

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

244



FROM: Transportation and Land Management Agency-Planning Department

SUBMITTAL DATE:
March 27, 2012

SUBJECT: Ordinance No. 671.19 An Ordinance of the County of Riverside Amending Ordinance No. 671 Establishing Consolidated Fees Related to Land Use and Related Functions (Public Hearing)

RECOMMENDED MOTION: After closing the public hearing, that the Board of Supervisors:

1. Introduce and adopt in successive meetings Ordinance No. 671.19; and
2. Find that Ordinance No. 671.19 is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15273 and section 15061(b)(3) based on the findings set forth below.

BACKGROUND: Ordinance No. 671.19 adds new sections to Ordinance No. 671 to include in its provisions the procedural requirements of state law with respect to the adopting a new fee or charge, or approving an increase in an existing fee or charge, which apply to processing land use approvals and certain other types of fees. These types of fees are governed by Government Code Sections 66016, 66017 and 54985 et seq. The amendments to Ordinance No. 671 conform the ordinance to these state statutes by providing for mailed public notice, public hearings, action by resolution or ordinance, an effective date 60 days after adoption and an authorization for adoption of such fees as an urgency measure under limited circumstances.

(continued on Page 2)

Carolyn Syms-Luna

Carolyn Syms-Luna, Planning Director

FORM APPROVED COUNTY COUNSEL

BY: *Katherine A. Lind*
KATHERINE A. LIND
DATE: 03/20/12

Departmental Concurrence

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A
SOURCE OF FUNDS: N/A				Positions To Be Deleted Per A-30 <input type="checkbox"/>
				Requires 4/5 Vote

C.E.O. RECOMMENDATION: APPROVE

BY: *Tina Grande*

Tina Grande

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

Dep't Recomm.:
Per Exec. Ofc.:

Subject: Ordinance No. 671.19 An Ordinance of the County of Riverside Amending Ordinance No. 671 Establishing Consolidated Fees Related to Land Use and Related Functions (Public Hearing)
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BACKGROUND continued: Ordinance No. 671.19 also adds an express authorization to use deposit-based fees to pay for outside consultants when necessary to provide a service. Any consultant contract must comply with all County requirements with respect to such contracts.

In addition, Ordinance No. 671.19 adopts new fees. Data regarding these new fees is set forth in detail in Attachment A. Pursuant to Government Code Section 66016, this data was posted and made available to the public at least ten days prior to the hearing on these fees.

The adoption of Ordinance No. 671.19 is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15273 and section 15061(b)(3). The fees adopted by this ordinance are solely for the purpose of reimbursing the County for the actual costs of providing services and are therefore exempt under CEQA Guidelines section 15273. The purposes of the charges are limited to the purposes authorized under subsections (a)(1) and (a)(2) of section 15273, i.e. meeting operating expenses and purchasing or leasing supplies, equipment or materials. Both the procedural provisions of the ordinance and the fees are also exempt under the common sense exemption of CEQA Guidelines section 15061(b)(3) in that it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment. The ordinance merely conforms County procedures to mandatory requirements of state law and provides for fees to cover the actual costs of County services.

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ORDINANCE NO. 671.19

AN ORDINANCE OF THE COUNTY OF RIVERSIDE
AMENDING ORDINANCE NO. 671 ESTABLISHING CONSOLIDATED FEES RELATED TO
LAND USE AND RELATED FUNCTIONS

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

Section 1. Subsection 3 of Section 1.1 of Ordinance No. 671 is amended to read as follows:

“3. The County will make draws against deposited funds on biweekly intervals based on payroll accounting cycles and at the fully burdened hourly rates for each job classification required to provide a specified service. Hourly rates for services shall be established through the yearly budget process and adopted by the Board of Supervisors as part of the County Budget public hearings. Subject to all County procedures and all legal requirements applicable to such contracts, the County may contract with outside consultants to provide any specified service whenever it is determined necessary to provide such service, and the County may thereafter draw against deposited funds in the amount of the actual costs of such contract services.”

Section 2. A new Section 1.2 is added to Ordinance No. 671 to read as follows:

“Section 1.2. PROCEDURE.

