

**Attachment 2: County Code Section 329 et seq.**

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## **CHAPTER 9**

### **DEVELOPMENT IMPACT FEE MILL CREEK MARKETPLACE**

#### **Article I – Application, Findings, Definitions**

**§ 329. Application.**

**§ 329-1. Findings.**

**§ 329-2. Definitions.**

#### **Article II – Development Impact Fees, Mill Creek Marketplace**

**§ 329-3. Establishment of Fees.**

**§ 329-4. Amount of Fees.**

**§ 329-5. Payment of Fees.**

**§ 329-6. Exemptions.**

**§ 329-7. Development Impact Fee Fund.**

**§ 329-8. Reimbursement for Construction of the Facilities.**

**§ 329-9. Other Authority.**

**§ 329-10. Conflicting Provisions.**

### **ARTICLE I. APPLICATION, FINDINGS, DEFINITIONS**

#### **329. Application.**

The provisions of this chapter shall apply only in the Mill Creek Marketplace in McKinleyville. (Ord. 1998, § 1, 5/11/1993)

#### **329-1. Findings.**

The Board of Supervisors finds as follows: (Ord. 1998, § 1, 05/11/93)

(a) The purpose of this fee is to finance the public improvements necessary to mitigate the impacts caused by new development in the Mill Creek Marketplace in McKinleyville. (Ord. 1998, § 1, 5/11/1993)

(b) The fees collected pursuant to this ordinance shall be used to finance the cost of certain traffic facilities and services, the demand for which is directly or indirectly generated by the Mill Creek Marketplace in McKinleyville. (Ord. 1998, § 1, 5/11/1993)

(c) The specific traffic facility improvements to be financed by the fee are as follows: Any and all cost associated with the design, construction and/or relocation of the traffic signal located at the Southwest Corner of School Road and Central Avenue and the new traffic signal to be located at the center driveway of Mill Creek Marketplace located approximately 450 feet south of the intersection of School Road and Central Avenue, and any cost to establish and administer this ordinance. (Ord. 1998, § 1, 5/11/1993)

(d) There is a demand in the Mill Creek Marketplace area for such facilities which have not been constructed and which is directly or indirectly generated by the Mill Creek Marketplace development as indicated in the Conditions of Approval set forth in Humboldt County Planning Department file Case No. FMS-09-912, CUP-27-912. Said facilities are consistent with the County of Humboldt's General Plan and the Conditions of Approval for the Mill Creek Marketplace. (Ord. 1998, § 1, 5/11/1993)

(e) The facts and evidence presented establish that there is a reasonable relationship between the need for the described public facilities and the impacts of the types of development for which the corresponding fee is charged, and, also there is a reasonable relationship between the fee's use and the type of development for which the fee is charged. (Ord. 1998, § 1, 5/11/1993)

(f) There is a reasonable relationship between the amount of the fee and the cost of the public facilities. The cost estimates set forth in the Phillippi Engineering study are reasonable cost estimates for constructing these facilities and the fees expected to be generated by new development will not exceed the total of such costs plus the cost of administering the ordinance. (Ord. 1998, § 1, 5/11/1993)

### **329-2. Definitions.**

For purposes of this chapter the following words and phrases shall have the meaning given below: (Ord. 1998, § 1, 05/11/93)

(a) "Building Permit" is defined as the permit issued or required for the construction, of any building or shell structure pursuant to and as defined by the County of Humboldt Building Code. (Ord. 1998, § 1, 5/11/1993)

(b) "Costs" is defined as the amount spent in connection with the planning and development of the traffic facilities or services including, but not limited to, the costs of construction, engineering, administration and consulting fees. (Ord. 1998, § 1, 5/11/1993)

(c) "Mill Creek Marketplace" is defined as that certain shopping center consisting of approximately nineteen (19) acres of land to be located at the southwest Corner of School Road and Central Avenue in the County of Humboldt which was approved by the Humboldt County Board of Supervisors and known as FMS-09-912 and CUP-27-912. (Ord. 1998, § 1, 5/11/1993)

- (d) "Developer\Subdivider is defined as BDC McKinleyville Associates, a California limited partnership, Browman Development Company, Inc. (Ord. 1998, § 1, 5/11/1993)
- (e) "Development Impact Fee" is defined as the fee imposed pursuant to this chapter upon development in the Mill Creek Marketplace. (Ord. 1998, § 1, 5/11/1993)
- (f) "Development Impact Fee Fund" is defined as the fund into which all amounts collected under this chapter shall be deposited. (Ord. 1998, § 1, 5/11/1993)

## **ARTICLE II. DEVELOPMENT IMPACT FEES, MILL CREEK MARKETPLACE**

### **329-3. Establishment of Fees.**

The development impact fee for the Mill Creek Marketplace is hereby established in the amounts specified in Section [329-4](#) of this Chapter. (Ord. 1998, § 1, 5/11/1993)

