and conditions of this ordinance and such local agency shall develop the land or use the fees in the manner provided herein.

Section 21-114. Limitation on Use of Land and Fees.

The land and fees received under the provisions of this ordinance shall be used only for the purpose of providing park and recreational facilities to serve the subdivision in accordance with the principles and standards contained in California law, the Santa Barbara County General Plan, and administrative guidelines developed by the County Parks Department.

Section 21-115. Automatic Annual Adjustments.

Each fee imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 1999, by a percentage equal to the appropriate Consumer Price Index (CPI) issued by the United States Department of Labor, Bureau of Labor, Consumer Price Index, or its successor or comparable index, for the preceding 12 months.

Section 21-116. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-117. Superseding Provisions.

This ordinance supersedes County Ordinances Nos. 3339 and 3656.

Section 21-118. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-119. Effective Date.

Pursuant to California Code Section 66017(a), this ordinance shall be in full force and in effect 60 days after the date of its adoption by the Board of Supervisors.

Section 21-120. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

**DIVISION 2 - DEVELOPMENT MITIGATION FEES FOR PARKS
IN CONNECTION WITH RESIDENTIAL DEVELOPMENT PROJECTS
WHICH DO NOT INVOLVE THE SUBDIVISION OF LAND**

(Added by Ord. 4348, 12/15/98)

Section 21-115. Findings.

- (a) In order to implement the goals and objectives of the Santa Barbara County Comprehensive Plan and to mitigate park impacts caused by new residential development projects which do not involve the subdivision of land within the unincorporated portions of Santa Barbara County, a Development Mitigation Fee for parks is necessary. The fee is needed to finance park and recreation facilities necessary to serve new residential development projects which do not involve the subdivision of land and to assure that new residential development projects which do not involve the subdivision of land pay their fair share for these facilities.
- (b) Title 7, Chapter 5, Section 66000 *et seq.* of the California Government Code provides that Development Mitigation Fees for parks may be enacted and imposed on development projects. The Board of Supervisors finds and determines that:
 - (1) New residential development projects which do not involve the subdivision of land cause the need for construction, acquisition, expansion and/or improvement of park and recreation facilities within the Recreation Demand Areas of the County of Santa Barbara.
 - (2) Funds for construction, acquisition, expansion and/or improvement of park and recreation facilities are not available to accommodate the needs caused by new residential development projects which do not involve the subdivision of land, which will result in inadequate park and recreation facilities within the Recreation Demand Areas of the County of Santa Barbara.
- (c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of Development Mitigation Fees for parks for the construction, acquisition, expansion and/or improvement of park and recreation facilities, the need for which is caused by new residential development projects which do not involve the subdivision of land. In establishing Development Mitigation Fees for parks, the Board of Supervisors finds the fees are (1) consistent with the Santa Barbara County Comprehensive Plan/Land Use Element, (2) compatible with current Quimby fee rates, and (3) based on the average household size for second units, mobile homes, apartments, and duplexes.
- (d) Pursuant to Government Code Section 65913.2, the Board of Supervisors has considered the effects of the fees with respect to the County's housing need as established in the housing element of the general plan.
- (e) Pursuant to Title 14 California Code of Regulations, Sections 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-116. Definitions.

Words when used in this ordinance, and in resolutions adopted under the authority of this ordinance, shall have the following meanings:

- (a) "Recreation Demand Areas" are defined as those areas in the County of Santa Barbara as delineated by the Santa Barbara County Recreational Element of the Land Use section of the Comprehensive Plan.

Division 2 - Development Mitigation Fees for Parks in Connection With Residential Development Projects
Which Do Not Involve the Subdivision of Land

- (b) “Development” or “Development Project” means any residential project undertaken for the purpose of development which involves the issuance of a Santa Barbara County Permit for construction, reconstruction, or remodeling. The term “development” or “development project” shall also include the erection of manufactured buildings and building structures moved into the County.
- (c) “Residential”, “Residential Development”, or “Residential Unit” includes, but is not limited to condominiums, townhomes, duplexes, apartments, second units, and mobile homes and other types of residential units which do not involve the subdivision of land.
- (d) “Fee” means a monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a residential development project that does not involve the subdivision of land for the purpose of defraying all, or a portion of, the cost of park facilities related to the residential development project.
- (e) “Park and Recreation Facilities” include public park and recreation facilities, open space, ancillary facilities, and any other capital park and recreation facility projects identified in the Santa Barbara County Recreational Element of the Land Use section of the Comprehensive Plan, Community Plans, or the County’s park and recreation capital improvement plans, or other public park and recreation facilities considered by the Parks Director and approved by the Board of Supervisors.
- (f) “Park and Recreation Impact” includes any residential development project that does not involve the subdivision of land which requires a County permit and generates increased demand for park and recreation facilities within each Recreational Demand Area.
- (g) “Park and Recreation Capital Improvement Plans” means the plan for park and recreation capital improvements as identified in the County’s five year Capital Improvement Plan or its successor, as adopted or updated by the Board of Supervisors. The Park and Recreation Capital Improvement Plans indicate the approximate location, size, time of availability and estimated cost of capital improvements to be financed with development mitigation fees and appropriate money for capital improvement projects.
- (h) “Board of Supervisors” means the Board of Supervisors of the County.
- (i) “County” means the County of Santa Barbara, a political subdivision of the State of California.

Section 21-117. Adoption of Development Mitigation Fees for Parks.

- (a) Pursuant to this ordinance, Development Mitigation Fees for parks shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing to address identified park and recreation facility impacts within each Recreation Demand Area. Such fee, when adopted, shall be a condition of the issuance of permits for new residential development which do not involve the subdivision of land within each Recreation Demand Area. Recreation Demand Areas of the County currently include:
 - (1) South Coast East
 - (2) South Coast West
 - (3) Santa Ynez
 - (4) Lompoc
 - (5) Santa Maria

(6) Orcutt

Recreation Demand Areas may be further defined, added, deleted or consolidated by resolution of the Board of Supervisors.

(b) In adopting the resolution the Board of Supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee's use and the type of residential development project on which the fee is imposed;
- (4) Determine a reasonable relationship between the need for the park and recreation facility and the impacts from the type of residential development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the park and recreation facility, or portion of the park and recreation facility; and
- (6) Establish a schedule of fees for park and recreation facilities.

Section 21-118. Applicability of Fees.

- (a) A Development Mitigation Fee for parks shall be charged as a condition of the issuance of permits for the following new residential development projects within each Recreation Demand Area:
 - (1) The construction or installation of new residential units (i.e., second units, mobile homes, apartments, single family duplexes) which do not involve the subdivision of land.
- (b) No County permit for any development project shall be issued unless and until the appropriate Development Mitigation Fee(s) have been paid to the County in accordance with Section 66000 *et seq.* of the California Government Code, or unless and until the appropriate Development Mitigation Fee(s) for the development project have been exempted, adjusted or reduced as provided by Sections 21-119 or 21-120.1 of this ordinance.

Section 21-119. Exemptions and Fee Reductions. *(Amended by Ord. 4363, 6/22/99)*

- (a) **Exemptions.** The following will be exempted from payment of the Development Mitigation Fees for parks referenced herein:
 - (1) Any residential development project which do not involve the subdivision of land and has no park and recreation facility impact, as defined by Section 21-116(f) of this ordinance.
 - (2) Any development project that does not require a County permit.
- (b) **Fee Reductions.**
 - (1) The Board of Supervisors may establish by resolution categories of "beneficial projects" which are eligible for fee reductions or waivers. The resolution will establish administrative procedures for granting fee reductions or waivers.
 - (2) Any fee reduction or waiver granted as a result of a fee reduction policy shall apply only to the permit being sought. Any new development application (e.g., condominium conversion of apartments) shall be subject to re-evaluation by the County and may result in the imposition of fees previously reduced or waived.

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- (3) Any fee reduction or waiver of development mitigation fees for parks must be accompanied by a finding of substitute funds to assure that the parks and recreational facilities can be constructed.

Section 21-120. Timing of Fee Payment.

(a) Imposition of Fees.

- (1) Fees shall be imposed at the time of approval of any discretionary permit for development or, if the fees could not have been lawfully imposed as a condition of discretionary approval, at the time of any other subsequent permit required for the development to proceed, including but not limited to building permits. The applicant pays according to the schedule of fees in place on the date the fees are paid.
- (2) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required, unless (1) the project has been changed in a way that alters its park and recreation impact, or (2) the schedule of fees has been amended since the previous approval. In this event, the appropriate increase or decrease in the fees shall be applied.
- (3) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payer shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee.

- (1) Except as set forth in section (2) and (3) below, Development Mitigation Fees for parks shall be paid on the date the final inspection is approved.
- (2) For residential development containing more than one dwelling unit, the developer may request that the fees be paid in installments based on the phasing of their development project. The decision whether to allow installment payments shall be determined by the Parks Director. Any fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
- (3) The County shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the County has adopted a proposed construction schedule or plan prior to final inspection, or the fees are to reimburse the local agency for expenditures previously made.
- (4) No building permit for any development project shall be issued unless a contract has been executed to pay the fees, and no final inspection for any development project shall be issued unless fees have been paid.

Section 21-120.1. Fee Adjustments.

- (a) A developer of any project subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Development Mitigation Fee(s) based upon the absence of any reasonable relationship or nexus between the park and recreation impacts of the residential project and either the amount of the fee(s) charged or the type of park and recreation facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to

the Parks Director within 15 calendar days following determination of the fee amount.

- (b) The Parks Director shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the residential project as approved shall invalidate the waiver, adjustment or reduction of the fee(s).

Section 21-120.2. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and expend the Development Mitigation Fees pursuant to California Government Code Section 66006.
- (b) Development Mitigation Fees for parks paid shall be held by the Parks Department in a separate Development Mitigation Fee account for parks to be expended for the purpose for which they were collected. The Parks Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-120.3. Use of Funds.

- (a) Funds collected from Development Mitigation Fees for parks shall be used to acquire, construct, and install park and recreation facilities or reimburse costs of previously constructed facilities.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the park and recreation facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-120.4. Developer Construction of Facilities.

In lieu fee credit for the construction of park and recreation facilities and service improvements is allowable under the following conditions:

- (a) The costs of park and recreation facilities listed on, or exempted from, the applicable Park and Recreation Capital Improvement Plan, or County Comprehensive Plan/Land Use Element Recreation section, or the adopted Park, Recreation, and Trail Maps, or other public park and recreation facilities approved by the Parks Director or her/his designee, may be eligible for in-lieu credit.
- (b) With prior approval of the Parks Director or her/his designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of park and recreation facilities provided by the developer.
- (c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.
- (d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same residential development, if such credit is determined to be appropriate and timely, and approved in advance by the Parks Director.

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- (e) If an applicant is required, as a condition of approval for a development permit, to construct any off-site park facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the Parks Director. The reimbursement agreement shall contain terms and conditions approved by the Parks Director, Auditor-Controller, County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.
- (f) Park and recreation facilities specifically serving the residential project exclusively may be eligible for partial in-lieu fee credit based on the adopted credit schedule.
- (g) A developer seeking credit and/or reimbursement for construction or improvements of park and recreation facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the Parks Director to support the request for credit or reimbursement. The Parks Director shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer if so eligible.
- (h) Any claim for credit must be made at or before the time of application for an approval permit. Any claim not so made shall be deemed waived.
- (i) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one residential project to another without the Board of Supervisors' approval.
- (j) Determination made by the Parks Director pursuant to this Section 21-120.4 may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within 10 working days of the determination of the Parks Director.

Section 21-120.5. Condition for Refunds.

- (a) If a permit expires without commencement of construction, the taxpayer shall be entitled to a refund of the Development Mitigation Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The fee payer shall submit a written request for a refund to the Parks Director within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.
- (b) The Parks Director shall report to the Board of Supervisors, once each fiscal year, any portion of Development Mitigation Fees remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code Section 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to 1) identify the purpose to which the fee is put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the park and recreation facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.
- (c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots or units of the development project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.
- (d) If the administrative costs of refunding unexpected and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 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 fees are collected pursuant to Government Code Section 66001 *et seq.* and that serves the project on which the fee was originally imposed.

Section 21-120.6. Annual report.

- (a) At least once every year a proposed Park and Recreation Capital Improvement Plan detailing the specific park and recreation facilities to be funded by Development Mitigation Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code Sections 65090 and 66002, as they now exist or may be amended.
- (b) Except for the first year that this ordinance is in effect, no later than 60 days following the end of each fiscal year, the Parks Director shall submit a report to the Board of Supervisors identifying the balance of fees in the Development Mitigation Fee Program Fund established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the report, the Parks Director shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.
- (c) At a public hearing the Board of Supervisors shall review estimated costs of the park and recreation facilities described in the Park and Recreation Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Development Mitigation Fees to include additional projects not previously foreseen as being needed.

Section 21-120.7. Automatic Annual Adjustment.

Each fee imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 2000, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding twelve months.

Section 21-120.8. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-120.9. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersede any previous County Ordinance or resolution to the extent the same is in conflict with this ordinance.

Section 21-120.10. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Division 2 - Development Mitigation Fees for Parks in Connection With Residential Development Projects
Which Do Not Involve the Subdivision of Land

Section 21-120.11. Effective Date.

Pursuant to California Code Section 66017 (a), this ordinance shall be in full force and effect 60 days after the date of its adoption by the Board of Supervisors.

Section 21-120.12. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

ARTICLE V

DIVISION 1 CONDOMINIUM CONVERSIONS

Section 21-123. Purpose.

To define general and specific objectives, policies and procedures, specifically directed to the conversion of existing buildings into condominiums, community apartment and stock cooperative projects.

Section 21-124. Objectives.

In the administration of the provisions of this division, the County shall strive to achieve the following objectives when considering the conversion of existing buildings to condominiums, community apartment projects, and stock cooperatives.

In general, conversion of existing buildings to condominiums, community apartment projects, and stock cooperatives should enhance, particularly with respect to persons of lower and moderate economic means, reasonable availability of housing. Conversion of existing buildings to condominiums, community apartment projects, and stock cooperatives should not occur when there is likely to be a major displacement of tenants.

Section 21-125. Procedures and Standards.

- (a) All other requirements and procedures of the State Subdivision Map Act and the County Subdivision Ordinance, Chapter 21, shall apply to condominiums, community apartment projects, and stock cooperative conversions.
- (b) The decision-maker shall deny any subdivision of existing buildings into Condominiums, Community Apartment Projects, or Stock Cooperatives when the conversion will result in the involuntary displacement of any of the existing tenants within five years of approval. *(Amended by Ord. 4157, 5/3/94)*

Section 21-126. Definitions and Applications.

