



<b>STAFF REPORT</b>	
<b>SUBJECT:</b> Consideration of Second Reading of Ordinance No. 269-2024 Updating Clearlake Municipal Code Section 3-5 and Possible Further Discussion of Fire Mitigation Fees	<b>MEETING DATE:</b> April 4, 2024
<b>SUBMITTED BY:</b> Alan Flora, City Manager	
<b>PURPOSE OF REPORT:</b> <input type="checkbox"/> Information only <input checked="" type="checkbox"/> Discussion <input checked="" type="checkbox"/> Action Item	

**WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:**

The City Council is being asked to consider holding the second reading of Ordinance No. 269-2024, which updates Clearlake Municipal Code (“CMC”) §3-5, Fire Mitigation Fee, read it by title only, waive further reading, and adopt the ordinance.

**BACKGROUND/DISCUSSION:**

Government Code §66000 (“Mitigation Fee Act”) allows government agencies, including a county, city, whether general law or chartered, city and county, school district, special district, authority, agency, any other municipal public corporation or district, or other political subdivision of the state, to approve fees charged to permits for new development projects, defined as construction or reconstruction, to be used to improve public facilities, including public improvements, public services, and community amenities. Unlike the City, the LCFPD does not have the ability to adopt fees on their own behalf. Fire Districts are governed by the Health and Safety Code §13916 to charge fees. This section specifically states, “a district board shall not charge a fee on new construction or development for the construction of public improvements or facilities or the acquisition of equipment.” In 1990, after further review of the conflicting Mitigation Fee Act and H&S §13916, the Attorney General opined Fire Districts could not adopt their own impact fees because the ability to charge a fee came from the police powers of a city granted to it by Article XI §7 of the California Constitution.

In this case, the City of Clearlake would be the catalyst for the LCFPD to adopt fire mitigation fees. As a result, the City adopted the fire mitigation fees on behalf of the LCFPD. The ordinance was codified into CMC §3-5, the “Fire Mitigation Fee Ordinance.” In summary, the Fire Mitigation Fee Ordinance (“Fee

Ordinance”) addresses the need for adequate fire protection and ways to finance the fire protection facilities and equipment as a result of city growth. Further, the Fee Ordinance requires the following:

- The LCFPD requests the City collect a specified percentage of the fire mitigation fee ceiling on its behalf from applicants for building permits or other permits for development;
- Fees paid shall only be used to fund capital facilities and equipment to serve new development;
- Fees paid shall be separated from any other funds as “City of Clearlake Fire Mitigation Fee(s)”;
- LCFPD shall submit an annual report no later than October 31<sup>st</sup> of each year to the City Clerk which reports the balance of said fund at the end of the previous fiscal year, the amount and type of expenditures made, and the ending balance in the fund;
- The annual report shall reflect LCFPD’s plans to alleviate the facility and equipment needs caused by new development in a “capital fire facilities and equipment plan” adopted at a noticed public hearing;
- Upon request by the City Clerk, LCFPD shall make available a copy of its annual audit report; and
- Any funds remaining in the fund after five years for which LCFPD cannot demonstrate a reasonable relationship between the fee and the purpose for which it was charged are required to be returned to the current owner of the project with interest.

The Fee Ordinance established a fee ceiling as follows:

a. Single-family residential including but not limited to private garages, carports, sheds, barns and structures which are appurtenant to the single-family residential use.

1. Unsprinklered and under twenty (20') feet in height Sixty (\$.60) cents per square foot.
2. Sprinklered and under twenty (20') feet in height Fifty (\$.50) cents per square foot.
3. Unsprinklered and over twenty (20') feet in height Ninety (\$.90) cents per square foot.
4. Sprinklered and over twenty (20') feet in height Seventy-five (\$.75) cents per square foot.

b. Multi-family residential including but not limited to townhouses, condominiums, apartments, clustered units, private garages, carports and accessory structures which are appurtenant to the multi-family use.

1. Unsprinklered and under twenty (20') feet in height Eighty (\$.80) cents per square foot.
2. Sprinklered and under twenty (20') feet in height Sixty-five (\$.65) cents per square foot.
3. Unsprinklered and over twenty (20') feet in height One dollar and five cents (\$1.05) per square foot.
4. Sprinklered and over twenty (20') feet in height Ninety (\$.90) cents per square foot.

c. Commercial, industrial and educational including but not limited to offices, garages, carports and accessory structures which are appurtenant to the applicable use.

1. Unsprinklered and under twenty (20') feet in height Fifty (\$.50) cents per square foot.
2. Sprinklered and under twenty (20') feet in height Thirty-five (\$.35) cents per square foot.

3. Unsprinklered and over twenty (20') foot in height Seventy-five (\$.75) cents per square foot.

4. Sprinklered and over twenty (20') feet in height Sixty (\$.60) cents per square foot.

On March 7<sup>th</sup>, your Council held a workshop to hear input from the LCFPD and the public on the proposed fee update. At this meeting, LCFPD presented the Fire Mitigation Fee Nexus Study Report which asks for increases of fees ranging from 84% to 589%. In addition, the Report recommends an administrative surcharge of 2%. For projects within the City that exceed 2-stories or 15,500 sq. ft would have an additional surcharge of \$0.50/sq. ft. The Report asks to eliminate the Fee Ceiling set above and also recommends an automatic annual inflation increase.

At the March 21<sup>st</sup> Council meeting, your Council held the first reading of Ordinance No. 269-2024. Staff recommends holding the second reading and adopting the ordinance.

**OPTIONS:**

1. Move to hold second reading of Ordinance No. 269-2024, read it by title only, waive further reading, and adopt the ordinance.
2. Provide other direction to staff.

**FISCAL IMPACT:**

None       \$      Budgeted Item?  Yes  No

Budget Adjustment Needed?  Yes  No      If yes, amount of appropriation increase: \$

Affected fund(s):  General Fund     Measure P Fund     Measure V Fund     Other:

Comments:

**STRATEGIC PLAN IMPACT:**

- Goal #1: Make Clearlake a Visibly Cleaner City
- Goal #2: Make Clearlake a Statistically Safer City
- Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities
- Goal #4: Improve the Image of Clearlake
- Goal #5: Ensure Fiscal Sustainability of City
- Goal #6: Update Policies and Procedures to Current Government Standards
- Goal #7: Support Economic Development

- Attachments:**    1)Draft Ordinance 269-2024  
   2)Nexus Study Presentation  
   3) Nexus Study