

CHAPTER 11
FINANCES, FEES, TAXATION AND REVENUE
ARTICLE I. IN GENERAL

- § 11-10. Accumulative Capital Outlay Fund--Created; fund contained in annual budget
- § 11-11. Accumulative Outlay Fund--Levy
- § 11-12. Accumulative Outlay Fund--Use
- § 11-13. Warrants; procedure for receipt, collection and deposit of money
- § 11-14. Reassessment of property damaged or destroyed by misfortune or calamity--Application generally
- § 11-15. Repealed
- § 11-16. Transfer of base year value of property damaged or destroyed by misfortune or calamity--Application generally
- § 11-17. Definitions applicable to base year value transfer for damaged or destroyed property
- § 11-18. Procedure for transferring base year value on property substantially damaged or destroyed to new property

ARTICLE II. TRANSIENT OCCUPANCY TAX

- § 11-20. Definitions
- § 11-21. Imposition of tax; payment of tax by transient
- § 11-22. Exemptions from payment of tax
- § 11-23. Collection of tax by operator; advertisements that tax will not be collected prohibited
- § 11-24. Registration of hotels; issuance of certificates
- § 11-25. Filing of reports; remittance of tax
- § 11-26. Penalties for delinquent payment
- § 11-27. Determination of tax by tax administrator upon default of operator
- § 11-28. Refunds
- § 11-29. Records to be kept
- § 11-30. Collection of tax by court action
- § 11-31. Appeals
- § 11-32. Violations

ARTICLE III. SALES AND USE TAX

- § 11-40. Purpose of article
- § 11-41. Operative date; contract with state board of equalization
- § 11-42. Sales tax generally
- § 11-43. Use tax generally

- § 11-44. Credit for taxes paid to cities in the county--Levied under section 7202(h) of Revenue and Taxation Code
- § 11-45. Same--Levied under section 7202(l) of Revenue and Taxation Code
- § 11-46. Collection not be enjoined
- § 11-47. Adoption of amendments to state law
- § 11-48. Article may be made inoperative
- § 11-49. Operative date--Board of equalization
- § 11-50. Operative date--Legislative action

ARTICLE IV. DOCUMENTARY TRANSFER TAX

- § 11-60. Levied; amount
- § 11-61. Persons liable for payment of tax
- § 11-62. Exemptions--Instruments securing debts
- § 11-63. Exemptions--Government
- § 11-64. Exemptions--Conveyances to make effective certain reorganizations or adjustments
- § 11-65. Exemptions--Certain conveyances to effectuate orders of Securities and Exchange Commission
- § 11-66. Exemptions--Certain transfers of interest by partnerships
- § 11-67. Credit for city taxes
- § 11-68. Assessor/Recorder to repurchase unused stamps
- § 11-69. Stamps prerequisite to recordation; documents to show amount of tax due; documents to show location of lands, etc
- § 11-70. Same--Assessor/Recorder=s parcel number
- § 11-71. Repealed by Ordinance No. 676
- § 11-72. Claims for refund
- § 11-73. Interpretation of article
- § 11-74. Assessor/Recorder may require true copies of records
- § 11-75. Misrepresentation of facts

ARTICLE V. AVIATION FUND

- § 11-80. Created
- § 11-81. Annual tax levy for fund
- § 11-82. Expenditure

ARTICLE VI. TRANSPORTATION FUND

- § 11-90. Created

ARTICLE VII. GROSS RECEIPTS TAX ON EXISTING AND OFF-SITE MULTIUSER HAZARDOUS WASTE FACILITIES

- § 11-100. Definitions
- § 11-101. Imposed; amount
- § 11-102. Payment
- § 11-103. Regulations

ARTICLE VIII. FEES

- § 11-110. General
- § 11-110.1. Introduction and Authority
- § 11-110.2. Agriculture Department
- § 11-110.3. Assessor/Recorder
- § 11-110.4. Department of Resource Management
- § 11-110.5. Public Guardian
- § 11-110.6. Tax Collector/Treasurer/County Clerk
- § 11-110.7. Auditor/Controller
- § 11-110.8. Registrar of Voters
- § 11-110.9. Clerk of the Board of Supervisors
- § 11-110.10. County Counsel
- § 11-110.11. County Administrator
- § 11-110.12. Department of Health and Social Services
- § 11-110.13. Public Defender
- § 11-110.14. Sheriff/Coroner
- § 11-110.15. Probation
- § 11-110.16. County Library
- § 11-110.17. Department of Resource Management/Parks, Recreation and Other Public Property
- § 11-110.18. Sheriff/Coroner/Animal Care and Control
- § 11-110.19. Department of Human Resource
- § 11-110.20. Department of Child Support Services
- § 11-111. Miscellaneous departments and offices
- § 11-112. Same--Department of health services
- § 11-113. Repealed
- § 11-114. Repealed
- § 11-115. Repealed
- § 11-116. Repealed
- § 11-117. Repealed