For the purpose of this Article, the term "condominium" shall be defined as in Section 783 of the Civil Code. The term "community apartment project" shall be defined as in Section 11004 of the Business and Profession Code. The term "stock cooperative" shall be defined as in Section 11003.2 of the Business and Professions Code.

**DIVISION 2 - PROHIBITION OF CONVERSION OF
MOBILE HOME RENTAL PARKS TO MOBILE HOME SUBDIVISIONS**

Section 21-127. Findings.

- a) Mobile home rental parks in the unincorporated area of Santa Barbara County provide the most affordable single-family (detached) living units for lower income families in many instances.
- b) Mobile home park tenants have a substantial investment in their mobile homes.
- c) Because of the shortage of mobile home rental park spaces in the County, substantial economic and social hardships could occur for mobile home park tenants who could not afford to purchase a lot as a result of conversion to a mobile home condominium or subdivision.
- d) Opportunities for mobile home lot ownership in new developments are available through the County's Mobile Home Subdivision zoning provisions.

Section 21-128. Prohibition of Conversion of Mobile Home Rental Parks.

Pursuant to the findings set forth in Sect. 21-127, the conversion of mobile home rental parks to mobile home subdivisions is hereby prohibited.

ARTICLE V

Division 2 - Prohibition of Conversion of Mobile Home Rental Parks to Mobile Home Subdivisions

**ARTICLE VI - ORCUTT PLANNING AREA
DEVELOPMENT IMPACT FEES**

**DIVISION 1 - PUBLIC ADMINISTRATION FACILITY
DEVELOPMENT IMPACT FEES**

(Added by Ord. 4315, 06/16/98)

Section 21-130. Findings.

- (a) In order to implement the goals and objectives of the Orcutt Community Plan and to mitigate impacts caused by new development projects within the Orcutt Planning Area, a Public Administration Facility Development Impact Fee is necessary. The fee is needed to finance public administration facilities necessary to serve new development and to assure new development projects pay their fair share for these facilities.
- (b) Title 7, Chapter 5, Section 66000 *et seq.* of the California Government Code provides that Development Impact 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 and/or improvement of public administration facilities within the Orcutt Planning Area.
 - (2) Funds for construction, expansion and/or improvement of public administration facilities are not available to accommodate the needs caused by new development projects, which will result in inadequate public administration facilities within the Orcutt Community Planning Area.
- (c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of a Public Administration Facility Development Impact Fee for the construction, expansion and/or improvement of public administration facilities, the need for which is caused by new development projects. In establishing a Public Administration Facility Development Impact Fee, the Board of Supervisors finds the fee consistent with the Santa Barbara County Comprehensive Plan/Land Use Element and the Orcutt Community Plan.
- (d) Pursuant to Government Code Section 65913.2, the Board of Supervisors has considered the effects of the fees with respect to the County's housing need as established in the housing element of the general plan.
- (e) Pursuant to Title 14 California Code of Regulations, Sections 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-131. Definitions.

Words when used in this ordinance, and in resolutions adopted under the authority of this ordinance, shall have the following meanings:

- (a) "Orcutt Community Plan" is defined as the plan that updates the Santa Barbara County Comprehensive Plan for the unincorporated area of Orcutt.
- (b) "Orcutt Community Planning Area" or "Orcutt Planning Area" is defined as that area of the County of Santa Barbara delineated by the Orcutt Community Plan adopted by the Board of Supervisors on July 22, 1997 and as amended from time to time.
- (c) "Development" or "Development Project" means any project that involves the issuance of a permit for new construction, and reconstruction or expansion of an existing structure, which

Division 1 - Public Administration Facility Development Impact Fees

would result in an increased impact on public services.

- (d) “Residential Unit” means a building used for the primary purpose of human habitation, such as a single family home, an individual condominium unit, or an individual apartment.
- (e) “Dwelling Unit” means a building or portion thereof designed for and occupied in whole or in part as a residence or sleeping place, either permanently or temporarily, by one family and its guests, with sanitary facilities and one kitchen provided within the unit.
- (f) “Fee” means a monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion of, the cost of public administration facilities related to the development project or subdivision.
- (g) “Subdivision” means the division of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale or lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if separated by roads, streets, utility easement or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in subdivision (f) of Section 1351 in the California Civil Code, a community apartment project as defined in subdivision (d) of Section 1351 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the California Civil Code, as the same presently exists or may hereafter be amended.
- (h) “Public Administration Facilities” includes public improvements and community amenities including but not limited to governmental buildings, community/civic centers, portions of community buildings devoted to public administration in Orcutt, related planning, engineering, construction and administrative activity, and any other capital public administration facility projects identified in the Orcutt Community Plan Public Infrastructure Financing Program.
- (i) “Public Administration Impact” means any development project which generates an increased demand for general governmental services.
- (j) “Public Infrastructure Financing Program” means the AB 1600 Fee Justification Study, Fiscal Impact Report, and Financing Plan prepared for the Orcutt Community Planning Area dated October 17, 1997, in conjunction with the adoption of this ordinance, and may be amended from time to time.
- (k) “Capital Improvement Plan” means the plan for public administration capital improvements as identified in the Public Infrastructure Financing Program or its successor, as adopted or updated by the Board of Supervisors. The Capital Improvement Plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.
- (l) “Board of Supervisors” means the Board of Supervisors of the County.
- (m) “County” means the County of Santa Barbara, a political subdivision of the State of California.

Section 21-132. Adoption of Public Administration Facility Development Impact Fees.

Pursuant to this ordinance, Public Administration Facility Development Impact Fees shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing. Such fee, when adopted, shall be a condition of approval of new development projects within the Orcutt Community Planning Area.

In adopting the resolution, the Board of Supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
- (4) Determine a reasonable relationship between the need for the public administration facility and the impacts from the type of development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the public administration facility, or portion of the public administration facility; and
- (6) Establish a schedule of fees for public administration facilities.

Section 21-133. Applicability of Fees.

- (a) A Public Administration Facility Development Impact Fee shall be charged upon the approval for any of the following new development within the Orcutt Planning Area:
 - (1) The construction or installation of new single family and multi-family (e.g., condos, mobile homes, apartments, duplexes, townhouses, second units) residential units.
 - (2) Additions to existing residential structures that add a new dwelling unit as defined by Section 21-131 (e).
 - (3) The construction or installation of any new non-residential buildings, including any additions to such existing buildings which add more than 500 square feet of floor area; within Old Town Orcutt, as defined in July 22, 1997 Orcutt Community Plan, only those additions to existing buildings which add more than 1,000 square feet shall be subject to the fee.

Section 21-134. Exemptions.

The following will be exempted from payment of the Public Administration Development Impact fees referenced herein:

- (a) Any development project or subdivision that has no public administration impact, as defined by Section 21-131 (i) of this ordinance.
- (b) Any development project that does not require a building permit that allows for the erection, moving, alteration, or improvement within the County.

Section 21-135. Timing of Fee Payment.

(a) Imposition of Fees.

- (1) The schedule of fees in effect on the date the vesting tentative map or vesting tract map for a development project is approved determines the applicable fee on the subject map. If there is no vesting map, the applicant pays according to the schedule of fees in place on the date the fees are paid.
- (2) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required unless (1) the project has been changed in a way that alters its public administration impact, or (2) the schedule of fees has been amended during the interim. In this event, the applicant pays the appropriate increase or decrease in the fees.
- (3) When fees are paid for a development project and the development project is abandoned

without any further action beyond the obtaining of a permit or an approval, the payer shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee.

- (1) Except as set forth in section (2) and (3) below, Public Administration Facility Development Impact Fees shall be paid on the date the Final Inspection is approved.
- (2) For residential development containing more than one dwelling unit, the developer may request that the fees be paid in installments based on the phasing of their development project. The decision whether to allow installment payments shall be determined by the General Services Director. Any fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
- (3) The County shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the County has adopted a proposed construction schedule or plan prior to final inspection, or the fees are to reimburse the local agency for expenditures previously made.
- (4) No building permit for any development project shall be issued unless a contract has been executed to pay the fees, and no final inspection for any development project shall be approved unless fees have been paid.

Section 21-136. Fee Adjustments.

- (a) A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Public Administration Facility Development Impact Fee(s) based upon the absence of any reasonable relationship or nexus between the public administration impacts of the project or subdivision and either the amount of the fee(s) charged or the type of public administration facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the General Services Director or his/her designee within 15 calendar days following determination of the fee amount.
- (b) The General Services Director or his/her designee shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

Section 21-137. Fee Reduction for Beneficial Projects.

- (a) The following types of projects may apply for fee reduction, adjustments, or waivers of Public Administration Facility Development Impact Fee(s):
 - (1) Residential projects in which 50 percent of the units developed are affordable as defined by the County's affordable housing guidelines, or
 - (2) Residential projects in which 25 percent of the units developed are available to low income buyer/renters per the County's affordable housing guidelines, or
 - (3) Projects proposed by non-profit entities or governmental agencies which will provide public access to sites of significant historical, cultural, or natural resource value, and/or provide

essential health, safety, welfare or other community service needs. The applicability of this provision to individual projects shall be subject to a determination by the Board of Supervisors or

- (b) Any reduction, adjustment or waiver of Public Administration Facility Development Impact Fees must be accompanied by a finding of availability of substitute funds to assure that the public administration facilities can be constructed.
- (c) Any Public Administration Facility Development Impact Fee reduction or waiver granted as a result of a fee reduction policy shall apply only to the original specified land use. Any change in land use shall be subject to re-evaluation by the County and may result in the imposition of fees previously reduced or waived.

Section 21-138. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and expend the Public Administration Facility Development Impact Fees pursuant to California Government Code Section 66006.
- (b) Public Administration Facility Development Impact Fees paid shall be held by the General Services Department in a separate Public Administration Facility Development Impact Fee account to be expended for the purpose for which they were collected. The General Services Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-139. Use of Funds.

- (a) Funds collected from Public Administration Facility Development Impact Fees shall be used to acquire, construct, and install public administration facilities or reimburse costs of previously constructed facilities.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the public administration facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-140. Developer Construction of Facilities.

In lieu fee credit for the construction of public administration facilities and service improvements is allowable under the following conditions:

- (a) Only the costs of public administration facilities listed on, the applicable Public Administration Capital Improvement Plan shall be eligible for in-lieu credit.
- (b) With prior approval of the General Services Director or his/her designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of public administration facilities provided by the developer.
- (c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.
- (d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development

Division 1 - Public Administration Facility Development Impact Fees

or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the General Services Director or his/her designee.

- (e) If an applicant is required, as a condition of approval for a discretionary permit or a final subdivision map, to construct any off-site public administration facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by General Services Director or his/her designee. The reimbursement agreement shall contain terms and conditions approved by the General Services Director or his/her designee, Auditor-Controller, County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.
- (f) Public administration facilities specifically required exclusively to serve a project or subdivision shall not be eligible for in-lieu fee credit.
- (g) A developer or subdivider seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the General Services Director or his/her designee to support the request for credit or reimbursement. The General Services Director or his/her designee shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer or subdivider if so eligible.
- (h) Any claim for credit must be made at or before the time of application for a building permit. Any claim not so made shall be deemed waived.
- (i) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one project or subdivision to another without the Board of Supervisors' approval.
- (j) Determination made by the General Services Director or his/her designee pursuant to this Section 21-140 may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within 10 working days of the determination of the General Services Director or his/her designee.

Section 21-141. Condition for Refunds.

- (a) If a permit upon which a fee was based expires without commencement of construction, the applicant shall be entitled to a refund of the Public Administration Facility Development Impact Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The applicant shall submit a written request for a refund to the General Services Director or his/her designee within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.
- (b) The General Services Director or his/her designee shall report to the Board of Supervisors, once each fiscal year, any portion of Public Administration Facility Development Impact Fees remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code Section 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to 1) identify the purpose to which the fee is put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the public administration facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.
- (c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots or units of the development

project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.

- (d) If the administrative costs of refunding unexpected and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 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 fees are collected pursuant to Government Code Section 66001 *et seq.* and that serves the project on which the fee was originally imposed.

Section 21-142. Annual report.

- (a) At least once every year a proposed Capital Improvement Plan detailing the specific public administration facilities to be funded by Public Administration Facility Development Impact Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code Sections 65090 and 66002, as they now exist or may be amended.
- (b) Except for the first year that this ordinance is in effect, no later than 60 days following the end of each fiscal year, the General Services Director or his/her designee shall submit a report to the Board of Supervisors identifying the balance of fees in the Public Administration Facility Impact Fee Program Fund established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the report, the General Services Director or his/her designee shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.
- (c) At a public hearing the Board of Supervisors shall review estimated costs of the public administration facilities described in the Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Public Administration Facility Development Impact Fees to include additional projects not previously foreseen as being needed.

Section 21-143. Automatic Annual Adjustment.

Each fee imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 1999, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding 12 months.

Section 21-144. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-145. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersede any previous County ordinance or resolution to the extent the same is in conflict with this ordinance.

Section 21-146. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be

deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-147. Effective Date.

Pursuant to California Code Section 66017 (a), this ordinance shall be in full force and effect 60 days after the date of its adoption by the Board of Supervisors.

Section 21-148. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

DIVISION 2 - LIBRARY FACILITY DEVELOPMENT IMPACT FEES

(Added by Ord. 4314, 06/16/98)

Section 21-150. Findings.

- (a) In order to implement the goals and objectives of the Orcutt Community Plan and to mitigate impacts caused by new development projects within the Orcutt Planning Area, a Library Facility Development Impact Fee is necessary. The fee is needed to finance library facilities necessary to serve new development and to assure new development projects pay their fair share for these facilities.
- (b) Title 7, Chapter 5, Section 66000 *et seq.* of the California Government Code provides that Development Impact 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 and/or improvement of library facilities within the Orcutt Planning Area.
 - (2) Funds for construction, expansion and/or improvement of library facilities are not available to accommodate the needs caused by new development projects, which will result in inadequate library facilities within the Orcutt Community Planning Area.
- (c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of a Library Facility Development Impact Fee for the construction, expansion and/or improvement of library facilities, the need for which is caused by new development projects. In establishing a Library Facility Development Impact Fee, the Board of Supervisors finds the fee consistent with the Santa Barbara County Comprehensive Plan/Land Use Element and the Orcutt Community Plan.
- (d) Pursuant to Government Code Section 65913.2, the Board of Supervisors has considered the effects of the fees with respect to the County's housing need as established in the housing element of the general plan.
- (e) Pursuant to Title 14 California Code of Regulations, Sections 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-151. Definitions.