### **329-4. Amount of Fees.**

The Development impact fee is arrived at by taking the total costs of traffic facilities improvements to be constructed as set forth in Section [329-8](#) and dividing the total construction cost of the improvements (\$152,592.00) by the total building square footage (198,988 square feet) of the previously approved Mill Creek Marketplace. This equates to a per square foot fee of \$.767 per square foot of building floor area for which a building permit is being requested. For example, if someone applied for a building permit for a 5,000 square foot building the Development Impact Fee would be 5,000 square foot x \$.767 = \$3,835.00 fee. (Ord. 1998, § 1, 5/11/1993)

### **329-5. Payment of Fees.**

- (a) The Development Impact Fee shall be paid by the applicant for a building permit in the Mill Creek Marketplace. (Ord. 1998, § 1, 5/11/1993)
- (b) The Development Impact Fee shall be paid when the building permit is issued by the Humboldt County Building and Planning Department. (Ord. 1998, § 1, 5/11/1993)
- (c) The County Building Official shall not issue a building permit for any building within the Mill Creek Marketplace until the fee set forth in this Chapter has been paid unless exempt as provided in Section 329.6. (Ord. 1998, § 1, 5/11/1993)

### **329-6. Exemptions.**

The following are exempt from the requirement to pay the Development Impact Fee and the fee shall not be required if the requested building permit is to perform one of the following: (Ord. 1998, § 1, 05/11/93)

(a) A building permit for the reconstruction of any building within the Mill Creek Marketplace provided a Development Impact Fee was initially paid as a part of the issuance of a previous building permit and the square footage of the reconstructed building does not exceed the square footage of the original building. The exception is only to the extent that the resultant structure has the same or less ground floor square footage as the original structure; if the ground floor square footage increased, the square footage of the additional ground floor area shall be used to determine the amount of the fee due. (Ord. 1998, § 1, 5/11/1993)

(b) The issuance of a building permit for property not located in the Mill Creek Marketplace as defined in Section [329-2](#). (Ord. 1998, § 1, 5/11/1993)

### **329-7. Development Impact Fee Fund.**

(a) The County shall create in the County treasury a fund entitled Development Impact Fee Fund into which all amounts collected under this chapter shall deposited. (Ord. 1998, § 1, 5/11/1993)

(b) The Development Impact Fee shall be expended to reimburse the Developer\Subdivider of the Mill Creek Marketplace for the cost of constructing and installing the traffic signal facilities pursuant to the provisions of this chapter and to pay for the cost to the County for administration of this chapter. (Ord. 1998, § 1, 5/11/1993)

### **329-8. Reimbursement for Construction of the Facilities.**

(a) The Public Works Director will direct or authorize the developer/subdivider to construct certain facilities specified in the Conditions of Approval, or portions thereof. The developer/subdivider is entitled to a credit or reimbursement of costs in accordance with the provisions of this chapter, if the developer/subdivider: (1) constructs the improvements, or (2) finances the improvement by cash or performance bond or other security acceptable to the Director of Public Works, or (3) a combination of the above. The credit or reimbursement to be provided to the developer/subdivider shall be determined by the terms of this chapter and the Reimbursement Agreement. The construction of the traffic facilities authorized by this section must consist of a usable facility or segment and be approved by the County and constructed in accordance with the County of Humboldt's Public Improvement Design Standards. The developer/subdivider must post a bond or other security in a form acceptable to the Director for the complete performance of the construction before credit is given. (Ord. 1998, § 1, 5/11/1993)

(b) The Development Impact Fee will be paid to developer/subdivider after deducting any administrative cost incurred by the County every quarter once the fees have begun to be collected and the conditions in Section [329-8\(a\)](#) above have been satisfied. To implement this section, the

developer/subdivider and the County shall enter into a reimbursement agreement. (Ord. 1998, § 1, 5/11/1993)

### **329-9. Other Authority.**

This chapter is intended to establish a supplemental method for funding the cost of certain facilities and services, the demand for which will be generated by Mill Creek Marketplace. The provisions of this chapter shall not be construed to limit the power of the County to impose any other fees or extractions or to continue to impose existing ones on development within Humboldt County, but shall be in addition to any requirements which the County of Humboldt is authorized to impose, or has previously imposed, as a condition of approving a plan, rezoning or other entitlement within the County of Humboldt. (Ord. 1998, § 1, 5/11/1993)

### **329-10. Conflicting Provisions.**

The provisions of the Chapter shall prevail over any other provisions which are in conflict therewith, but only to the extent of such conflict. (Ord. 1998, § 1, 5/11/1993)

### **The Humboldt County Code is current through Ordinance 2633, passed July 2, 2019.**

Disclaimer: The Office of the County Counsel has the official version of the Humboldt County Code. Users should contact the Clerk of the Board's office for ordinances passed subsequent to the ordinance cited above.

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