

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ARTICLE 1 OF CHAPTER 27 OF THE
LAKE COUNTY CODE RELATING TO FIRE MITIGATION FEES**

**THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE ORDAINS AS
FOLLOWS:**

Section 1: The Board of Supervisors finds and determines that the current Fire Mitigation ceiling in Chapter 27 of the Lake County Code is not sufficient to finance the actual or estimated costs of additional fire protection and emergency medical response facilities and equipment necessitated by new development. The amendments made by this Ordinance are intended to increase the Fire Mitigation Fees to finance the actual or estimated costs of additional fire protection and emergency medical response facilities and equipment necessary to serve the new development that generated the fees.

Section 2: Sections 27-2 through 27-9 of Article 1 of Chapter 27 of the Lake County Code is hereby amended to read as follows:

Sec. 27-2. - Purpose of article.

The purpose of this Article is to implement the Lake County General Plan policy providing for the adoption of fire mitigation fees and for the collection of said fees, said fees to be allocated to the affected Fire Agency for the acquisition of capital facilities in order to ensure the provision of the capital facilities necessary to provide fire protection and emergency medical response services necessitated by new Development.

Sec. 27-3. - Findings.

The Board of Supervisors of the County of Lake finds and declares as follows:

- (a) Adequate Fire Protection Facilities must be available to serve new Development.
- (b) New Development requires the construction or expansion of Fire Protection Facilities.
- (c) In many areas of the County, property taxes and fire suppression assessments currently collected by the agencies providing fire protection and emergency medical response services are insufficient to provide funds for expansion or construction of Fire Protection Facilities necessitated by new Development resulting in the potential for inadequate fire protection and emergency medical response coverage for the new Development and the growing population.
- (d) The above conditions place Lake County's growing population in a condition perilous to its health and safety.
- (e) The impacts of Development on the existing Fire Protection Facilities cannot be alleviated without County involvement.
- (f) For the above reasons, new methods for funding Fire Protection Facilities and equipment necessitated by Development are needed in Lake County.

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Sec. 27-4. - Prior agreements and dedication.

- (a) Any agreement existing prior to the operative date of this Article between an applicant for Development and a Fire Agency pertaining to the dedication of land or payment of fees for Fire Protection Facilities to serve the property which is the subject of the application, or any portion thereof, shall satisfy the requirements of this Article.
- (b) If land, facilities or equipment has been dedicated or donated to, and accepted by, the Fire Agency as a condition of approval of a discretionary permit, such dedication or donation may be considered by the Board of Supervisors as satisfying the requirements of this Article.

Sec. 27-5. - Definitions.

Whenever the following words are used in this Article, they shall have the meaning ascribed to them in this section.

- (a) "Development" means all construction for which a building permit or other permit is required.
- (b) "Fire Protection Facilities" means all land, buildings, and other structures, as well as all apparatus and other equipment necessary to provide fire suppression, fire protection and emergency medical response services in the County of Lake.
- (c) "Board" means the Board of Supervisors of the County of Lake.
- (d) "Other permits" means major and minor use permits.
- (e) "Clerk" means the Clerk of the Board of Supervisors of the County of Lake.
- (f) "Fire Agency" and "Agency" means any special district providing fire protection services within the unincorporated area of the County.

Sec. 27-6. - Exemptions.

- (a) There shall be exempt from the requirements of this article, building permits for the following types of Development:
 - 1) Piers which are not covered, ramps, boat lifts, docks, suspended platforms, and pilings;
 - 2) Agricultural buildings requiring an exempt building permit that are not connected to a power source.
- (b) The requirements of this article shall not apply to buildings and structures owned and used by governmental entities.
- (c) The requirements of this article shall not apply to the replacement on the same parcel by the owner of a dwelling or dwellings destroyed by fire or other calamity or demolished for replacement provided that:
 - 1) The application for building permit to replace such dwelling is filed with the County Building Official within two (2) years after the destruction or demolition of the dwelling, or within three (3) years of the date a local emergency is declared if the destruction or demolition occurred within the geographical area encompassed by that local emergency declaration and resulted from events giving rise to said declaration;
 - 2) There is no change in occupancy; and
 - 3) There is no increase in square footage.

Sec. 27-7. - Required actions of affected fire service providers.