Words when used in this ordinance, and in resolutions adopted under the authority of this ordinance, shall have the following meanings:

- (a) "Orcutt Community Plan" is defined as the plan that updates the Santa Barbara County Comprehensive Plan for the unincorporated area of Orcutt.
- (b) "Orcutt Community Planning Area" or "Orcutt Planning Area" is defined as that area of the County of Santa Barbara delineated by the Orcutt Community Plan adopted by the Board of Supervisors on July 22, 1997 and as amended from time to time.
- (c) "Development" or "Development Project" means any project that involves the issuance of a permit for new construction, and reconstruction or expansion of an existing structure, which would result in an increased impact on public services.
- (d) "Residential Unit" means a building used for the primary purpose of human habitation, such as a single family home, an individual condominium unit, or an individual apartment.
- (e) "Dwelling Unit" means a building or portion thereof designed for and occupied in whole or in

Division 2 - Library Facility Development Impact Fees

part as a residence or sleeping place, either permanently or temporarily, by one family and its guests, with sanitary facilities and one kitchen provided within the unit.

- (f) “Fee” means a monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion of, the cost of library facilities related to the development project or subdivision.
- (g) “Subdivision” means the division of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale or lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if separated by roads, streets, utility easement or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in subdivision (f) of Section 1351 in the California Civil Code, a community apartment project as defined in subdivision (d) of Section 1351 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the California Civil Code, as the same presently exists or may hereafter be amended.
- (h) “Library Facilities” includes public improvements and community amenities including but not limited to public libraries, related equipment, buildings, books, related planning, engineering, construction and administrative activity, and any other capital library facility projects identified in the Orcutt Community Plan Public Infrastructure Financing Program.
- (i) “Library Impact” means any development project which generates increased demand for library facilities within the Orcutt Planning Area.
- (j) “Public Infrastructure Financing Program” means the AB 1600 Fee Justification Study, Fiscal Impact Report, and Financing Plan prepared for the Orcutt Community Planning Area dated October 17, 1997, in conjunction with the adoption of this ordinance, as amended from time to time.
- (k) “Capital Improvement Plan” means the plan for library capital improvements as identified in the Public Infrastructure Financing Program or its successor, as adopted or updated by the Board of Supervisors. The Capital Improvement Plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.
- (l) “Board of Supervisors” means the Board of Supervisors of the County.
- (m) “County” means the County of Santa Barbara, a political subdivision of the State of California.

Section 21-152. Adoption of Library Facility Development Impact Fees.

Pursuant to this ordinance, Library Facility Development Impact Fees shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing. Such fee, when adopted, shall be a condition of the issuance of permits for, or the approval of, new development projects within the Orcutt Community Planning Area.

In adopting the resolution, the Board of Supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee’s use and the type of development project on which the fee is imposed;

- (4) Determine a reasonable relationship between the need for the library facility and the impacts from the type of development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the library facility, or portion of the library facility; and
- (6) Establish a schedule of fees for library facilities.

Section 21-153. Applicability of Fees.

- (a) A Library Facility Development Impact Fee shall be charged upon the approval for any of the following new development within the Orcutt Planning Area:
 - (1) The construction or installation of new single family and multi-family (e.g., condos, mobile homes, apartments, duplexes, townhouses, second units) residential units.
 - (2) Additions to existing residential structures that add a new dwelling unit as defined by Section 21-151 (e).
 - (3) The construction or installation of any new non-residential buildings, including any additions to such existing buildings which add more than 500 square feet of floor area; within Old Town Orcutt, as defined in the July 22, 1997 Orcutt Community Plan, only those additions to existing buildings which add more than 1,000 square feet shall be subject to the fee.

Section 21-154. Exemptions.

The following will be exempted from payment of the Library Development Impact fees referenced herein:

- (a) Any development project or subdivision that has no library impact, as defined by Section 21-151 (i) of this ordinance.
- (b) Any development project that does not require a building permit that allows for the erection, moving, alteration, or improvement within the County.

Section 21-155. Timing of Fee Payment.

(a) Imposition of Fees.

- (1) The schedule of fees in effect on the date the vesting tentative map or vesting tract map for a development project is approved determines the applicable fee on the subject map. If there is no vesting map, the applicant pays according to the schedule of fees in place on the date the fees are paid.
- (2) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required unless (1) the project has been changed in a way that alters its library impact, or (2) the schedule of fees has been amended during the interim. In this event, the applicant pays the appropriate increase or decrease in the fees.
- (3) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payer shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee.

- (1) Except as set forth in section (2) and (3) below, Library Facility Development Impact Fees shall be paid on the date the final inspection is approved.
- (2) For residential development containing more than one dwelling unit, the developer may request that the fees be paid in installments based on the phasing of their development project. The decision whether to allow installment payments shall be determined by the Planning and Development Director. Any fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
- (3) The County shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the County has adopted a proposed construction schedule or plan prior to final inspection, or the fees are to reimburse the local agency for expenditures previously made.
- (4) No building permit for any development project shall be issued unless a contract has been executed to pay the fees, and no final inspection for any development project shall be approved unless fees have been paid.

Section 21-156. Fee Adjustments.

- (a) A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Library Facility Development Impact Fee(s) based upon the absence of any reasonable relationship or nexus between the library impacts of the project or subdivision and either the amount of the fee(s) charged or the type of library facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the County Planning and Development Department within 15 calendar days following determination of the fee amount.
- (b) The Planning and Development Director shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

Section 21-157. Fee Reduction for Beneficial Projects.

- (a) The following types of projects may apply for fee reduction, adjustments, or waivers of Library Facility Development Impact Fee(s):
 - (1) Residential projects in which 50 percent of the developed are affordable as defined by the County's affordable housing guidelines, or
 - (2) Residential projects in which 25 percent of the units developed are available to low income buyer/renters per the County's affordable housing guidelines, or
 - (3) Projects proposed by non-profit entities or governmental agencies which will provide public access to sites of significant historical, cultural, or natural resource value, and/or provide essential health, safety, welfare or other community service needs. The applicability of this provision to individual projects shall be subject to a determination by the Board of Supervisors, or

- (b) Any reduction, adjustment or waiver of Library Facility Development Impact Fees must be accompanied by a finding of availability of substitute funds to assure that the library facilities can be constructed.
- (c) Any Library Facility Development Impact Fee reduction or waiver granted as a result of a fee reduction policy shall apply only to the original specified land use. Any change in land use shall be subject to re-evaluation by the County and may result in the imposition of fees previously reduced or waived.

Section 21-158. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and expend the Library Facility Development Impact Fees pursuant to California Government Code Section 66006.
- (b) Library Facility Development Impact Fees paid shall be held by the Planning and Development Department in a separate Library Facility Development Impact Fee account to be expended for the purpose for which they were collected. The Planning and Development Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-159. Use of Funds.

- (a) Funds collected from Library Facility Development Impact Fees shall be used to acquire, construct, and install library facilities or reimburse costs of previously constructed facilities.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the Library Facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-160. Developer Construction of Facilities.

In lieu fee credit for the construction of library facilities and service improvements is allowable under the following conditions:

- (a) Only the costs of library facilities listed on, or exempted from, the applicable Library Capital Improvement Plan shall be eligible for in-lieu credit.
- (b) With prior approval of the Planning and Development Director or Department Director designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of library facilities provided by the developer.
- (c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.
- (d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the Planning and Development Director.
- (e) If an applicant is required, as a condition of approval for a discretionary permit, to construct any off-site library facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the Planning and

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Development Director. The reimbursement agreement shall contain terms and conditions approved by the Planning and Development Director, Auditor-Controller, County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.

- (f) Library facilities specifically required exclusively to serve a project or subdivision shall not be eligible for in-lieu fee credit.
- (g) A developer or subdivider seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the Planning and Development Director to support the request for credit or reimbursement. The Planning and Development Director shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer or subdivider if so eligible.
- (h) Any claim for credit must be made at or before the time of application for a building permit. Any claim not so made shall be deemed waived.
- (i) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one project or subdivision to another without the Board of Supervisors' approval.
- (j) Determination made by the Planning and Development Director pursuant to this Section 21-160 may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within 10 working days of the determination of the Planning and Development Director.

Section 21-161. Condition for Refunds.

- (a) If a permit upon which a fee was based expires without commencement of construction, the taxpayer shall be entitled to a refund of the Library Development Impact Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The fee payer shall submit a written request for a refund to the Planning and Development Director within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.
- (b) The Planning and Development Director shall report to the Board of Supervisors, once each fiscal year, any portion of Library Facility Development Impact Fees remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code Section 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to 1) identify the purpose to which the fee is put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the library facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.
- (c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots or units of the development project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.
- (d) If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 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 fees are collected pursuant to Government Code Section 66001 *et seq.* and that serves the project on which the fee was originally imposed.

Section 21-162. Annual Report.

- (a) At least once every year a proposed Capital Improvement Plan detailing the specific library facilities to be funded by Library Facility Development Impact Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code Section 65090 and Section 66002, as they now exist or may be amended.
- (b) Except for the first year that this ordinance is in effect, no later than 60 days following the end of each fiscal year, the Planning and Development Director shall submit a report to the Board of Supervisors identifying the balance of fees in the Library Facility Development Impact Fee Program Fund established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the report, the Planning and Development Director shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.
- (c) At a public hearing the Board of Supervisors shall review estimated costs of the library facilities described in the Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Library Facility Development Impact Fees to include additional projects not previously foreseen as being needed.

Section 21-163. Automatic Annual Adjustment.

Each fee imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 1999, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding 12 months.

Section 21-164. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-165. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersede any previous County Ordinance or resolution to the extent the same is in conflict with this ordinance.

Section 21-166. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-167. Effective Date.

Pursuant to California Code Section 66017 (a), this ordinance shall be in full force and effect 60 days after the date of its adoption by the Board of Supervisors.

Section 21-168. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

DIVISION 3 SHERIFF FACILITY DEVELOPMENT IMPACT FEES*(Added by Ord. 4312, 06/16/98)***Section 21-170. Findings.**

- (a) In order to implement the goals and objectives of the Orcutt Community Plan and to mitigate impacts caused by new development projects within the Orcutt Planning Area, a Sheriff Facility Development Impact Fee is necessary. The fee is needed to finance sheriff facilities necessary to serve new development and to assure new development projects pay their fair share for these facilities.
- (b) Title 7, Chapter 5, Section 66000 *et seq.* of the California Government Code provides that Development Impact 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 and/or improvement of sheriff facilities within the Orcutt Planning Area.
 - (2) Funds for construction, expansion and/or improvement of sheriff facilities are not available to accommodate the needs caused by new development projects, which will result in inadequate sheriff facilities within the Orcutt Community Planning Area.
- (c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of a Sheriff Facility Development Impact Fee for the construction, expansion and/or improvement of sheriff facilities, the need for which is caused by new development projects. In establishing a Sheriff Facility Development Impact Fee, the Board of Supervisors finds the fee consistent with the Santa Barbara County Comprehensive Plan/Land Use Element and the Orcutt Community Plan.
- (d) Pursuant to Government Code Section 65913.2, the Board of Supervisors has considered the effects of the fees with respect to the County's housing need as established in the housing element of the general plan.
- (e) Pursuant to Title 14 California Code of Regulations, Sections 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-171. Definitions.

Words when used in this ordinance, and in resolutions adopted under the authority of this ordinance, shall have the following meanings:

- (a) "Orcutt Community Plan" is defined as the plan that updates the Santa Barbara County Comprehensive Plan for the unincorporated area of Orcutt.
- (b) "Orcutt Community Planning Area" or "Orcutt Planning Area" is defined as that area of the County of Santa Barbara delineated by the Orcutt Community Plan adopted by the Board of Supervisors on July 22, 1997 and as amended from time to time.
- (c) "Development" or "Development Project" means any project that involves the issuance of a permit for new construction, and reconstruction or expansion of an existing structure, which would result in an increased impact on public services.
- (d) "Residential Unit" means a building used for the primary purpose of human habitation, such as a single family home, an individual condominium unit, or an individual apartment.
- (e) "Dwelling Unit" means a building or portion thereof designed for and occupied in whole or in

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part as a residence or sleeping place, either permanently or temporarily, by one family and its guests, with sanitary facilities and one kitchen provided within the unit.

- (f) “Fee” means a monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion of, the cost of Sheriff Facilities related to the development project or subdivision.
- (g) “Subdivision” means the division of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale or lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if separated by roads, streets, utility easement or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in subdivision (f) of Section 1351 in the California Civil Code, a community apartment project as defined in subdivision (d) of Section 1351 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the California Civil Code, as the same presently exists or may hereafter be amended.
- (h) “Sheriff Facilities” includes public improvements and community amenities including but not limited to buildings, sheriff patrol cars, equipment, related planning, engineering, construction and administrative activity, and any other capital sheriff facility projects identified in the Orcutt Community Plan Public Infrastructure Financing Program.
- (i) “Sheriff Impact” means any development project which generates an increased demand for Sheriff facilities and personnel.
- (j) “Public Infrastructure Financing Program” means the AB 1600 Fee Justification Study, Fiscal Impact Report, and Financing Plan prepared for the Orcutt Community Planning Area dated October 17, 1997, in conjunction with the adoption of this ordinance, and may be amended from time to time.
- (k) “Capital Improvement Plan” means the plan for sheriff capital improvements as identified in the Public Infrastructure Financing Program or its successor, as adopted or updated by the Board of Supervisors. The Capital Improvement Plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.
- (l) “Board of Supervisors” means the Board of Supervisors of the County.
- (m) “County” means the County of Santa Barbara, a political subdivision of the State of California.

Section 21-172. Adoption of Sheriff Facility Development Impact Fees.

Pursuant to this ordinance, Sheriff Facility Development Impact Fees shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing. Such fee, when adopted, shall be a condition of the issuance of permits for, or the approval of, new development projects within the Orcutt Community Planning Area.

In adopting the resolution, the Board of Supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee’s use and the type of development project on which the fee is imposed;

- (4) Determine a reasonable relationship between the need for the sheriff facility and the impacts from the type of development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the sheriff facility, or portion of the sheriff facility; and
- (6) Establish a schedule of fees for sheriff facilities.

Section 21-173. Applicability of Fees.

