

**ORDINANCE NO. 1465**

**AN ORDINANCE AMENDING TITLE XIII, CHAPTER 13 OF THE YUBA COUNTY ORDINANCE CODE BY ADDING SECTION 13.76 RELATING TO LEVEE FEES**

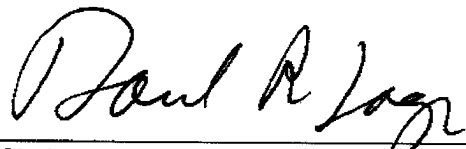
The following ordinance consisting of three (3) sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Yuba, State of California, at a regular meeting of the Board of Supervisors held on 18th day of November, 2008, by the following vote:

AYES: Supervisors Logue, Nicoletti, Griego, Schrader, Stocker

NOES: None

ABSENT: None

ABSTAIN: None



Chairman of the Board of Supervisors  
of the County of Yuba, State of California

ATTEST: DONNA STOTTLEMEYER  
Clerk of the Board of Supervisors

By: Laura DeShazer, Deputy

APPROVED AS TO FORM  
DANIEL G. MONTGOMERY

By: Pat Gaumnere  
Deputy

**THE BOARD OF SUPERVISORS OF THE COUNTY OF YUBA, STATE OF CALIFORNIA DOES ORDAIN AS FOLLOWS:**

**Section 1.** This ordinance shall take effect Sixty (60) days after its passage, and before the expiration of Thirty (30) days after its passage a summary shall be published, with the names of the members voting for and against the same, once in a local newspaper of general circulation in the County of Yuba, State of California.

**Section 2.** Chapter 13 of the Yuba County Ordinance Code is hereby amended by adding Section 13.76 in its entirety as follows:

**CHAPTER 13.76**

**LEVEE FEES**

**(revised THREE RIVERS LEVEE FEE NEXUS STUDY)**

**Sections**

- 13.76.010      General Provisions**
- 13.76.020      Establishment of Fees**
- 13.76.030      Adoption of Studies**
- 13.76.040      Deposit of Fees in Trust Fund**
- 13.76.050      Protests and Appeals**
- 13.76.060      Administration**
- 13.76.070      Enforcement**

13.76.010 General Provisions

(a) Authority. This Chapter is adopted under and pursuant to the provisions of, but not necessarily limited to, Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the California Government Code.

(b) Findings. The Board of Supervisors of Yuba County, after review of the record and consideration of testimony and evidence presented at a public hearing, hereby finds and declares:

(1) The County has previously established the East Linda Specific Plan (ELSP) Area, the Plumas Lake Specific Plan (PLSP) Area, and the North Arboga Study Area (NASA).

Collectively, the property within and around these areas is referred to herein as "flood zone".

(2) Property located within the flood zone lies within the Yuba River Flood Plain/Inundation Area, the Feather River Flood Plain/Inundation Area, or both flood plain/inundation areas.

(3) Development is occurring and is anticipated to continue to occur within the flood zone. In order to protect the health, safety and welfare of current and future residents within the flood zone, a series of levee improvements to the Yuba River, Feather River, Bear River and Western Pacific Interceptor Canal are needed to provide flood protection within the flood zone.

(4) Based upon current flood plain/inundation maps, property within the flood zone is divided between the Linda Zone and the Plumas Zone.

(5) The boundaries of the Linda Zone and the Plumas Zone are depicted in Exhibit "A" [Map 1 in the revised Three Rivers Nexus Study] hereto, which exhibit is incorporated herein by reference.

(6) The required levee improvements cannot be constructed unless funds are generated to pay for such improvements.

(7) Establishment of development impact fees ("levee fees") will generate the necessary revenue for the levee improvements and to service debt incurred to provide revenue for levee improvements. The establishment of the levee fees, pursuant to a nexus study, will ensure that new development within the flood zone pays its proportionate share of the levee improvement costs.

(8) The preliminary total cost estimate for levee improvements for each flood plain and the remaining local share of those costs is set forth in Exhibit "B" [Tables B-1, B-2, B-3 and B-4 in the revised Three Rivers Nexus Study] hereto and is incorporated herein by reference.

(9) There is a reasonable relationship between the use of the levee fees and the development projects subject to their respective fees because such development projects contribute to the need for the levee improvements identified herein.

(10) There is a reasonable relationship between the amount of the levee fees and the potential cost of the levee improvements attributable to development projects within the flood zone and subject to the fees.

(11) The method of allocation of the respective levee fees to a particular development project bears a fair relationship, and is roughly proportional to, the development project's burden on, and benefits from, levee improvements to be funded by the levee fees. The adoption of this ordinance is statutorily exempt from the California Environmental Quality Act under Sections 15262 and 15269 of the California Environmental Quality Act Guidelines.

(12) The levee fees will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which a proposed construction schedule or plan has been adopted, as well as to service and pay debt incurred to provide the public improvements or facilities.

13.76.020 Establishment of Fees.

Section 1. Fee. Levee fees are hereby established as more particularly set forth below:

(a) The levee fee shall be charged to all new development within the Linda Zone and the Plumas Zone in accordance with the revised Three Rivers Levee Fee Nexus Study and as set forth in Exhibit "C" [Tables 1 and 2 in the revised Three Rivers Nexus Study], attached hereto and incorporated herein by reference.