This Article shall become applicable to Development within the boundaries of a Fire Agency when the following events occur:

- (a) The governing body of a Fire Agency adopts a resolution making the following findings:
- 1) New Development within the district's boundaries requires fire protection and emergency medical response services, which results in impact on the Agency's Fire Protection Facilities necessary to provide such services.
 - 2) New Development is required to pay its fair share of the Fire Protection Facilities that it benefits from and the Agency does not have sufficient funds available to construct additional facilities from fund balances, capital facility funds, property tax sources, fire suppression assessments, or any other appropriate sources.
 - 3) The lack of Fire Protection Facilities to serve new Development would create a situation perilous to the public health and safety if fire mitigation fees are not levied within the district.
- (b) The Fire Agency resolves as follows:
- 1) The Agency requests that the County impose a specified fire mitigation fee on the Agency's behalf upon applicants for building permits or other permits for Development.
 - 2) Mitigation fees paid under this Article shall only be used to expand the availability of the Agency's Fire Protection Facilities.
 - 3) The Agency shall place all funds collected for the County under this Article, and all interest subsequently accrued by the Agency on these funds, in a separate budget accounting category to be known as the "Lake County Fire Mitigation Fee."
 - 4) The Agency shall expend funds from said "Lake County Fire Mitigation Fee" budget accounting category only for those purposes of constructing or expanding its Fire Protection Facilities.
 - 5) The Agency shall submit a Fire Mitigation Fee Annual Report no later than October 31 of each year to the Clerk. Said report shall include, but not be limited to, the balance in the account at the end of the previous fiscal year, the fee revenue received, the amount and type of expenditures made, and the ending balance in the fund. In addition, the report shall specify the actions the Agency plans to take to alleviate the Fire Protection Facility needs caused by new Development, as documented in the applicable fire mitigation fee nexus study or in a capital fire facilities and equipment plan adopted at a noticed public hearing. The Agency shall make available, upon request by the Clerk, a copy of its annual audit report.
 - 6) The Agency shall make its records available to the public on request which justify the basis for the fee amount.
 - 7) The Agency shall make findings, with respect to any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. The Agency shall refund to the then current record owner or owners of the Development project or projects on a prorated basis, the unexpended or uncommitted portion of the fee and any interest accrued thereon, for which need cannot be demonstrated.
- (c) The governing body of the Fire Agency adopts a capital fire facility and equipment plan in accordance with Government Code Section 66002 at a noticed public hearing. Agencies within the County may utilize their fire mitigation fee nexus studies as the document that includes their capital fire facility and equipment plan, per Government Code Section 66001(a)(2) and 66016.5.

The governing body of the Fire Agency shall send a certified copy of the resolution and the capital fire facility and equipment plan to the Clerk. The Clerk shall agendize said resolution and capital fire facilities and equipment plan for the Board's approval at a public hearing noticed in the manner required by Government Code Section 66002(b). At the close of the public hearing thereon, the Board may approve said resolution and capital fire facilities and equipment plan if it finds that said documents meet the requirements of this ordinance, the Lake County General Plan and Government Code Section 66000 et seq. The provisions of this Article shall be applicable to all building permits and other permits issued for new construction within the boundaries of the Fire Agency sixty (60) days after the Board's approval.

- (d) By March 31 of each year following the year of the original adoption of a resolution and approval by the Board pursuant to this section, the Agency shall submit a copy of a new resolution adopted by the governing body of the Agency making the findings requested by Section 27-7 and setting fire mitigation fee amount requested by the Agency, subject to adjustments under Section 27-8. The revision shall be effective the following July 1.

Sec. 27-8. - Fire Mitigation Fee Established.

- (a) Based upon the need for Fire Protection facilities within each Agency, as documented in the most recent fire mitigation fee nexus study prepared by such Agency, a Fire Mitigation Fee is hereby established to cover the Fire Protection Facility cost for each of the following Fire Agencies:

i. KELSEYVILLE FIRE PROTECTION DISTRICT

<u>Development Type</u>	<u>Fire Mitigation Fee</u>
All Development	\$1.50 per Sq. Ft.

ii. LAKE COUNTY FIRE PROTECTION DISTRICT

<u>Development Type</u>	<u>Fire Mitigation Fee</u>
Residential Development	\$1.93 per Sq. Ft.
Nonresidential Development	\$2.41 per Sq. Ft.
High Impact Surcharge	\$0.50 per Sq. Ft.

(for all buildings with 3 or more stories and nonresidential buildings with a footprint of over 15,500 Sq. Ft.)

iii. LAKEPORT FIRE PROTECTION DISTRICT

<u>Development Type</u>	<u>Fire Mitigation Fee</u>
Residential Development	\$2.00 per Sq. Ft.
Nonresidential Development	\$2.45 per Sq. Ft.
High Impact Surcharge	\$0.50 per Sq. Ft.