A Sheriff Facility Development Impact Fee shall be charged upon the approval for any of the following new development within the Orcutt Planning Area:

- (a) The construction or installation of new single family and multi-family (e.g., condos, mobile homes, apartments, duplexes, townhouses, second units) residential units.
- (b) Additions to existing residential structures that add a new dwelling unit as defined by Section 21-171(e).
- (c) The construction or installation of any new non-residential buildings, including any additions to such existing buildings which add more than 500 square feet of floor area; within Old Town Orcutt, as defined in July 22, 1997 Orcutt Community Plan, only those additions to existing buildings which add more than 1,000 square feet shall be subject to the fee.

Section 21-174. Exemptions.

The following will be exempted from payment of the Sheriff Facility Development Impact fees referenced herein:

- (a) Any development project or subdivision that has no sheriff facility impact, as defined by Section 21-171(i) of this ordinance.
- (b) Any development project that does not require a building permit that allows for the erection, moving, alteration, or improvement within the County.

Section 21-175. Timing of Fee Payment.**(a) Imposition of Fees.**

- (1) The schedule of fees in effect on the date the vesting tentative map or vesting tract map for a development project is approved determines the applicable fee on the subject map. If there is no vesting map, the applicant pays according to the schedule of fees in place on the date the fees are paid.
- (2) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required unless (1) the project has been changed in a way that alters its sheriff impact, or (2) the schedule of fees has been amended during the interim. In this event, the applicant pays the appropriate increase or decrease in the fees.
- (3) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payer shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee.

- (1) Except as set forth in section (2) and (3) below, Sheriff Facility Development Impact Fees

shall be paid on the date the final inspection is issued.

- (2) For residential development containing more than one dwelling unit, the developer may request that the fees be paid in installments based on the phasing of their development project. The decision whether to allow installment payments shall be determined by the County Sheriff. Any fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
- (3) The County shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the County has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy, or the fees are to reimburse the local agency for expenditures previously made.
- (4) No building permit for any development project shall be issued unless a contract has been executed to pay the fees, and no final inspection for any development project shall be approved unless fees have been paid.

Section 21-176. Fee Adjustments.

- (a) A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Sheriff Facility Development Impact Fee(s) based upon the absence of any reasonable relationship or nexus between the sheriff impacts of the project or subdivision and either the amount of the fee(s) charged or the type of sheriff facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the County Sheriff within 15 calendar days following determination of the fee amount.
- (b) The County Sheriff Department shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

Section 21-177. Fee Reduction for Beneficial Projects.

- (a) The following types of projects may apply for fee reduction, adjustments, or waivers of Sheriff Facility Development Impact Fee(s):
 - (1) Residential projects in which 50 percent of the units developed are affordable as defined by the County's affordable housing guidelines, or
 - (2) Residential projects in which 25 percent of the units developed are available to low income buyer/renters per the County's affordable housing guidelines, or
 - (3) Projects proposed by non-profit entities or governmental agencies which will provide public access to sites of significant historical, cultural, or natural resource value, and/or provide essential health, safety, welfare or other community service needs. The applicability of this provision to individual projects shall be subject to a determination by the Board of Supervisors.
- (b) Any reduction, adjustment or waiver of Sheriff Facility Development Impact Fees must be accompanied by a finding of availability of substitute funds to assure that the sheriff facilities can

be constructed.

- (b) Any Sheriff Facility Development Impact Fee reduction or waiver granted as a result of a fee reduction policy shall apply only to the original specified land use. Any change in land use shall be subject to re-evaluation by the County and may result in the imposition of fees previously reduced or waived.

Section 21-178. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and expend the Sheriff Facility Development Impact Fees pursuant to California Government Code 66006.
- (b) Sheriff Facility Development Impact Fees paid shall be held by the County Sheriff Department in a separate Sheriff Facility Development Impact Fee account to be expended for the purpose for which they were collected. The County Sheriff Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-179. Use of Funds.

- (a) Funds collected from Sheriff Facility Development Impact Fees shall be used to acquire, construct, and install sheriff facilities or reimburse costs of previously constructed facilities.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the sheriff facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-180. Developer Construction of Facilities.

In lieu fee credit for the construction of sheriff facilities and service improvements is allowable under the following conditions:

- (a) Only the costs of sheriff facilities listed on, or exempted from, the applicable Sheriff Capital Improvement Plan shall be eligible for in-lieu credit.
- (b) With prior approval of the County Sheriff or his/her designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of sheriff facilities provided by the developer.
- (c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.
- (d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the County Sheriff.
- (e) If an applicant is required, as a condition of approval for a discretionary permit or a final subdivision map, to construct any off-site sheriff facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the County Sheriff. The reimbursement agreement shall contain terms and conditions approved by the County Sheriff, Auditor-Controller, County Counsel and the Board of

Supervisors. This section shall not create any duty to offer a reimbursement agreement.

- (f) Sheriff facilities specifically required exclusively to serve a project or subdivision shall not be eligible for in-lieu fee credit.
- (g) A developer or subdivider seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the County Sheriff to support the request for credit or reimbursement. The County Sheriff shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer or subdivider if so eligible.
- (h) Any claim for credit must be made at or before the time of application for a building permit. Any claim not so made shall be deemed waived.
- (i) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one project or subdivision to another without the Board of Supervisors' approval.
- (j) Determination made by the County Sheriff pursuant to this Section 21-180 may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within 10 working days of the determination of the County Sheriff.

Section 21-181. Condition for Refunds.

- (a) If a permit upon which a fee was based expires without commencement of construction, the taxpayer shall be entitled to a refund of the Sheriff Facility Development Impact Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The fee payer shall submit a written request for a refund to the County Sheriff within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.
- (b) The County Sheriff shall report to the Board of Supervisors, once each fiscal year, any portion of Sheriff Facility Development Impact Fees remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code Section 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to 1) identify the purpose to which the fee is put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the sheriff facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.
- (c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots or units of the development project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.
- (d) If the administrative costs of refunding unexpected and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 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 fees are collected pursuant to Government Code Section 66001 *et seq.* and that serves the project on which the fee was originally imposed.

Section 21-182. Annual report.

- (a) At least once every year a proposed Capital Improvement Plan detailing the specific sheriff facilities to be funded by Sheriff Facility Development Impact Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code Section 65090 and Section 66002, as they now exist or may be amended.
- (b) Except for the first year that this ordinance is in effect, no later than 60 days following the end of each fiscal year, the County Sheriff shall submit a report to the Board of Supervisors identifying the balance of fees in the Sheriff Facility Impact Fee Program Fund established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the report, the County Sheriff shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.
- (c) At a public hearing the Board of Supervisors shall review estimated costs of the sheriff facilities described in the Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Sheriff Facility Development Impact Fees to include additional projects not previously foreseen as being needed.

Section 21-183. Automatic Annual Adjustment.

Each fee imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 1999, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding 12 months.

Section 21-184. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-185. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersede any previous County ordinance or resolution to the extent the same is in conflict with this ordinance.

Section 21-186. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-187. Effective Date.

Pursuant to California Code Section 66017 (a), this ordinance shall be in full force and effect 60 days after the date of its adoption by the Board of Supervisors.

Section 21-188. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

DIVISION 4 COMMERCIAL/INDUSTRIAL PARK AND RECREATIONAL FACILITY DEVELOPMENT IMPACT FEES

(Added by Ord. 4316, 06/16/98)

Section 21-190. Findings.

- (a) In order to implement the goals and objectives of the Orcutt Community Plan and to mitigate impacts caused by new commercial/industrial (C/I) development projects within the Orcutt Planning Area, a Park and Recreational Facility Development Impact Fee is necessary. The fee is needed to finance park and recreational facilities necessary to serve new commercial development and to assure new commercial/industrial development projects pay their fair share for these facilities.
- (b) Title 7, Chapter 5, Section 66000 *et seq.* of the California Government Code provides that Development Impact Fees may be enacted and imposed on development projects. The Board of Supervisors finds and determines that:
 - (1) New commercial/industrial development projects cause the need for construction, expansion and/or improvement of park and recreational facilities within the Orcutt Planning Area.
 - (2) Funds for construction, expansion and/or improvement of park and recreational facilities are not available to accommodate the needs caused by new commercial/ industrial development projects, which will result in inadequate park and recreational facilities within the Orcutt Community Planning Area.
- (c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of a Park and Recreational Facility Development Impact Fee for the construction, expansion and/or improvement of park and recreational facilities, the need for which is caused by new commercial/industrial development projects. In establishing a Park and Recreational Facility Development Impact Fee, the Board of Supervisors finds the fee consistent with the Santa Barbara County Comprehensive Plan/Land Use Element and the Orcutt Community Plan.
- (d) Pursuant to Government Code Section 65913.2, the Board of Supervisors has considered the effects of the fees with respect to the County's housing need as established in the housing element of the general plan.
- (e) Pursuant to Title 14 California Code of Regulations, Sections 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-191. Definitions.

Words when used in this ordinance, and in resolutions adopted under the authority of this ordinance, shall have the following meanings:

- (a) "Orcutt Community Plan" is defined as the plan that updates the Santa Barbara County Comprehensive Plan for the unincorporated area of Orcutt.
- (b) "Orcutt Community Planning Area" or "Orcutt Planning Area" is defined as that area of the County of Santa Barbara delineated by the Orcutt Community Plan adopted by the Board of Supervisors on July 22, 1997 and as amended from time to time.
- (c) "Development" or "Development Project" means any project that involves the issuance of a permit for new construction, and reconstruction or expansion of an existing structure, which

would result in an increased impact on public services.

- (d) “Residential Unit” means a building used for the primary purpose of human habitation, such as a single family home, an individual condominium unit, or an individual apartment.
- (e) “Dwelling Unit” means a building or portion thereof designed for and occupied in whole or in part as a residence or sleeping place, either permanently or temporarily, by one family and its guests, with sanitary facilities and one kitchen provided within the unit.
- (f) “Commercial/Industrial” means any building used for retail commercial and/or non-retail commercial and industrial development.
- (g) “Retail Commercial” includes, but is not limited to, food stores, book stores and video rental stores, drug stores, laundry and cleaning establishments, barber shops and beauty parlors, repair shops for shoes, radios, TV and domestic appliances, professional services, studios and clinics, automotive service stations, vehicle maintenance and repair, banking, insurance and real estate services, restaurants, small bakeries, theaters, bowling alleys, and social clubs, discount stores, home supply stores.
- (h) “Non-Retail Commercial and Industrial” includes, but is not limited to, buildings in which professional, clerical or medical activities are conducted, warehouses and wholesale distribution, mini-warehouses, truck terminals, manufacturing, processing, fabricating, assembly, refining, repairing, packaging, or treatment of goods, material, or produce, sheet metal and welding shops, wholesale lumber yards, contractors yards, auto wrecking yards, canneries, commercial feed lots and stock yards, research and development, light industrial such as product assembly, laboratories, printing plants, and power stations, hotels and motels.
- (i) “Fee” means a monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion of, the cost of park facilities related to the development project or subdivision.
- (j) “Subdivision” means the division of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale or lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if separated by roads, streets, utility easement or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in subdivision (f) of Section 1351 in the California Civil Code, a community apartment project as defined in subdivision (d) of Section 1351 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the California Civil Code, as the same presently exists or may hereafter be amended.
- (k) “Park and Recreational Facilities” includes public improvements and community amenities including but not limited to public parks, open space, riding and hiking trails, curbs, gutter, grading, drainage facilities, street lighting, stop lights, street signs, matching pavement, street trees, lawn and irrigation systems, landscaping, park roads, driveways, restrooms, playground equipment, swimming or wading pools, tennis courts, picnic facilities, sports facilities, ranger housing, stub-in of utility line services to the parkway, related planning, engineering, construction and administrative activity, and any other capital park and recreation facilities projects identified in the Orcutt Community Plan Public Infrastructure Financing Program.
- (l) “Park and Recreational Impact” means any commercial/industrial development project which generates an increased demand for park and recreational facilities within the Orcutt Planning

Area.

- (m) “Public Infrastructure Financing Program” means the AB 1600 Fee Justification Study, Fiscal Impact Report, and Financing Plan prepared for the Orcutt Community Planning Area dated October 17, 1997, in conjunction with the adoption of this ordinance, and may be amended from time to time.
- (n) “Capital Improvement Plan” means the plan for park capital improvements as identified in the Public Infrastructure Financing Program or its successor, as adopted or updated by the Board of Supervisors. The Capital Improvement Plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.
- (o) “Board of Supervisors” means the Board of Supervisors of the County.
- (p) “County” means the County of Santa Barbara, a political subdivision of the State of California.

Section 21-192. Adoption of Commercial and Industrial Park and Recreational Facility Development Impact Fees.

Pursuant to this ordinance, Commercial and Industrial Park and Recreational Facility Development Impact Fees shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing. Such fee, when adopted, shall be a condition of the issuance of permits for, or the approval of, new commercial/industrial development projects within the Orcutt Community Planning Area.

In adopting the resolution, the Board of Supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee’s use and the type of development project on which the fee is imposed;
- (4) Determine a reasonable relationship between the need for the park and recreational facility and the impacts from the type of development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the park and recreational facility, or portion of the park and recreational facility; and
- (6) Establish a schedule of fees for park and recreational facilities.

Section 21-193. Applicability of Fees.

- (a) A Commercial and Industrial Park and Recreational Facility Development Impact Fee shall be charged upon the approval for any of the following new development within the Orcutt Planning Area:
 - (1) The construction or installation of new single family and multi-family (e.g., condos, mobile homes, apartments, duplexes, townhouses, second units) residential units.
 - (2) Additions to existing residential structures that add a new dwelling unit as defined by Section 21-191 (e).
 - (3) The construction or installation of any new non-residential buildings, including any additions to such existing buildings which add more than 500 square feet of floor area; within Old Town Orcutt, as defined in July 22, 1997 Orcutt Community Plan, only those additions to

existing buildings which add more than 1,000 square feet shall be subject to the fee.

Section 21-194. Exemptions.

The following will be exempted from payment of the Park and Recreational Development Impact fees referenced herein:

- (a) Any development project or subdivision that has no park and recreational facility impact, as defined by Section 21-191 (1) of this ordinance.
- (b) Any development project that does not require a building permit that allows for the erection, moving, alteration, or improvement within the County.

Section 21-195. Timing of Fee Payment.

(a) Imposition of Fees.