ARTICLE IX. REVENUE

- § 11-120. Revenue--Jail incarceration
- § 11-121. Criminal Justice Administration Fee

- § 11-122. Same--Property tax administrative cost recovery
- § 11-123. Parimutuel Wagering

ARTICLE X. PUBLIC FACILITIES FEES

- § 11-130. Findings
- § 11-131. Definitions
- § 11-132. Authorization required
- § 11-133. Payment of fees
- § 11-134. City collection of fees
- § 11-135. Use of fees
- § 11-136. Administration
- § 11-137. Enforcement
- § 11-138. Termination of ordinance as it applies to cities
- § 11-139. Severability

ARTICLE XI. SCHOOL FACILITIES MITIGATION PLAN FOR NEW DEVELOPMENT

- § 11-150. Findings
- § 11-151. School facilities mitigation plan request
- § 11-152. Receipt and use of funds
- § 11-153. Permits affected
- § 11-154. Appeals
- § 11-155. Severability

ARTICLE XII. BUSINESS LICENSE TAX

- § 11-160. Tax imposed
- § 11-161. Purpose of tax
- § 11-162. Effect of other ordinances
- § 11-163. Definitions
- § 11-164. Reporting of tonnage or kilowatt hours
- § 11-165. Payment of tax
- § 11-166. Penalty for delinquency

ARTICLE XIII. SOLID WASTE DISPOSAL MITIGATION FEE

- § 11-200. Findings
- § 11-201. Mitigation fee imposed
- § 11-202. Purpose of fee
- § 11-203. Definitions
- § 11-204. Reporting of tonnage
- § 11-205. Payment of fees

§ 11-206. Penalty for delinquency

ARTICLE XIV. SOLANO COUNTY PUBLIC LIBRARY TRANSACTION AND USE TAX

- § 11-300. Title
- § 11-301. Purpose
- § 11-302. Expenditure Plan
- § 11-303. Contract with State
- § 11-304. Transactions tax rate
- § 11-305. Place of sale
- § 11-306. Use tax rate
- § 11-307. Adoption of provisions of State law
- § 11-308. Limitations on adopting of State law and collection of use taxes
- § 11-309. Permit not required
- § 11-310. Exemptions and exclusions
- § 11-311. Amendments
- § 11-312. Enjoining collection forbidden
- § 11-313. Use of the taxes
- § 11-314. Independent Citizens' Oversight Committee
- § 11-315. Implementing policies and regulations
- § 11-316. Effective and operative dates
- § 11-317. Termination date
- § 11-318. Severability

ARTICLE XV. TRANSPORTATION IMPACT FEE PROGRAM

- § 11-400. Introduction and purpose
- § 11-410. General plan relationship
- § 11-420. Alternative method and compliance with other laws
- § 11-430. Collection of fees
- § 11-440. Fee adjustments
- § 11-450. Separate account for fees
- § 11-460. Interest on fees
- § 11-470. Annual adjustment and review of fees
- § 11-480. In lieu dedication and/or improvements
- § 11-500. English Hills transportation impact fee area
- § 11-510. Background
- § 11-520. Findings and determinations of the Board of Supervisors
- § 11-521. Purpose of the fee
- § 11-522. Use of the fees
- § 11-523. Relationship between use of fees and type of development projects
- § 11-524. Relationship between need for road improvements and type of development

- § 11-525. Relationship between the amount of the fee and the cost of the road improvements attributable to the development
- § 11-530. Amount of transportation impact fee

ARTICLE XVI. FIRE PROTECTION DISTRICT IMPACT FEE

- § 11-600. Purpose
- § 11-610. Definitions
- § 11-620. Establishment of Fee, Exemptions
- § 11-630. Payment of Fee
- § 11-640. Use of Fees, Hold Harmless
- § 11-650. Appeal from Fee Assessment

ARTICLE I. IN GENERAL

Sec. 11-10. Accumulative Capital Outlay Fund--created-- fund contained in annual budget

Pursuant to the provisions to section 53730 et seq., of the Government Code of the state, there is created a fund for capital outlays. Such fund shall be set forth in each annual budget and be in addition to any other fund allowed by law and shall be known and designated as follows: "Accumulative Capital Outlay Fund."

(Ord. No. 595, §I; Ord. No. 1465, §1)

Sec. 11-11. Accumulative Capital Outlay Fund--levy

The board of supervisors shall each year in the same manner that they provide for the levy and collection of taxes for other purposes provide for the levy and collection of such taxes as may be necessary to accumulate or maintain the Accumulative Capital Outlay Fund for capital outlays in such an amount as may be set forth and provided in each annual budget of the county.