Except as otherwise expressly provided below, the provisions of this Section shall apply to fees or charges subject to either Government Code Sections 66016 and 66017 (as now adopted or hereafter amended), or to Government Code Section 54985 et seq. (as now adopted or hereafter amended).

A. NOTICE AND PUBLIC MEETINGS. Prior to either adopting a new fee or charge or approving an increase in an existing fee or charge, the Board of

1 Supervisors shall hold at least one public meeting, at which oral or written
2 presentations may be made, as part of a regularly scheduled meeting. Notice
3 of the time and place of the meeting, including a general explanation of the
4 matter to be considered, and a statement that the data required by this
5 section is available, shall be mailed at least 14 days prior to the meeting to
6 any interested party who files a written request with the Clerk of the Board
7 of Supervisors for mailed notice of meetings on new or increased fees or
8 charges. Any written request for such mailed notices shall be valid for one
9 year from the date on which it is filed unless a renewal request is filed.
10 Renewal requests for such mailed notices shall be filed on or before April
11 1st of each year. The annual fee for sending such notices shall be \$20 and
12 shall be paid to the Clerk of the Board. At least 10 days prior to the
13 meeting, the Clerk of the Board shall post and make available to the public
14 data indicating the amount of cost, or estimated cost, required to provide the
15 service for which the fee or charge is levied and the revenue sources
16 anticipated to provide the service, including general fund revenues. Any
17 costs incurred by the County in conducting the meeting or meetings
18 required pursuant to this subsection may be recovered from the fees charged
19 for the services which were the subject of the meeting.

20 B. ACTION BY ORDINANCE OR RESOLUTION. Any action to adopt a
21 new fee or charge or to approve an increase in an existing fee or charge
22 shall be taken only by ordinance or resolution; provided, however, that any
23 such action shall be taken only by ordinance for any fees subject to
24 Government Code Section 54985 et seq. (as now adopted or hereafter
25 amended.) The Board of Supervisors shall not delegate the authority to
26 adopt a new fee or charge or to increase a fee or service charge.

27 C. EFFECTIVE DATE. Any action adopting a new fee or charge, or
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1 increasing a fee or charge adopted, upon a development project, as defined
2 in Government Code Section 66000, which applies to the filing, accepting,
3 approving, or issuing of an application, permit, or entitlement to use shall be
4 enacted in accordance with Government Code Section 54986 (as now
5 adopted or hereafter amended) or Section 66016 (as now adopted or
6 hereafter amended) and shall be effective 60 days following the final action
7 on the adoption of the fee or charge or the increase in the fee or charge.

8 D. URGENCY MEASURES. Notwithstanding any provision of this
9 ordinance, the Board of Supervisors may adopt an interim authorization for
10 a new fee or charge, or increase in a fee or charge, as an urgency measure in
11 accordance with the procedures set forth in subdivision (b) of Government
12 Code Section 66017, as now adopted or hereafter amended.”

13 Section 3. A new Section 16.2 is added to Ordinance No. 671 to read as follows:

14 “Section 16.2. Resolution No. 2012-047 Fees.

15 The fees for Resolution No. 2012-047 Establishing Procedures and Requirements
16 for the Consideration of Development Agreements, as now adopted or hereafter
17 amended, shall be paid to the Transportation and Land Management Agency or the
18 Planning Department and deposited into the General Fund as provided herein. The
19 fees shall be as follows:

20 A. Each application for a development agreement shall be accompanied by a
21 nonrefundable cost recovery fee to recover the direct costs associated with
22 developing procedures and requirements for the consideration of
23 development agreements; provided, however, that such fee shall not apply
24 and shall not be payable whenever all such costs have been recovered.

25 1. General Fund.

26 a. Planning Department 5000

27 B. Each application for a development agreement shall be accompanied by the
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1 following fees. The following fees shall also apply to any application to
2 amend or cancel, in whole or in part, a development agreement.

3 **Deposit-based Fee:**

4 1. General Fund.

5 a. Planning Department 25,000

6 C. The submission of each annual monitoring report for a development
7 agreement shall be accompanied by the following fees.

8 **Deposit-based Fee:**

9 1. General Fund.