- (1) The schedule of fees in effect on the date the vesting tentative map or vesting tract map for a development project is approved determines the applicable fee on the subject map. If there is no vesting map, the applicant pays according to the schedule of fees in place on the date the fees are paid.
- (2) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required unless (1) the project has been changed in a way that alters its park and recreational impact, or (2) the schedule of fees has been amended during the interim. In this event, the applicant pays the appropriate increase or decrease in the fees.
- (3) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payer shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee.

- (1) Except as set forth in section (2) and (3) below, Commercial and Industrial Park and Recreational Facility Development Impact Fees shall be paid on the date the final inspection is approved.
- (2) For residential development containing more than one dwelling unit, the developer may request that the fees be paid in installments based on the phasing of their development project. The decision whether to allow installment payments shall be determined by the Parks Director. Any fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
- (3) The County shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the County has adopted a proposed construction schedule or plan prior to final inspection, or the fees are to reimburse the local agency for expenditures previously made.
- (4) No building permit for any development project shall be issued unless a contract has been executed to pay the fees, and no final inspection for any development project shall be approved unless fees have been paid.

Section 21-196. Fee Adjustments.

- (a) A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Park and Recreational Facility Development Impact Fee(s) based upon the absence of any reasonable relationship or nexus between the park and recreational impacts of the project or subdivision and either the amount of the fee(s) charged or the type of park and recreational facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the Parks Director within 15 calendar days following determination of the fee amount.
- (b) The Parks Director shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

Section 21-197. Fee Reduction for Beneficial Projects.

- (a) The following types of projects may apply for fee reduction, adjustments, or waivers of Park and Recreational Facility Development Impact Fee(s):
 - (1) Projects proposed by non-profit entities or governmental agencies which will provide public access to sites of significant historical, cultural, or natural resource value, and/or provide essential health, safety, welfare or other community service needs. The applicability of this provision to individual projects shall be subject to a determination by the Board of Supervisors.
- (b) Any reduction, adjustment or waiver of Park and Recreational Facility Development Impact Fees must be accompanied by a finding of availability of substitute funds to assure that the park and recreational facilities can be constructed.
- (c) Any Park and Recreational Facility Development Impact Fee reduction or waiver granted as a result of a fee reduction policy shall apply only to the original specified land use. Any change in land use shall be subject to re-evaluation by the County and may result in the imposition of fees previously reduced or waived.

Section 21-198. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and expend the Park and Recreational Facility Development Impact Fees pursuant to California Government Code Section 66006.
- (b) Park and Recreational Facility Development Impact Fees paid shall be held by the Park Department in a separate Park and Recreational Facility Development Impact Fee account to be expended for the purpose for which they were collected. The Parks Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-199. Use of Funds.

- (a) Funds collected from Park and Recreational Facility Development Impact Fees shall be used to acquire, construct, and install park and recreational facilities or reimburse costs of previously constructed facilities.

- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the park and recreational facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-200. Developer Construction of Facilities.

In lieu fee credit for the construction of park and recreational facilities and service improvements is allowable under the following conditions:

- (a) Only the costs of park and recreational facilities listed on, or exempted from, the applicable Park and Recreational Capital Improvement Plan shall be eligible for in-lieu credit.
- (b) With prior approval of the Parks Director or his/her designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of park and recreational facilities provided by the developer.
- (c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.
- (d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the Parks Director.
- (e) If an applicant is required, as a condition of approval for a discretionary permit or a final subdivision map, to construct any off-site park facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the Parks Director. The reimbursement agreement shall contain terms and conditions approved by the Parks Director, Auditor-Controller, County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.
- (f) Park and recreational facilities specifically required exclusively to serve a project or subdivision shall not be eligible for in-lieu fee credit.
- (g) A developer or subdivider seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the Parks Director to support the request for credit or reimbursement. The Parks Director shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer or subdivider if so eligible.
- (h) Any claim for credit must be made at or before the time of application for a building permit. Any claim not so made shall be deemed waived.
- (i) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one project or subdivision to another without the Board of Supervisors' approval.
- (j) Determination made by the Parks Director pursuant to this Section 21-200 may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within 10 working days of the determination of the Parks Director.

Section 21-201. Condition for Refunds.

- (a) If a permit expires without commencement of construction, the taxpayer shall be entitled to a refund of the Park and Recreational Development Impact Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The fee payer shall submit a written request for a refund to the Parks Director within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.
- (b) The Parks Director shall report to the Board of Supervisors, once each fiscal year, any portion of Park and Recreational Facility Development Impact Fees remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code Section 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to 1) identify the purpose to which the fee is put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the park and recreational facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.
- (c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots or units of the development project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.
- (d) If the administrative costs of refunding unexpected and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 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 fees are collected pursuant to Government Code Section 66001 *et seq.* and that serves the project on which the fee was originally imposed.

Section 21-202. Annual report.

- (a) At least once every year a proposed Capital Improvement Plan detailing the specific park and recreational facilities to be funded by Park and Recreational Facility Development Impact Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code Sections 65090 and 66002, as they now exist or may be amended.
- (b) Except for the first year that this ordinance is in effect, no later than 60 days following the end of each fiscal year, the Parks Director shall submit a report to the Board of Supervisors identifying the balance of fees in the Park and Recreational Facility Development Impact Fee Program Fund established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the report, the Parks Director shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.
- (c) At a public hearing the Board of Supervisors shall review estimated costs of the park and recreational facilities described in the Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Park and Recreational Facility Development Impact Fees to include additional projects not previously foreseen as being

needed.

Section 21-203. Automatic Annual Adjustment.

Each fee imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 1999, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding 12 months.

Section 21-204. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-205. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersede any previous County Ordinance or resolution to the extent the same is in conflict with this ordinance.

Section 21-206. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-207. Effective Date.

Pursuant to California Code Section 66017 (a), this ordinance shall be in full force and effect 60 days after the date of its adoption by the Board of Supervisors.

Section 21-208. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

ARTICLE VII**GOLETA PLANNING AREA DEVELOPMENT IMPACT FEES****DIVISION 1 COMMERCIAL AND INDUSTRIAL PARK AND
RECREATIONAL FACILITY DEVELOPMENT IMPACT FEES**

(Added by Ord. 4341, 11/03/98)

Section 21-300. Findings.

- (a) In order to implement the goals and objectives of the Goleta Community Plan and to mitigate impacts caused by new commercial and industrial development projects within the Goleta Planning Area, a Park and Recreational Facility Development Impact Fee is necessary. The fee is needed to finance park and recreational facilities necessary to serve new commercial and industrial development and to assure new commercial and industrial development projects pay their fair share for these facilities.
- (b) Section 66000 *et seq.* of the California Government Code provide that Development Impact Fees may be enacted and imposed on development projects. The Board of Supervisors finds and determines that:
 - (1) New commercial and industrial development projects cause the need for construction, expansion and/or improvement of park and recreational facilities within the Goleta Planning Area.
 - (2) Funds for construction, expansion and/or improvement of park and recreational facilities are not available to accommodate the needs caused by new commercial and industrial development projects, which will result in inadequate park and recreational facilities within the Goleta Community Planning Area.
- (c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of a Commercial and Industrial Park and Recreational Facility Development Impact Fee for the construction, expansion and/or improvement of park and recreational facilities, the need for which is caused by new commercial and industrial development projects. In establishing a Commercial and Industrial Park and Recreational Facility Development Impact Fee, the Board of Supervisors finds the fee consistent with the Santa Barbara County Comprehensive Plan/Land Use Element and the Goleta Community Plan.
- (d) Pursuant to Title 14 California Code of Regulations, Sections 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-301. Definitions.

Words when used in this ordinance, and in resolutions adopted under the authority of this ordinance, shall have the following meanings:

- (a) “Goleta Community Plan” is defined as the plan that updates the Santa Barbara County Comprehensive Plan for the unincorporated area of Goleta.
- (b) “Goleta Community Planning Area” or “Goleta Planning Area” is defined as that area of the County of Santa Barbara delineated by the Goleta Community Plan adopted by the Board of Supervisors on July 20, 1993 and as amended from time to time.
- (c) “Development” or “Development Project” means any project that involves the issuance of a

permit for new construction, and reconstruction or expansion of an existing structure, which would result in an increased impact on public services.

- (d) “Commercial and Industrial” means any building used for retail commercial and/or non-retail commercial and industrial development as identified in Article II and III of Chapter 35 of the County Code, which includes, but is not limited to, retail stores, shops, and offices supplying commodities or performing services, excluding schools, governmental facilities, and churches. *(Amended by Ord.4364, 6/22/99)*
- (e) “Retail Commercial” includes, but is not limited to, food stores, book stores and video rental stores, drug stores, laundry and cleaning establishments, barber shops and beauty parlors, repair shops for shoes, radios, TV and domestic appliances, professional services, studios and clinics, automotive service stations, vehicle maintenance and repair, banking, insurance and real estate services, restaurants, small bakeries, theaters, bowling alleys, and social clubs, discount stores, home supply stores.
- (f) “Non-Retail Commercial and Industrial” includes, but is not limited to, buildings in which medical activities are conducted, warehouses and wholesale distribution, mini-warehouses, truck terminals, manufacturing, processing, fabricating, assembly, refining, repairing, packaging, or treatment of goods, material, or produce, sheet metal and welding shops, wholesale lumber yards, contractors yards, auto wrecking yards, canneries, commercial feed lots and stock yards, research and development, light industrial such as product assembly, laboratories, printing plants, and power stations, hotels and motels.
- (g) “Fee” means a monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion of, the cost of park facilities related to the development project or subdivision.
- (h) “Park and Recreational Facilities” include public park and recreation facilities, open space, riding and hiking trails, ancillary facilities, and any other capital park and recreation facility projects identified in the County’s five year Capital Improvement Plan.
- (i) “Park and Recreational Impact” means any commercial or industrial development project which generates an increased demand for park and recreational facilities within the Goleta Planning Area.
- (j) “Capital Improvement Plan” means the plan for park capital improvements as identified in the County’s Five Year Capital Improvement Plan or its successor as adopted or updated by the Board of Supervisors. The Capital Improvement Plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.
- (k) “Board of Supervisors” means the Board of Supervisors of the County.
- (l) “County” means the County of Santa Barbara, a political subdivision of the State of California.

Section 21-302. Adoption of Commercial and Industrial Park and Recreational Facility Development Impact Fees.

Pursuant to this ordinance, Commercial and Industrial Park and Recreational Facility Development Impact Fees shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing. Payment of such fee, when adopted, shall be a condition of the issuance of permits for, or the approval of, new commercial and industrial development projects within the Goleta Community Planning Area.

In adopting the resolution, the Board of Supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
- (4) Determine a reasonable relationship between the need for the park and recreational facility and the impacts from the type of development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the park and recreational facility, or portion of the park and recreational facility; and
- (6) Establish a schedule of fees for commercial and industrial park and recreational facilities.

Section 21-303. Applicability of Fees.

- (a) A Commercial and Industrial Park and Recreational Facility Development Impact Fee shall be charged upon approval for the following new development within the Goleta Planning Area:
 - (1) The construction or installation of any new commercial or industrial buildings, including any additions to such existing buildings which add more than 500 square feet of floor area.

Section 21-304. Exemptions.

The following will be exempted from payment of Commercial and Industrial Park and Recreational Development Impact fees referenced herein:

- (a) Any development project that has no park and recreational facility impact, as defined by Section 21-301 (i) of this ordinance.
- (b) Any development project that does not require a building permit that allows for the erection, moving, alteration, or improvement within the County.

Section 21-305. Timing of Fee Payment.

(a) Imposition of Fees.

- (1) Fees shall be imposed at the time of approval of any discretionary permit for development or, if the fees could not have been lawfully imposed as a condition of discretionary approval, at the time of any other subsequent permit required for the development to proceed, including but not limited to building permits.
- (2) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required unless (1) the project has been changed in a way that alters its park and recreational impact, or (2) the schedule of fees has been amended since the previous approval. In this event, the applicant shall pay the appropriate increase or decrease in the fees.
- (3) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payer shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee.

- (1) Except as set forth in section (2) below, Commercial and Industrial Park and Recreational Facility Development Impact Fees shall be paid on the date the final inspection is approved.

- (2) The County shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the County has adopted a proposed construction schedule or plan prior to final inspection, or the fees are to reimburse the local agency for expenditures previously made.
- (3) No building permit for any development project shall be issued unless a contract has been executed to pay the fees, and no final inspection for any development project shall be approved unless fees have been paid.

Section 21-306. Fee Adjustments.

- (a) A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Park and Recreational Facility Development Impact Fee(s) based upon the absence of any reasonable relationship or nexus between the park and recreational impacts of the project or subdivision and either the amount of the fee(s) charged or the type of park and recreational facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the Parks Director within 15 calendar days following determination of the fee amount.
- (b) The Parks Director shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

Section 21-307. Fee Reduction for Beneficial Projects. *(Amended by Ord. 4364, 6/22/99)*

- (a) The Board of Supervisors may establish by resolution categories of “beneficial projects” which are eligible for fee reductions or waivers. The resolution will establish administrative procedures for granting fee reductions or waivers.
- (b) Any reduction or waiver of Commercial and Industrial Park and Recreational Facility Development Impact Fees must be accompanied by a finding of availability of substitute funds to assure that the park and recreational facilities can be constructed.
- (c) Any Commercial and Industrial Park and Recreational Facility Development Impact Fee reduction or waiver granted as a result of a fee reduction policy shall apply only to the permit being sought and the original specified land use. Any new permit and/or change in use shall be subject to re-evaluation by the County and may result in the imposition of fees previously reduced or waived.

Section 21-308. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and expend the Park and Recreational Facility Development Impact Fees pursuant to California Government Code Section 66006.
- (b) Park and Recreational Facility Development Impact Fees paid shall be held by the Parks Department in a separate Park and Recreational Facility Development Impact Fee account to be expended for the purpose for which they were collected. The Parks Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for

which the original fee was imposed.

Section 21-309. Use of Funds.

- (a) Funds collected from Park and Recreational Facility Development Impact Fees shall be used to acquire, construct, and install park and recreational facilities or reimburse costs of previously constructed facilities.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the park and recreational facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-310. Developer Construction of Facilities.

