

**ARTICLE XI. SCHOOL FACILITIES MITIGATION PLAN  
FOR NEW DEVELOPMENT**

**Sec. 11-150. Findings**

- (a) The various school districts within the County of Solano have expressed concerns that new residential development both in the incorporated and unincorporated areas of the county was placing increasing demands on public school facilities.
- (b) The necessary public school facilities cannot be provided by the present mechanisms being utilized by the districts.
- (c) New residential development has not borne its fair share of the cost for additional public school facilities in Solano County.
- (d) As a result, the various public school districts had prepared for them cost-of growth studies as set forth under Government Code section 66100 et seq., commonly referred to as AB 1600 studies.
- (e) Based upon the information developed for these studies, it was determined that development fees must be imposed on all new residential construction in order for that construction to bear its fair share of the cost for additional public school facilities in Solano County.
- (f) The public schools have proceeded to have development fees, pursuant to the AB 1600 studies, adopted by the various cities in Solano County, for application to new residential construction in the incorporated areas of the county.
- (g) The public schools requested that the county board of supervisors adopt similar development fees as an equitable measure to apply to new residential development in the unincorporated areas of the county.
- (h) The board of supervisors has previously considered, authorized, and adopted a general plan amendment which enables the board of supervisors to consider and adopt such a development fee on behalf of the various public school districts.
- (i) The board of supervisors finds it is both a necessity, and fair and equitable to impose such a fee on new residential development in the unincorporated areas of Solano County in order that all new construction pay its fair share of these new facilities costs.
- (j) The actual amount of the fee shall be adopted by separate resolution of the Board of Supervisors after the second reading of this ordinance.
- (k) This ordinance properly limits use of all fees collected, to the expenditure for public school facilities, including the assessment of need, plans, design, construction,

development, lease-purchase, and other means of acquiring public school facilities, improvements, fixed assets and furnishings.

(l) Adoption of this ordinance does not have the potential to cause a significant effect on the-environment. This ordinance does not authorize new development or require it. Rather, it provides that if and when development is approved, under whatever laws and policies are otherwise in effect, it will be subject to a fee. The ordinance does not approve or foreordain approval of any public facilities, nor mandate or alter the level of facilities to be constructed. Therefore, further review of this ordinance under the California Environmental Quality Act (CEQA) is not required.

(m) This ordinance is also exempt from review under CEQA pursuant to California Public Resources Code section 21080(b)(8), and CEQA Guidelines section 15273(a)(4). This ordinance does not contemplate, identify, or approve expansion of the area for which public school facilities or services are provided.

(Ord. No. 1454, §1)

**Sec. 11-151. School facilities mitigation plan request**

(a) On and after the effective date of this ordinance, each applicant for a building permit for residential development (hereinafter "applicant") within the unincorporated areas of Solano County shall:

(1) Submit a mitigation plan agreement, a sample of which is attached and incorporated herein as Exhibit A hereto, approved by the Director of Environmental Management explaining how the development for which the permit would be applied is participating in a plan to finance interim and permanent school facilities within the applicable school district; and

(2) Agree to comply with the mitigation plan; or

(3) Provide the Director of Environmental Management with a written statement signed by the superintendent of the applicable school district that the property which is the subject of the building permit application is included within a Mello-Roos Community Facilities District.

A building permit shall not be issued unless and until the applicant has complied with this Section.

(b) The mitigation plan submitted pursuant Section 11-151(a), above, shall be reviewed by the Director of Environmental Management, who may approve, disapprove or modify the mitigation plan. The Director's decision on a mitigation plan shall be in writing and shall be based upon the funding and facilities needs identified in the reports attached to resolutions implementing the schools facilities mitigation plan, as amended from time to time and incorporated herein by reference. In the event that the funding and facility needs are revised and approved by both the board of supervisors and board

of trustees of the applicable school district by official action, the director's decision will thereafter be based upon the revision funding and facilities needs.

(c) The phrase "mitigation plan," as used in this ordinance, shall include, but not be limited to, financing or construction measures which provide funds or structures (through purchase, sale, or lease-back) for permanent and interim school district facilities.

(Ord. No. 1454, §1)

**Sec. 11-152. Receipt and use of funds**

(a) Monies required from an applicant as part of a mitigation plan shall be paid to the applicable school district for school facilities before issuance by county of a building permit. Each school district shall pay monies into the appropriate capital improvements funds such that all such monies collected and interest thereon are used for said school facilities and costs related to the implementation and development of the mitigation plan. In addition, monies collected from nonresidential uses, or pursuant to Government Code section 65995. 1, shall be used to reduce the costs necessary to finance the mitigation plan.

(b) To the extent funds from the State of California are appropriated for school facilities addressed by this mitigation plan, such funds shall be paid to the district's building fund and shall reduce, thereby, the amount needed to fund the mitigation plan.

(Ord. No. 1454, §1)

**Sec. 11-153. Permits affected**

This ordinance shall apply to each and every residential building permit either applied for or proposed to be issued on or after the effective date of this ordinance in the unincorporated areas of the county.

(Ord. No. 1454, §1)

**Sec. 11-154. Appeals**

Any person may protest the imposition of any fee imposed under the provisions of this ordinance by meeting the following requirements:

(a) Tendering any required payment in full, or providing satisfactory evidence of arrangements to ensure performance of the conditions necessary to meet the requirements imposed.

(b) Serving written notice of appeal on the clerk to the board of supervisors, which notice shall contain all of the following information:

(1) A statement that the required payment is tendered, or that any conditions which have been imposed are provided for or satisfied, under protest.

(2) A statement informing the board of supervisors of the actual elements of the dispute and the legal theory forming the basis of the protest.

(c) The protest must be filed not later than 90 days after the date of the imposition of the fee hereunder.

Where a protest has been filed in compliance with these provisions, the protest resolution procedure shall be as set forth under the provisions of Government Code sections 66020 et seq.

(Ord. No. 1454, §1)

**Sec. 11-155. Severability**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The county hereby declares that it would have passed such section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase invalid or unconstitutional.

(Ord. No. 1454, §1.)