10 a. Transportation and Land Management Agency 5000”

11 Section 4. A new subsection H is added to Section 17 of Ordinance No. 671 to read as

12 follows:

13 “H. (1) Preparation of agreements pursuant to Chapter 6.5 (Section 21178 et
14 seq.) of the California Environmental Quality Act.

15 **Deposit-based Fee:**

16 1. General Fund

17 a. Planning Department 5000”

18 Section 5. A new subsection J is added to Section 17 of Ordinance No. 671 to read as

19 follows:

20 “J. (1) Preparation of a real property interest agreement for a project
21 involving a solar power plant.

22 **Deposit-based Fee:**

23 1. General Fund

24 a. Transportation and Land Management Agency 25,000”

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Section 6. This ordinance shall take effect sixty (60) days after its adoption.

BOARD OF SUPERVISORS OF THE COUNTY
OF RIVERSIDE, STATE OF CALIFORNIA

By: _____
Chairman, Board of Supervisors

ATTEST:

CLERK OF THE BOARD

By: _____

Deputy

(SEAL)

APPROVED AS TO FORM

March 20, 2012

By: Katherine A. Lind
KATHERINE A. LIND
Assistant County Counsel

KAL:md
03/15/12
G:\PROPERTY\MDUSEK\ORDINANCES\671 19 DEVELOPMENT AGREEMENT FEES 031512.DOCX

ATTACHMENT A

DATA CONCERNING NEW FEES PROPOSED IN ORDINANCE NO. 671.19 AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 671 ESTABLISHING CONSOLIDATED FEES RELATED TO LAND USE AND RELATED FUNCTIONS

Ordinance No. 671.19 proposes the following new fees:

1. An annual fee of \$20, payable to the Clerk of the Board, to receive mailed notice of certain proposed new fees or charges, or increases in existing fees or charges. Government Code Section 66016 and 54985 et seq. govern procedures for imposing or increasing certain fees or charges and require mailed notice of any proposed fees or charges to any interested party who has filed a written request for notice. Any such request for notice is valid for one year, must be renewed annually on or before April 1 of each year, and is subject to an annual fee. The proposed annual fee of \$20 is the estimated cost per person for the Clerk of the Board to maintain the notice list and send the mailed notices.
2. Fees for Resolution No. 2012-047 Establishing Procedures and Requirements for the Consideration of Development Agreements.
 - a. A nonrefundable cost recovery fee of \$5000 payable to the Planning Department for each application for a development agreement is proposed to recover the direct costs associated with developing procedures and requirements for the consideration of development agreements; provided, however, that this fee shall not apply whenever all such costs have been recovered. Recovery of these costs is expressly authorized by Government Code Section 65865. The estimated costs are \$50,000 and are being provided by general fund revenues. This fee will provide reimbursement for those costs.
 - b. A deposit-based fee of \$25000 payable to the Planning Department for each application for a development agreement. This fee is a deposit and the final fee will be the actual costs of processing the development agreement. No general fund revenues will be used to provide the service.
 - c. A deposit-based fee of \$5000 payable to the Transportation and Land Management Agency for each annual monitoring report for a development agreement. Government Code Section 65865.1 requires annual monitoring of every development agreement. This fee is a payable to the Transportation and Land Management Agency deposit and the final fee will be the actual costs of conducting the annual monitoring of the development agreement. No general fund revenues will be used to provide the service.
3. A deposit-based fee of \$5000 payable to the Planning Department for the preparation of agreements pursuant to Chapter 6.5 (Section 21178 et seq.) of the Public Resources Code. This Chapter of the California Environmental Quality Act requires that applicants for certain defined "environmental development leadership projects" to enter into a binding and enforceable agreement with the County with respect to mitigation measures and to agree to pay certain special processing costs for the project. This fee is a deposit and the final fee will be the actual costs of preparing the required agreements. No general fund revenues will be used to provide the service.
4. A deposit-based fee of \$25000 payable to the Transportation and Land Management Agency for preparation a real property interest agreement for a project involving a solar power plant. Board Policy B-29 requires a real property interest agreement when an applicant requests use County real property for a project involving a solar power plant. This fee is a deposit and the final fee will be the actual costs of preparing the required agreement. No general fund revenues will be used to provide the service.