In lieu fee credit for the construction of park and recreational facilities and service improvements is allowable under the following conditions:

- (a) The costs of park and recreation facilities listed on, or exempted from, the applicable Park and Recreation Capital Improvement Plan, or County Comprehensive Plan/Land Use Element Recreation section, or the adopted Park, Recreation, and Trail Map (PRT-3), or other public park and recreation facilities approved by the Parks Director or her/his designee, may be eligible for in-lieu credit.
- (b) With prior approval of the Parks Director or her/his designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of park and recreational facilities provided by the developer.
- (c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.
- (d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the Parks Director.
- (e) If an applicant is required, as a condition of approval for a discretionary permit, to construct any off-site park facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the Parks Director. The reimbursement agreement shall contain terms and conditions approved by the Parks Director, Auditor-Controller, County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.
- (f) Park and recreational facilities specifically serving the project exclusively may be eligible for partial in-lieu fee credit based on an adopted credit schedule.
- (g) A developer seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the Parks Director to support the request for credit or reimbursement. The Parks Director shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer if so eligible.
- (h) Any claim for credit must be made at or before the time of application for a building permit. Any

claim not so made shall be deemed waived.

- (i) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one project or subdivision to another without the Board of Supervisors' approval.
- (j) Determination made by the Parks Director pursuant to this Section 21-310 may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within 10 working days of the determination of the Parks Director.

Section 21-311. Condition for Refunds.

- (a) If a permit expires without commencement of construction, the taxpayer shall be entitled to a refund of the Park and Recreational Development Impact Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The fee payer shall submit a written request for a refund to the Parks Director within two years after the expiration date of the permit. Failure to timely submit a request for a refund shall constitute a waiver of any right to a refund if the fee has been allocated to facility projects included in the County's five year Capital Improvement Plan.
- (b) The Parks Director shall report to the Board of Supervisors, once each fiscal year, any portion of Park and Recreational Facility Development Impact Fees remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code Section 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to 1) identify the purpose to which the fee is put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the park and recreational facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.
- (c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots of the development project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.
- (d) If the administrative costs of refunding unexpected and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 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 fees are collected pursuant to Government Code Section 66001 *et seq.* and that serves the project on which the fee was originally imposed.

Section 21-312. Annual report.

- (a) At least once every year a proposed Capital Improvement Plan detailing the specific park and recreational facilities to be funded by Park and Recreational Facility Development Impact Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code Sections 65090 and 66002, as they now exist or may be amended.
- (b) Except for the first year that this ordinance is in effect, no later than 60 days following the end of each fiscal year, the Parks Director shall submit a report to the Board of Supervisors identifying the balance of fees in the Park and Recreational Facility Development Impact Fee Program Fund

established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the report, the Parks Director shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.

- (c) At a public hearing the Board of Supervisors shall review estimated costs of the park and recreational facilities described in the Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Park and Recreational Facility Development Impact Fees to include additional projects not previously foreseen as being needed.

Section 21-313. Automatic Annual Adjustment.

Each fee imposed pursuant to this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 1999, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding 12 months.

Section 21-314. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-315. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersede any previous County Ordinance or resolution to the extent the same is in conflict with this ordinance.

Section 21-316. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-317. Effective Date.

Pursuant to California Code Section 66017(a), this ordinance shall be in full force and effect 60 days after the date of its adoption by the Board of Supervisors.

Section 21-318. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

ARTICLE VII GOLETA PLANNING AREA DEVELOPMENT IMPACT FEES

Division 1 – Commercial and Industrial Park and Recreation Facility Development Impact Fees

DIVISION 2 LIBRARY FACILITY DEVELOPMENT IMPACT FEES

(Added by Ord. 4354,03/23/99)

Section 21-325. Findings.

- (a) In order to implement the goals and objectives of the Goleta Community Plan and to mitigate impacts caused by new development projects within the Goleta Planning Area, a Library Facility Development Impact Fee is necessary. The fee is needed to finance library facilities necessary to serve new development and to assure new development projects pay their fair share for these facilities.
- (b) Title 7, Chapter 5, Section 66000 *et seq.* of the California Government Code provides that Development Impact 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 and/or improvement of library facilities within the Goleta Planning Area.
 - (2) Funds for construction, expansion and/or improvement of library facilities are not available to accommodate the needs caused by new development projects, which will result in inadequate library facilities within the Goleta Planning Area.
- (c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of a Library Facility Development Impact Fee for the construction, expansion and/or improvement of library facilities, the need for which is caused by new development projects. In establishing a Library Facility Development Impact Fee, the Board of Supervisors finds the fee consistent with the Santa Barbara County Comprehensive Plan/Land Use Element and the Goleta Community Plan.
- (d) Pursuant to Government Code Section 65913.2, the Board of Supervisors has considered the effects of the fees with respect to the County's housing need as established in the housing element of the general plan.
- (e) Pursuant to Title 14 California Code of Regulations, Sections 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-326. Definitions.

For purposes of this Ordinance the following terms shall be defined as follows:

- (a) "Goleta Community Plan": The plan that updates the Santa Barbara County Comprehensive Plan for the unincorporated area of Goleta.
- (b) "Goleta Planning Area": The area of the County of Santa Barbara delineated by the Goleta Community Plan adopted by the Board of Supervisors on August 5, 1993 and as amended from time to time.
- (c) "New Development" or "Development Project": Any change to unimproved or improved real property, including but not limited to, replacement, expansion, construction, or alteration of buildings or structures, which results in a net increase in the number of units (residential) or square footage (commercial/industrial). Any expansion of outdoor areas in conjunction with existing or proposed structural development which would lead to an increase in intensity of use on a parcel shall be considered new development for the purposes of this Ordinance. Greenhouses, lot line adjustments, and enclosure of existing uses for weather protection, soundproofing, and other purposes not intensifying the use of the development or parcel shall not

Division 2 - Library Facility Development Impact Fees

be considered new development for the purposes of this Ordinance.

- (d) “Residential Unit”: Any detached or attached living area which comprises an independent self-contained dwelling unit, including kitchen or cooking facilities, and is occupied or suitable for occupation as a residence for eating, living, and sleeping purposes.
- (e) “Commercial/Industrial”: Any non-residential land use, including but not limited to retail, office, professional commercial, research, manufacturing, heavy industry, hotels, motels, utilities, and private recreational.
- (f) “Fee”: A monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion of, the cost of library facilities related to the development project or subdivision.
- (g) “Subdivision”: The division of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale or lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if separated by roads, streets, utility easement or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in subdivision (f) of Section 1351 of the California Civil Code, a community apartment project as defined in subdivision (d) of Section 1351 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the California Civil Code, as the same presently exists or may hereafter be amended.
- (h) “Library Facilities”: Public improvements and community amenities including but not limited to public libraries, related equipment, buildings, books, related planning, engineering, construction and administrative activity, and any other capital library facility projects identified in the County’s five year Capital Improvement Plan.
- (i) “Library Impact”: Any development project which generates increased demand for library facilities within the Goleta Planning Area.
- (j) “Goleta AB 1600 Fee Justification Study”: The AB 1600 Fee Justification Study prepared for the Goleta Planning Area dated February 5, 1999, in conjunction with the adoption of this ordinance, as amended from time to time.
- (k) “Capital Improvement Plan” or “CIP”: The plan for library capital improvements as identified in the Goleta AB 1600 Fee Study and/or County’s Five Year CIP or their successor, as adopted or updated by the Board of Supervisors. The Capital Improvement Plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.
- (l) “Board of Supervisors”: The Board of Supervisors of the County.
- (m) “County”: The County of Santa Barbara, a political subdivision of the State of California.

Section 21-327. Adoption of Library Facility Development Impact Fees.

Pursuant to this ordinance, Library Facility Development Impact Fees shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing. Such fee, when adopted, shall be a condition of permit approval for new development projects within the Goleta Planning Area.

In adopting the resolution, the Board of Supervisors shall:

- (1) Identify the purpose of the fee;

- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
- (4) Determine a reasonable relationship between the need for the library facility and the impacts from the type of development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the library facility, or portion of the library facility; and
- (6) Establish a schedule of fees for library facilities.

Section 21-328. Applicability of Fees.

- (a) A Library Facility Development Impact Fee shall be charged upon permit approval for any of the following new development within the Goleta Planning Area:
 - (1) The construction or installation of new single family and multi-family (e.g., second units, condominiums, mobile homes, apartments, duplexes) residential units.
 - (2) Additions to existing residential units that add a new residential unit as defined by Section 21-326 (d).
 - (3) The construction or installation of any new Commercial/Industrial buildings, including any additions to such existing buildings which add more than 500 square feet of floor area.

Section 21-329. Exemptions.

The following will be exempted from payment of the Library Development Impact fees referenced herein:

- (a) Any development project that has no library impact, as defined by Section 21-326(i) of this ordinance.
- (b) Any development project that does not result in an increase in gross square footage or does not require a County permit that allows for the erection, moving, alteration, or improvement within the County.

Section 21-330. Timing of Fee Payment.**(a) Imposition of Fees.**

- (1) Fees shall be imposed at the time of approval of any discretionary permit for development or, if the fees could not have been lawfully imposed as a condition of discretionary approval, at the time of any other subsequent permit required for the development to proceed, including but not limited to building permits. The applicant pays according to the schedule of fees in place on the date the fees are paid.
- (2) The schedule of fees in effect on the date the vesting tentative map or vesting tract map for a development project is deemed complete determines the applicable fee imposed on the subject map. If there is no vesting map, the applicant pays according to the schedule of fees in place on the date the fees are paid.
- (3) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required unless (1) the project has been changed in a way that alters its library impact, or (2)

the schedule of fees has been amended during the interim. In this event, the applicant pays the appropriate increase or decrease in the fees.

- (4) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payer shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee.

- (1) Except as set forth in section (2) and (3) below, Library Facility Development Impact Fees shall be paid on or before the date the final inspection is approved.
- (2) For residential development containing more than one dwelling unit, the developer may request that the fees be paid in installments based on the phasing of their development project. The decision whether to allow installment payments shall be determined by the Planning and Development Director. Any fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
- (3) The County shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the County has adopted a proposed construction schedule or plan prior to final inspection, or the fees are to reimburse the local agency for expenditures previously made.
- (4) No building permit for any development project shall be issued unless a contract has been executed to pay the Library Fees, and no final inspection for any development project shall be approved unless fees have been paid.

Section 21-331. Fee Adjustments.

- (a) A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Library Facility Development Impact Fee(s) based upon the absence of any reasonable relationship or nexus between the library impacts of the project or subdivision and either the amount of the fee(s) charged or the type of library facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the County Planning and Development Director within 15 calendar days following determination of the fee amount.
- (b) The Planning and Development Director or his/her designee shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction, adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

Section 21-332. Fee Reduction for Beneficial Projects.

The Board of Supervisors may establish by resolution categories of "Beneficial Projects" which are eligible for fee reductions or waivers. The resolution will establish procedures for granting fee reductions or waivers.

Section 21-333. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and

expend the Library Facility Development Impact Fees pursuant to California Government Code Section 66006.

- (b) Library Facility Development Impact Fees paid shall be held by the General Services Department in a separate Library Facility Development Impact Fee account to be expended for the purpose for which they were collected. The General Services Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-334. Use of Funds.

- (a) Funds collected from Library Facility Development Impact Fees shall be used to acquire, construct, and install library facilities or reimburse costs of previously constructed facilities.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the Library Facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-335. Developer Construction of Facilities.

In lieu fee credit for the construction of library facilities and service improvements is allowable under the following conditions:

- (a) Only the costs of library facilities listed on the applicable Library Capital Improvement Plan shall be eligible for in-lieu credit.
- (b) With prior approval of the Planning and Development Director or his/her designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of library facilities provided by the developer.
- (c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.
- (d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the Planning and Development Director or his/her designee.
- (e) If an applicant is required, as a condition of approval for a discretionary permit, to construct any off-site library facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the Planning and Development Director or his/her designee. The reimbursement agreement shall contain terms and conditions approved by the Planning and Development Director, Auditor-Controller, County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.
- (f) A developer or subdivider seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the Planning and Development Director or his/her designee to support the request for credit or reimbursement. The Planning and Development Director or his/her designee shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer or subdivider if so eligible.

Division 2 - Library Facility Development Impact Fees

- (g) Any claim for credit must be made at or before the time of application for a building permit. Any claim not so made shall be deemed waived.
- (h) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one project or subdivision to another without the Board of Supervisors' approval.
- (i) Determination made by the Planning and Development Director pursuant to this Section 21-335 may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within 10 working days of the determination of the Planning and Development Director.

Section 21-336. Condition for Refunds.

- (a) If a permit upon which a fee was based expires without commencement of construction, the taxpayer shall be entitled to a refund of the Library Development Impact Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The fee payer shall submit a written request for a refund to the Planning and Development Director within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.
- (b) The General Services Director or his/her designee shall report to the Board of Supervisors, once each fiscal year, any portion of Library Facility Development Impact Fees remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code Section 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to 1) identify the purpose to which the fee shall be put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the library facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.
- (c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots or units of the development project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.
- (d) If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 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 fees are collected pursuant to Government Code Section 66001 *et seq.* and that serves the project on which the fee was originally imposed.

Section 21-337. Annual report.

- (a) At least once every year a proposed Capital Improvement Plan detailing the specific library facilities to be funded by Library Facility Development Impact Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code Sections 65090 and 66002, as they now exist or may be amended.
- (b) Except for the first year that this ordinance is in effect, no later than 60 days following the end of each fiscal year, the General Services Director shall submit a report to the Board of Supervisors identifying the balance of fees in the Library Facility Development Impact Fee Program Fund established pursuant to this ordinance, and the facilities proposed for construction during the next

fiscal year. In preparing the report, the General Services Director shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.

- (c) At a public hearing the Board of Supervisors shall review estimated costs of the library facilities described in the Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Library Facility Development Impact Fees to fund additional projects identified in the CIP which were not previously foreseen as being needed.

Section 21-338. Automatic Annual Adjustment.

Each fee imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 2000, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding 12 months.

Section 21-339. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-340. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersede any previous County Ordinance or resolution to the extent the same is in conflict with this ordinance.

Section 21-341. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-342. Effective Date.

Pursuant to California Code Section 66017(a), this ordinance shall be in full force and effect 60 days after the date of its adoption by the Board of Supervisors.

Section 21-343. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

DIVISION 3 PUBLIC ADMINISTRATION FACILITY DEVELOPMENT IMPACT FEES

(Added by Ord. 4355, 03/23/99)

Section 21-350. Findings.