(b) The levee fees shall be paid at the time of submission of the final map for approval. For any subdivision for which a final map has already been approved and recorded, the levee fees shall be paid at the time of issuance of a building permit.

(c) Prior to the issuance of a building permit for a structure on a parcel which has not yet satisfied its entire levee funding obligation, either through previous funding agreements or participation in a levee funding CFD, the applicant shall pay the applicable levee fee on the remaining portion of the final map of which the parcel in question is a part for the parcels which have not yet been issued building permits for improvements and in which the applicant has an ownership interest. The amount of the fee due prior to building permit issuance shall be the Gross Developable Acreage of the entire final map multiplied by the applicable levee fee

multiplied by the rough proportionality of the remaining parcels which do not have building permits to the entire number of parcels in the final map.

13.76.030 Adoption of Studies.

After review and public hearing, the Board of Supervisors of Yuba County hereby adopts the revised Three Rivers Levee Fee Nexus Study dated October 13, 2008 and the analyses, calculations and conclusions provided therein.

13.76.040 Deposit of Fees in Trust Fund.

(a) Each component of the levee fees received by the County shall be deposited into a separate trust fund in a manner to avoid any co-mingling of the fees with other revenues and funds of the County, except for temporary investments, and expended solely for the purposes for which the fees were collected. Any interest income earned by monies in any such trust fund shall also be deposited into such trust fund and shall be expended only for the purpose for which the fee was originally collected.

13.76.050 Protests and Appeals.

(a) Any party may protest the imposition of any fees hereunder by the County by meeting both of the following requirements:

(1) Tendering any required payment in full or providing satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.

(2) Serving written notice of the Clerk of the Board of Supervisors, which notice shall contain all the following information:

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

(B) A statement informing the Board of Supervisors of the factual elements of dispute and the legal theory or theories forming the basis for the protest.

(b) A protest filed in accordance with this section shall be filed within 90 days after the date of the imposition of the fee to be imposed on the development project. The County shall provide to the project applicant a notice in writing at the time of the imposition of the fees a statement of the amount of the fees and notification that the 90 day appeal period in which the applicant may protest has begun. The hearing before the Board of Supervisors shall be set by the Clerk of the Board of Supervisors within 30 days after submission of the notice of appeal or protest and the hearing shall occur within 90 days of such submission. At the hearing, oral and written evidence may be presented. The Board of Supervisors shall issue a written decision on the appeal or protest no later than 30 days after it is submitted to the Board for decision. The written decision shall be a final administrative decision.

13.76.060 Administration.

(a) Fee. The County Auditor/Controller shall determine the estimated costs of administration of this ordinance and shall recommend to the Board of Supervisors the amount of fees which must be charged to recover those costs. Initially, costs of administration shall be estimated and collected as outlined within the revised Three Rivers Levee Fee Nexus Study ordinance as adopted by this ordinance. The Board may establish fees separately, by resolution, to reimburse these costs, which shall include any additional costs resulting from implementing a County review process to identify development impacts and carry out this ordinance, or from analysis by the County, not otherwise required, of matter related to implementation and/or updating of information relating to this ordinance.

(b) Additional Rules and Regulations. The Board of Supervisors may adopt by ordinance or resolution rules, regulations, guidelines and procedures for the administration of this Chapter.

13.76.070 Enforcement.

(a) Misdemeanor. Violation of this Chapter shall be a misdemeanor. The district attorney may institute criminal proceedings hereunder. A violator, upon conviction, shall be fined not more than one thousand dollars (\$1000.00), imprisoned for a period not exceeding six months, or both fined and imprisoned.

(b) Civil Proceedings. The County Counsel may institute civil proceedings to enforce this ordinance, including without limitation, actions for injunction and civil penalties.



Construction without the authorization required by this ordinance may be suspended by a court of competent jurisdiction. Violation of this ordinance interferes with the provision of public services and, as such, shall be a public nuisance.

(c) Civil Penalties. Any violator of this ordinance shall be liable, in addition to payment of the amount of any fees dues, for civil penalties not to exceed: Five hundred dollars (\$500.00) for each day during which construction proceeds in violation of this ordinance plus fifteen percent (15%) of the amount of any fee not paid when due.

(d) Lien. In the event of failure of the owner of a development project to pay in full any fee or fees payable under this Chapter, County may place and record a lien upon the property on which development is constructed in the amount of the unpaid fee. The Board of Supervisors shall adopt rules concerning imposition of such liens, including notice of the imposition of such liens and an opportunity for hearing.

(e) Cost of Securing Compliance. Any person or entity not in compliance with this Chapter shall be liable, in addition to other amounts provided herein, for attorney's fees and all other reasonable costs of securing compliance, including the cost of collection.

(f) Interest. Interest shall accrue on all fees not paid when due pursuant to this Chapter at the rate prescribed by law for interest on judgments, from the date when payment was due until the date payment is received in full.

(g) Board Modification, Termination and Review of Fees. The Board of Supervisors may, by ordinance, modify or terminate any fees under this Chapter and may establish additional fees or charges related to administration of this Chapter.

**Section 3.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsection, sentences, clauses or phrases be declared unconstitutional.