(for all buildings with 3 or more stories and nonresidential buildings with a footprint of over 15,500 Sq. Ft.)

iv. NORTSHORE FIRE PROTECTION DISTRICT

<u>Development Type</u>	<u>Fire Mitigation Fee</u>
Residential Development	\$2.02 per Sq. Ft.

Nonresidential Development \$2.02 per Sq. Ft.

v. SOUTH LAKE COUNTY FIRE PROTECTION DISTRICT

<u>Development Type</u>	<u>Fire Mitigation Fee</u>
Residential Development	\$2.00 per Sq. Ft.
Nonresidential Development	\$2.61 per Sq. Ft.

Administrative Surcharge: All fee amounts shown above include a 2% administrative surcharge.

Automatic Annual Inflation Adjustment: The Fire Mitigation Fee will be automatically adjusted for inflation each year on July 1, commencing on July 1, 2025, without further action by the Board, by an amount equal to the percentage change of the Engineering News Record Building Cost Index (20-Cities Average) for the 12-month period ending in March before the adjustment takes place, pursuant to a resolution adopted by the Agency in accordance with Section 27-7(a) and (b).

(b) A developer of a project subject to the above-described fee may apply to the Fire Agency for a reduction or adjustment of said fee based upon the developer's voluntary undertaking of fire mitigation measures in addition to those required by this chapter which the Fire Agency determines will further reduce the need for fire protection services. Such a reduction or adjustment may be granted by the Agency at its sole discretion.

Sec. 27-9. - Fee payment.

- (a) Prior to the issuance of any nonresidential building permit or other permit for Development, the applicant shall pay to the Agency the fees prescribed by the Agency resolution as approved by the Board, or shall present written evidence that the provisions of this Article have otherwise been satisfied with respect to the Development for which permits are sought.
- (b) Prior to the date of the final inspection or of the issuance of a certificate of occupancy, whichever occurs first, for residential building permits or other permits for Development, the applicant shall pay to the Agency the fees prescribed by the Agency resolution as approved by the Board, or shall present written evidence that the provisions of this Article have otherwise been satisfied with respect to the Development for which permits are sought. In a residential development project of more than one dwelling, the Agency may determine whether the fees shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first. The Agency may require fee payment from residential development at an earlier time if either of the following applies:
 - 1. If the Agency determines that the fees will be collected for public improvements or facilities for which an account has been established and funds appropriated

and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy.

2. When the fees are to reimburse the Agency for expenditures previously made.

- (c) The amount of such fees shall be determined by the Fire Mitigation Fee in effect on the date of the payment of fees for an unexpired plan check.
- (d) When application is made for a new building permit following the expiration of a previously issued building permit for which fees were paid, the fee payment shall not be required.
- (e) In the event that subsequent Development occurs with respect to property for which fees have been paid, additional fees shall be required only for additional square footage of Development which was not included in computing the prior fee.
- (f) For the purpose of payment of the fees to County, the Board delegates to each Agency the responsibility to collect or accept payment of the fees for each respective Agency.

Section 3: Section 27-11 of Article 1 of Chapter 27 of the Lake County Code is hereby amended to read as follows:

Sec. 27-11. - Use of fees.

With the exception of the administrative charge provided for herein, all fees collected pursuant to this Article, including any interest accrued thereon, shall be used by the Agency for the purpose of constructing or expanding its Fire Protection Facilities.

Section 4: The Board of Supervisors finds this ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act (“CEQA”) Guidelines, because there is no potential for it to result in an impact to or physical change in the environment, either directly or indirectly. In the event this ordinance is found to be subject to CEQA, it is exempt from CEQA pursuant to section 15061(b)(3) of the CEQA Guidelines, known as the “Common Sense” exemption, because it can be seen with certainty that there is no possibility of a significant effect on the environment.

Section 5: All ordinances or parts of ordinances or resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict and no further.

Section 6: This ordinance shall take effect on the ____ day of _____, 2024, and before the expiration of fifteen days after its passage, it shall be published at least once in a newspaper of general circulation printed and published in the County of Lake.

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The foregoing Ordinance was introduced before the Board of Supervisors on the _____ day of _____, 2024 and passed by the following vote on the _____ day of _____, 2024.

AYES:

NOES:

ABSENT OR NOT VOTING:

COUNTY OF LAKE

Chair, Board of Supervisors

ATTEST: SUSAN PARKER
 Clerk of the Board of Supervisors

By: _____

APPROVED AS TO FORM:

LLOYD GUINTIVANO
County Counsel

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Fire Mitigation Fees