- (a) In order to implement the goals and objectives of the Goleta Community Plan and to mitigate impacts caused by new development projects within the Goleta Planning Area, a Public Administration Facility Development Impact Fee is necessary. The fee is needed to finance public administration facilities necessary to serve new development and to assure new development projects pay their fair share for these facilities.
- (b) Title 7, Chapter 5, Section 66000 *et seq.* of the California Government Code provides that Development Impact 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 and/or improvement of public administration facilities within the Goleta Planning Area.
 - (2) Funds for construction, expansion and/or improvement of public administration facilities are not available to accommodate the needs caused by new development projects, which will result in inadequate public administration facilities within the Goleta Planning Area.
- (c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of a Public Administration Facility Development Impact Fee for the construction, expansion and/or improvement of public administration facilities, the need for which is caused by new development projects. In establishing a Public Administration Facility Development Impact Fee, the Board of Supervisors finds the fee consistent with the Santa Barbara County Comprehensive Plan/Land Use Element and the Goleta Community Plan.
- (d) Pursuant to Government Code Section 65913.2, the Board of Supervisors has considered the effects of the fees with respect to the County's housing need as established in the housing element of the general plan.
- (e) Pursuant to Title 14 California Code of Regulations, Sections 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-351. Definitions.

For purposes of this Ordinance the following terms shall be defined as follows:

- (a) "Goleta Community Plan": The plan that updates the Santa Barbara County Comprehensive Plan for the unincorporated area of Goleta.
- (b) "Goleta Planning Area": The area of the County of Santa Barbara delineated by the Goleta Community Plan adopted by the Board of Supervisors on August 5, 1993 and as amended from time to time.
- (c) "New Development" or "Development Project": Any change to unimproved or improved real property, including but not limited to, replacement, expansion, construction, or alteration of buildings or structures, which results in a net increase in the number of units (residential) or square footage (commercial/industrial). Any expansion of outdoor areas in conjunction with existing or proposed structural development which would lead to an increase in intensity of use on a parcel shall be considered new development for the purposes of this Ordinance.

Division 3 - Public Administration Facility Development Impact Fees

Greenhouses, lot line adjustments, and enclosure of existing uses for weather protection, soundproofing, and other purposes not intensifying the use of the development or parcel shall not be considered new development for the purposes of this Ordinance.

- (d) “Residential Unit”: Any detached or attached living area which comprises an independent self-contained dwelling unit, including kitchen or cooking facilities, and is occupied or suitable for occupation as a residence for eating, living, and sleeping purposes.
- (e) “Commercial/Industrial”: Any non-residential land use, including but not limited to retail, office, professional commercial, research, manufacturing, heavy industry, hotels, motels, utilities, and private recreational.
- (f) “Fee”: A monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion of, the cost of public administration facilities related to the development project or subdivision.
- (g) “Subdivision”: The division of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale or lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if separated by roads, streets, utility easement or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in subdivision (f) of Section 1351 of the California Civil Code, a community apartment project as defined in subdivision (d) of Section 1351 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the California Civil Code, as the same presently exists or may hereafter be amended.
- (h) “Public Administration Facilities”: Public improvements and community amenities including but not limited to governmental buildings, community/civic centers, portions of community buildings devoted to public administration in Goleta, related planning, engineering, construction and administrative activity, and any other capital public administration facility projects identified in the County’s five year Capital Improvement Plan.
- (i) “Public Administration Impact”: Any development project which generates an increased demand for general governmental facilities.
- (j) “AB1600 Fee Justification Study”: The AB 1600 Fee Justification Study, prepared for the Goleta Planning Area dated February 5, 1999, in conjunction with the adoption of this ordinance, and may be amended from time to time.
- (k) “Capital Improvement Plan” or “CIP”: The plan for public administration capital improvements as identified in the Goleta AB 1600 Fee Study and/or County’s Five Year CIP or their successor, as adopted or updated by the Board of Supervisors. The Capital Improvement Plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.
- (l) “Board of Supervisors”: The Board of Supervisors of the County.
- (m) “County”: The County of Santa Barbara, a political subdivision of the State of California.

Section 21-352. Adoption of Public Administration Facility Development Impact Fees.

Pursuant to this ordinance, Public Administration Facility Development Impact Fees shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing. Such fee, when adopted, shall be a condition of permit approval for new development projects within the Goleta

Planning Area.

In adopting the resolution, the Board of Supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
- (4) Determine a reasonable relationship between the need for the public administration facility and the impacts from the type of development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the public administration facility, or portion of the public administration facility; and
- (6) Establish a schedule of fees for public administration facilities.

Section 21-353. Applicability of Fees.

- (a) A Public Administration Facility Development Impact Fee shall be charged upon permit approval for any of the following new development within the Goleta Planning Area:
 - (1) The construction or installation of new single family and multi-family (e.g., econd units, condominiums, mobile homes, apartments, duplexes) residential units.
 - (2) Additions to existing residential units that add a new residential unit (e.g., attached second unit) as defined by Section 21-351(d).
 - (3) The construction of any new commercial/industrial buildings, including any additions to such existing buildings which add more than 500 square feet of floor area.

Section 21-354. Exemptions.

The following will be exempted from payment of the Public Administration Facility Development Impact fees referenced herein:

- (a) Any development project that has no public administration impact, as defined by Section 21-351(i) of this ordinance.
- (b) Any development project that does not result in an increase in gross square footage, or does not require a County permit that allows for the erection, moving, alteration, or improvement within the County.

Section 21-355. Timing of Fee Payment.

(a) Imposition of Fees.

- (1) Fees shall be imposed at the time of approval of any discretionary permit for development or, if the fees could not have been lawfully imposed as a condition of discretionary approval, at the time of any other subsequent permit required for the development to proceed, including but not limited to building permits. The applicant pays according to the schedule of fees in place on the date the fees are paid.
- (2) The schedule of fees in effect on the date the vesting tentative map or vesting tract map for a development project is deemed complete determines the applicable fee imposed on the subject map. If there is no vesting map, the applicant pays according to the schedule of fees in place on the date the fees are paid.

- (3) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required unless (1) the project has been changed in a way that alters its public administration impact, or (2) the schedule of fees has been amended during the interim. In this event, the applicant pays the appropriate increase or decrease in the fees.
- (4) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payer shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee.

- (1) Except as set forth in section (2) and (3) below, Public Administration Facility Development Impact Fees shall be paid on or before the date the Final Inspection is approved.
- (2) For residential development containing more than one dwelling unit, the developer may request that the fees be paid in installments based on the phasing of their development project. The decision whether to allow installment payments shall be determined by the Planning and Development Director. Any fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
- (3) The County shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the County has adopted a proposed construction schedule or plan prior to final inspection, or the fees are to reimburse the local agency for expenditures previously made.
- (4) No building permit for any development project shall be issued unless a contract has been executed to pay the Public Administration Fees, and no final inspection for any development project shall be approved unless fees have been paid.

Section 21-356. Fee Adjustments.

- (a) A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Public Administration Facility Development Impact Fee(s) based upon the absence of any reasonable relationship or nexus between the public administration impacts of the project or subdivision and either the amount of the fee(s) charged or the type of public administration facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the Planning and Development Director or his/her designee within 15 calendar days following determination of the fee amount.
- (b) The Planning and Development Director or his/her designee shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

Section 21-357. Fee Reduction for Beneficial Projects.

The Board of Supervisors may establish by resolution categories of “Beneficial Projects” which are eligible for fee reductions or waivers. The resolution will establish procedures for granting fee reductions or waivers.

Section 21-358. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and expend the Public Administration Facility Development Impact Fees pursuant to California Government Code Section 66006.
- (b) Public Administration Facility Development Impact Fees paid shall be held by the General Services Department in a separate Public Administration Facility Development Impact Fee account to be expended for the purpose for which they were collected. The General Services Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-359. Use of Funds.

- (a) Funds collected from Public Administration Facility Development Impact Fees shall be used to acquire, construct, and install public administration facilities or reimburse costs of previously constructed facilities.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the public administration facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-360. Developer Construction of Facilities.

In lieu fee credit for the construction of public administration facilities and service improvements is allowable under the following conditions:

- (a) Only the costs of public administration facilities listed on, or exempted from, the applicable Public Administration Capital Improvement Plan shall be eligible for in-lieu credit.
- (b) With prior approval of the Planning and Development Director or his/her designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of public administration facilities provided by the developer.
- (c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.
- (d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the Planning and Development Director or his/her designee.
- (e) If an applicant is required, as a condition of approval for a discretionary permit or a final subdivision map, to construct any off-site public administration facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the Planning and Development Director or his/her designee. The

reimbursement agreement shall contain terms and conditions approved by the Planning and Development Director or his/her designee, Auditor-Controller, County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.

- (f) A developer or subdivider seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the Planning and Development Director or his/her designee to support the request for credit or reimbursement. The Planning and Development Director or his/her designee shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer or subdivider if so eligible.
- (g) Any claim for credit must be made at or before the time of application for a building permit. Any claim not so made shall be deemed waived.
- (h) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one project or subdivision to another without the Board of Supervisors' approval.
- (i) Determination made by the Planning and Development Director or his/her designee pursuant to this Section 21-360 may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within 10 working days of the determination of the Planning and Development Director or his/her designee.

Section 21-361. Condition for Refunds.

- (a) If a permit upon which a fee was based expires without commencement of construction, the applicant shall be entitled to a refund of the Public Administration Facility Development Impact Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The applicant shall submit a written request for a refund to the Planning and Development Director or his/her designee within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.
- (b) The General Services Director or his/her designee shall report to the Board of Supervisors, once each fiscal year, any portion of Public Administration Facility Development Impact Fees remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code Section 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to 1) identify the purpose to which the fee shall be put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the public administration facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.
- (c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots or units of the development project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.
- (d) If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 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 fees are collected pursuant to Government Code Section 66001 *et seq.* and that serves the project on which the fee was

originally imposed.

Section 21-362. Annual report.

- (a) At least once every year a proposed Capital Improvement Plan detailing the specific public administration facilities to be funded by Public Administration Facility Development Impact Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code Sections 65090 and 66002, as they now exist or may be amended.
- (b) Except for the first year that this ordinance is in effect, no later than 60 days following the end of each fiscal year, the General Services Director or his/her designee shall submit a report to the Board of Supervisors identifying the balance of fees in the Public Administration Facility Impact Fee Program Fund established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the report, the General Services Director or his/her designee shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.
- (c) At a public hearing the Board of Supervisors shall review estimated costs of the public administration facilities described in the Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Public Administration Facility Development Impact Fees to fund additional projects identified in the CIP which were not previously foreseen as being needed.

Section 21-363. Automatic Annual Adjustment.

Each fee imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 2000, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding 12 months.

Section 21-364. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-365. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersede any previous County ordinance or resolution to the extent the same is in conflict with this ordinance.

Section 21-366. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-367. Effective Date.

Pursuant to California Code Section 66017(a), this ordinance shall be in full force and effect 60 days after the date of its adoption by the Board of Supervisors.

Section 21-368. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

DIVISION 4 SHERIFF FACILITY DEVELOPMENT IMPACT FEES

(Added by Ord. 4360, 05/25/99)

Section 21-375. Findings.

- (a) In order to implement the goals and objectives of the Goleta Community Plan and to mitigate impacts caused by new development projects within the Goleta Planning Area, a Sheriff Facility Development Impact Fee is necessary. The fee is needed to finance sheriff facilities necessary to serve new development and to assure new development projects pay their fair share for these facilities.
- (b) Title 7, Chapter 5, Section 66000 *et seq.* of the California Government Code provides that Development Impact 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, and/or improvement of sheriff facilities and/or purchase of vehicles and equipment within the Goleta Planning Area.
 - (2) Funds for construction, expansion and/or improvement of sheriff facilities and/or purchase of vehicles and equipment are not available to accommodate the needs caused by new development projects, which will result in inadequate sheriff facilities within the Goleta Planning Area.
- (c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of a Sheriff Facility Development Impact Fee for the construction, expansion and/or improvement of sheriff facilities, the need for which is caused by new development projects. In establishing a Sheriff Facility Development Impact Fee, the Board of Supervisors finds the fee consistent with the Santa Barbara County Comprehensive Plan/Land Use Element and the Goleta Community Plan.
- (d) Pursuant to Government Code Section 65913.2, the Board of Supervisors has considered the effects of the fees with respect to the County's housing need as established in the housing element of the general plan.
- (e) Pursuant to Title 14 California Code of Regulations, Sections 15061 and 15273(4), the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

Section 21-376. Definitions.

For purposes of this Ordinance the following terms shall be defined as follows:

- (a) "Goleta Community Plan": The plan that updates the Santa Barbara County Comprehensive Plan for the unincorporated area of Goleta.
- (b) "Goleta Planning Area": The area of the County of Santa Barbara delineated by the Goleta Community Plan adopted by the Board of Supervisors on August 5, 1993 and as amended from time to time.
- (c) "New Development" or "Development Project": Any change to unimproved or improved real property, including but not limited to, replacement, expansion, construction, or alteration of buildings or structures, which results in a net increase in the number of units (residential) or square footage (commercial/industrial). Any expansion of outdoor areas in conjunction with existing or proposed structural development which would lead to an increase in intensity of use on a parcel shall be considered new development for the purposes of this Ordinance.

Division 4 - Sheriff Facility Development Impact Fees

Greenhouses, lot line adjustments, and enclosure of existing uses for weather protection, soundproofing, and other purposes not intensifying the use of the development or parcel shall not be considered new development for the purposes of this Ordinance.

- (d) “Residential Unit”: Any detached or attached living area which comprises an independent self-contained dwelling unit, including kitchen or cooking facilities, and is occupied or suitable for occupation as a residence for eating, living, and sleeping purposes.
- (e) “Commercial/Industrial”: Any non-residential land use, including but not limited to retail, office, professional commercial, research, manufacturing, heavy industry, hotels, motels, utilities, and private recreational.
- (f) “Fee”: A monetary exaction, other than a tax or special assessment, that is charged by the County of Santa Barbara in connection with approval of a development project or subdivision for the purpose of defraying all, or a portion of, the cost of public administration facilities related to the development project or subdivision.
- (g) “Subdivision”: The division of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale or lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if separated by roads, streets, utility easement or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in subdivision (f) of Section 1351 of the California Civil Code, a community apartment project as defined in subdivision (d) of Section 1351 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the California Civil Code, as the same presently exists or may hereafter be amended.
- (h) “Sheriff Facilities”: Public improvements and community amenities including but not limited to buildings for jail, juvenile, probation facilities, sheriff patrol cars, equipment, related planning, engineering, construction and administrative activity, and any other capital sheriff facility projects identified in the County’s five year Capital Improvement Plan.
- (i) “Sheriff Impact”: Any development project which generates an increased demand for Sheriff facilities and personnel.
- (j) “AB 1600 Fee Justification Study”: The AB 1600 Fee Justification Study, prepared for the Goleta Planning Area dated February 5, 1999, in conjunction with the adoption of this ordinance, and may be amended from time to time.
- (k) “Capital Improvement Plan” or “CIP”: The plan for sheriff capital improvements as identified in the Goleta AB 1600 Fee Study and/or County’s Five Year CIP or their successor, as adopted or updated by the Board of Supervisors. The Capital Improvement Plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.
- (l) “Board of Supervisors”: The Board of Supervisors of the County.
- (m) “County”: The County of Santa Barbara, a political subdivision of the State of California.

Section 21-377. Adoption of Sheriff Facility Development Impact Fees.

Pursuant to this ordinance, Sheriff Facility Development Impact Fees shall be adopted from time to time by resolution of the Board of Supervisors after a noticed public hearing. Such fee, when adopted, shall be a condition of the permit approval for new development projects within the Goleta Planning Area.

In adopting the resolution, the Board of Supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
- (4) Determine a reasonable relationship between the need for the sheriff facility and the impacts from the type of development project on which the fee is imposed;
- (5) Determine a reasonable relationship between the amount of the fee and the cost of the sheriff facility, or portion of the sheriff facility; and
- (6) Establish a schedule of fees for sheriff facilities.

Section 21-378. Applicability of Fees.

A Sheriff Facility Development Impact Fee shall be charged upon permit approval for any of the following new development within the Goleta Planning Area:

- (a) The construction or installation of new single family and multi-family (e.g., second units, condominiums, mobile homes, apartments, duplexes) residential units.
- (b) Additions to existing residential units that add a new residential unit as defined by Section 21-376(d).
- (c) The construction or installation of any new commercial/industrial buildings, including any additions to such existing buildings which add more than 500 square feet of floor area.

Section 21-379 Exemptions.

The following will be exempted from payment of the Sheriff Facility Development Impact fees referenced herein:

- (a) Any development project that has no sheriff facility impact, as defined by Section 21-376(i) of this ordinance.
- (b) Any development project that does not result in an increase in gross square footage or does not require a County permit that allows for the erection, moving, alteration, or improvement within the County.

Section 21-380. Timing of Fee Payment.

(a) Imposition of Fees.

- (1) Fees shall be imposed at the time of approval of any discretionary permit for development or, if the fees could not have been lawfully imposed as a condition of discretionary approval, at the time of any other subsequent permit required for the development to proceed, including but not limited to building permits. The applicant pays according to the schedule of fees in place on the date the fees are paid.
- (2) The schedule of fees in effect on the date the vesting tentative map or vesting tract map for a development project is deemed complete determines the applicable fee imposed on the subject map. If there is no vesting map, the applicant pays according to the schedule of fees in place on the date the fees are paid.
- (3) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not

required unless (1) the project has been changed in a way that alters its sheriff impact, or (2) the schedule of fees has been amended during the interim. In this event, the applicant pays the appropriate increase or decrease in the fees.

- (4) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payer shall be entitled to a refund of the fees paid, less a portion of the fees sufficient to cover costs of collection, accounting for and administration of the fees paid.

(b) Payment of Fee.

- (1) Except as set forth in section (2) and (3) below, Sheriff Facility Development Impact Fees shall be paid on or before the date the final inspection is issued.
- (2) For residential development containing more than one dwelling unit, the developer may request that the fees be paid in installments based on the phasing of their development project. The decision whether to allow installment payments shall be determined by the County Sheriff. Any fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
- (3) The County shall require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the County has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy, or the fees are to reimburse the local agency for expenditures previously made.
- (4) No building permit for any development project shall be issued unless a contract has been executed to pay the Sheriff Fees, and no final inspection for any development project shall be approved unless fees have been paid.

Section 21-381. Fee Adjustments.

- (a) A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this ordinance may appeal to the Board of Supervisors for a reduction, adjustment, or waiver of any Sheriff Facility Development Impact Fee(s) based upon the absence of any reasonable relationship or nexus between the sheriff impacts of the project or subdivision and either the amount of the fee(s) charged or the type of sheriff facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the County Sheriff within 15 calendar days following determination of the fee amount.
- (b) The County Sheriff or his/her designee shall review the appeal, develop recommended actions to be taken by the Board of Supervisors, and submit both the appeal and recommended actions to the Board of Supervisors for their consideration at a public hearing to be conducted within 60 days after the filing of the appeal. The decision of the Board of Supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

Section 21-382. Fee Reduction for Beneficial Projects.

The Board of Supervisors may establish by resolution categories of “Beneficial Projects” which are eligible for fee reductions or waivers. The resolution will establish procedures for granting fee reductions or waivers.

Section 21-383. Fee Account.

- (a) Upon receipt of a fee subject to this ordinance, the County shall deposit, invest, account for and expend the Sheriff Facility Development Impact Fees pursuant to California Government Code Section 66006.
- (b) Sheriff Facility Development Impact Fees paid shall be held by the County Sheriff Department in a separate Sheriff Facility Development Impact Fee account to be expended for the purpose for which they were collected. The County Sheriff Department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

Section 21-384. Use of Funds.

- (a) Funds collected from Sheriff Facility Development Impact Fees shall be used to acquire, construct, and install sheriff facilities or reimburse costs of previously constructed facilities.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of related equipment to the sheriff facilities.
- (d) Funds may also be used to offset the cost of administration of the fund including audits, yearly accounting and reports, and other costs associated with maintaining the fund.

Section 21-385. Developer Construction of Facilities.

In lieu fee credit for the construction of sheriff facilities and service improvements is allowable under the following conditions:

- (a) Only the costs of sheriff facilities listed on the applicable Sheriff Capital Improvement Plan shall be eligible for in-lieu credit.
- (b) With prior approval of the County Sheriff or his/her designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of sheriff facilities provided by the developer.
- (c) If the actual construction cost is greater than the required relevant fees, the County shall have no obligation to pay the excess amount.
- (d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the County Sheriff.
- (e) If an applicant is required, as a condition of approval for a discretionary permit or a final subdivision map, to construct any off-site sheriff facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the County Sheriff. The reimbursement agreement shall contain terms and conditions approved by the County Sheriff, Auditor-Controller, County Counsel and the Board of Supervisors. This section shall not create any duty to offer a reimbursement agreement.
- (f) A developer or subdivider seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the County Sheriff to support the request for credit or reimbursement. The County Sheriff shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer or subdivider if so eligible.

Division 4 - Sheriff Facility Development Impact Fees

- (g) Any claim for credit must be made at or before the time of application for a building permit. Any claim not so made shall be deemed waived.
- (h) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one project or subdivision to another without the Board of Supervisors' approval.
- (i) Determination made by the County Sheriff pursuant to this Section 21-385 may be appealed to the Board of Supervisors by filing a written request with the Clerk of the Board, together with a fee established by the Board of Supervisors, within 10 working days of the determination of the County Sheriff.

Section 21-386. Condition for Refunds.

- (a) If a permit upon which a fee was based expires without commencement of construction, the taxpayer shall be entitled to a refund of the Sheriff Facility Development Impact Fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The fee payer shall submit a written request for a refund to the County Sheriff within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.
- (b) The County Sheriff or his/her designee shall report to the Board of Supervisors, once each fiscal year, any portion of Sheriff Facility Development Impact Fees remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code Section 66001, the Board of Supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to 1) identify the purpose to which the fee shall be put; 2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; 3) identify all sources and amounts of funding anticipated to complete financing of the sheriff facilities and; 4) designate the approximate dates on which the funding is deposited into the appropriate account.
- (c) For all unexpended or uncommitted fees for which the findings set forth in (b) cannot be made, the County shall refund to the current record owner or owners of lots or units of the development project(s) on a prorated basis the unexpended or uncommitted fees, and any interest accrued.
- (d) If the administrative costs of refunding unexpected and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 66001 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 fees are collected pursuant to Government Code Section 66001 *et seq.* and that serves the project on which the fee was originally imposed.

Section 21-387. Annual report.

- (a) At least once every year a proposed Capital Improvement Plan detailing the specific sheriff facilities to be funded by Sheriff Facility Development Impact Fees shall be presented to the Board of Supervisors for adoption by resolution. Notice of the Plan shall be given pursuant to Government Code Sections 65090 and 66002, as they now exist or may be amended.
- (b) Except for the first year that this ordinance is in effect, no later than 60 days following the end of each fiscal year, the County Sheriff shall submit a report to the Board of Supervisors identifying the balance of fees in the Sheriff Facility Impact Fee Program Fund established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the

report, the County Sheriff shall adjust the estimated costs of the public improvements in accordance with the appropriate Engineering Construction Cost Index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1 or the date that the cost estimate was developed.

- (c) At a public hearing the Board of Supervisors shall review estimated costs of the sheriff facilities described in the Capital Improvement Plan, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the Sheriff Facility Development Impact Fees to fund additional projects identified in the CIP which were not previously foreseen as being needed.

Section 21-388. Automatic Annual Adjustment.

Each fee imposed by this ordinance shall be adjusted automatically on July 1st of each fiscal year, beginning on July 1, 2000, by a percentage equal to the appropriate Engineering Cost Index as published by Engineering News Record, or its successor publication, for the preceding 12 months.

Section 21-389. Fee Revision by Resolution.

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the Board of Supervisors. This ordinance shall be considered enabling and directive in this regard.

Section 21-390. Superseding Provisions.

This ordinance and any resolution adopted pursuant hereto supersede any previous County ordinance or resolution to the extent the same is in conflict with this ordinance.

Section 21-391. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

Section 21-392. Effective Date.

Pursuant to California Code Section 66017(a), this ordinance shall be in full force and effect 60 days after the date of its adoption by the Board of Supervisors.

Section 21-393. Publication.

The Clerk of the Board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within 15 days of its adoption by the Board of Supervisors.

APPENDIX A
TABLE OF ORDINANCES AMENDING CHAPTER 21

Ord. #	B/S Adoption Date	Amended Sections
1797	05/22/1967	Chapter 21
1832	09/11/1967	21-4(f)
1888	04/29/1968	21-4
1904	06/24/1968	21-14
2076	04/20/1970	21-12
2199	06/01/1971	21-5, 21-6, 21-7, 21-9, 21-10, 21-14, 21-15, 21-23, 21-29, 21-30
2282	03/20/1972	21-4
2306	06/22/1972	21-4
2320	06/12/1972	21-15(h)
2380	12/04/1972	21-45(b), 21-45(d), 21-45(f)
2399	01/02/1973	21-14, 21-15.5, 21-15.6, 21-15.7, 21-15.8
2460	07/02/1973	21-7(c), 21-15(d)
2465	07/16/1973	21-8(c), 21-8(d), 21-8(e), 21-8(f)
2472	08/06/1973	21-14, 21-15(a), 21-15(e), 21-15(g), 21-15.6
2950	05/16/1977	21-1, 21-90, 21-91, 21-92
3028	03/27/1978	21-87
3092	04/09/1979	21-85, 21-86, 21-87
3120	10/15/1979	21-100 through 21-110
3128	11/12/1979	21-104
3168	05/27/1980	21-85, 21-86, 21-87, 21-88
3204	01/26/1981	21-15.1
3259	10/19/1981	21-6, 21-7, 21-10, 21-14, 21-15, 21-19
3270	12/21/1981	21-6, 21-7, 21-10, 21-14, 21-15, 21-19
3287	03/15/1982	21-25
3331	09/20/1982	21-10, 21-14
3339	12/13/1982	21-100 through 21-110
3384	07/18/1983	21-04
3395	08/08/1983	Sec.21-4(j)
3502	04/22/1985	Sec. 21-91(c)
3551	02/18/1986	Sec. 21-8(d)
3552	02/18/1986	Added Div. 3.5
3560	03/10/1986	Added Div. 11
3609	10/06/1986	Sec. 21-71.1, 21-71.2
3610	10/06/1986	Sec. 21-18.1
3618	11/24/1986	Sec. 21-9
3619	11/24/1986	Sec. 21-90 through 21-95
3818	01/09/1990	Sec. 21-70, 21.71
3935	07/03/1991	Div. 3.2
4019	02/02/1992	Sec. 21-1, 21-6
4020	02/02/1992	Sec. 21-15
4021	02/21/1992	Sec. 21-90, 21-91, 21-92, 21-94
4154	05/03/1994	Sec. 21-15.9
4157	05/03/1994	Sec. 21-1, 21-6, 21-8(d), 21-9, 21-9.1, 21-10, 21-14, 21-15, 21-15.8, 21-15.11, 21-71.3, 21-71.4, 21-90, 21-91, 21-92, 21-94, 21-105, 21-106, Section 2 of Article IV, 21-125
4176	12/20/1994	Sec. 21-71
4312	06/16/1998	Art. VI, Div. 3
4313	06/16/1998	Art. II, Div. 2
4314	06/16/1998	Art. VI, Div. 2
4315	06/16/1998	Art. VI, Div. 1

Appendix A - Table of Ordinances Amending Chapter 21

Ord. #	B/S Adoption Date	Amended Sections
4316	06/16/1998	Art. VI. Div. 4
4317	06/16/1998	Art. IV.
4341	11/03/1998	Art. VII. Div. 1
4348	12/15/1998	Art. IV. Div. 2
4354	03/23/1999	Art. VII. Div. 2
4355	03/23/1999	Art. VII. Div. 3
4360	05/25/1999	Art. VII. Div. 4
4363	06/22/1999	Sec. 21-119
4364	06/22/1999	Sec. 21-301, Sec. 21-307
4405	09/12/2000	Sec. 21-1
4405	09/12/2000	Sec. 21-92, Sec. 21-93, 21-95
4436	11/20/2001	Sec. 21-1, 21-3, 21-4, 21-5, 21-6, 21-7, 21-8, 21-9, 21-10, 21-11, 21-14, 21-15, 21-15.1, 21-15.2, 21-15.3, 21-15.4, 21-15.9, 21-15.11, 21-15.12, 21-15.13, 21-15.14, 21-15.15, 21-15.16, 21-15.17, 21-16, 21-20, 21-35, 21-36, 21-39, 21-49, 21-69, 21-70, 21-70.5, 21-70.6, 21-71.1, 21-71.4, 21-71.01, 21-91, 21-92
4725	07/14/2009	Sec. 21-92
4805	10/18/2011	Sec. 21-1, 21-6, 21-7.4, Division 13 (new)
4820	12/13/2011	Sec. 21-92