(Ord. No. 595, §2; Ord. No. 1465, §1)

Sec. 11-12. Accumulative Capital Outlay Fund--use

The capital outlay fund accumulated may be expended only for the purpose of construction, reconstruction, remodeling or purchasing public buildings, the acquisition of sites, and the original furnishing thereof or any other construction project and the acquisition of lands for public use. Such fund shall remain inviolate for the making of such capital outlays and disbursement shall not be made from the fund except for such purpose, unless the electors of the county consent to the use of the money in the fund for some other specific purpose at an election duly and regularly called at which such proposition is submitted to them in the manner prescribed by law.

(Ord. No. 595, §3; Ord. No. 1465, §1)

Sec. 11-13. Warrants-procedure for receipt, collection and deposit of money

(a) **When warrant considered void.** A warrant issued is void if not presented to the county treasurer for payment within one year after its date of issuance.

(b) **When warrant considered lost.** A warrant shall be considered lost if it has been mailed and has not been received by the addressee within seven days after the date of mailing. This section is adopted pursuant to section 29853 of the Government Code of the state, and applies to all county warrants, whether for relief or otherwise.

(c) **Notice of receipts required for money.** Officers, employees and elected officials who are authorized to receive money for the county in their official capacity, must post in a conspicuous place at any designated collection station or counter, the following public notice expressed in plain and legible print:

"Notice to the Public: Employee personnel of Solano County are required by law to forthwith give official receipt for any money paid into the Solano County Treasury. Secure your receipt when payment is made."

(d) **Cash collection and deposits.**

(1) After receipts for money have been issued, they must be recorded on a cash collection record, either in detail or batches that identify a type of cash transaction, whether receipted or not. The cash collection record shall be maintained in the form prescribed by the county auditor. Such collections should be totaled daily to identify such receipted transactions on a prescribed register, or separately identified on a deposit permit with attachments of copies of each issued receipt included.

(2) All collected money coming into the possession of a county agent or collector must be deposited in the county treasury intact, when not legislatively provided for to be deposited elsewhere, for the amount of each separate cash transaction or be daily totals as soon as practicable. However, the usually expected practice will be to make such deposits daily, and overnight storage of such funds are not expected to exceed five hundred dollars unless approved in writing by the county auditor.

(3) Under usual circumstances subject to the approval of the county auditor, collections of money may be converted to a county treasurer's cashier check, payable in the name of the county treasurer when settlement with the county auditor cannot be made on or before the fifth day of each month.

(4) In those instances in which a county agent or collector is legislatively required to make deposits directly in the county treasury, collections of such money shall be

converted to the form of a cashier's check or a postal money order payable to the county treasurer, and forwarded to him immediately.

(5) In lieu of depositing trust money directly into the county treasury, the county auditor may authorize a collector to deposit such money in a local bank account only when refunds are legislatively provided to make refunds.

(Ord. No. 546, §1; Ord. No. 816, §1; Ord. No. 1465, §1; Ord. No. 1523, §1.)

Sec. 11-14. Reassessment of property damaged or destroyed by misfortune or calamity

(a) Every person who owns, possesses or controls taxable property before January 1 at 12:01 a.m., or acquires such property after January 1 and is liable for the taxes for the property for the fiscal year on or after July 1 may apply to have the property reassessed if the property is damaged by misfortune or calamity. In order to apply for the reassessment of damaged property, the individual must show that the property was damaged or destroyed by misfortune or calamity as specified below after January 1 and that the damage is in excess of ten thousand dollars (\$10,000).

In order to apply for reassessment of such property, the individual must deliver, within twelve (12) months immediately following the misfortune or calamity, a written application to the Assessor/Recorder showing the condition and value, if any, of the property immediately before and after the damage or destruction and the dollar amount of the damage. The application shall be executed under penalty of perjury or, if executed outside the State of California, verified by affidavit.

To be eligible for reassessment, the damage or destruction to the property must have been caused by any of the following:

(1) A major misfortune or calamity, in an area or region subsequently proclaimed by the Governor to be in a state of disaster, if that property was damaged or destroyed by the major misfortune or calamity which caused the Governor to proclaim the area or region to be in a state of disaster. As used in this paragraph "damage" includes a diminution in the value of property as a result of restricted access to the property where that restricted access was caused by the major misfortune or calamity.

(2) A misfortune or calamity.

(3) A misfortune or calamity which, with respect to a possessory interest in land owned by the state or federal government has caused the permit or other right to enter upon the land to be suspended or restricted. As used in this paragraph, "misfortune or calamity" includes a drought condition such as existed in this state in 1976 and 1977.

(b) The Assessor/Recorder shall process the application or may initiate the reassessment when he or she determines that within the immediately preceding twelve (12) months taxable property was damaged or destroyed as provided for in California Revenue and Taxation Code section 170.

(Ord. No. 1106, §1; Ord. No. 1465, §1; Ord. No. 1620, §2)

Sec. 11-15. Repealed

(Ord. No. 1106, §1; Ord. No. 1465, §1; Ord. No. 1620, §3)

Sec. 11-16. Transfer of base year value of property damaged or destroyed by misfortune or calamity--application generally

(a) Notwithstanding any other provision of law, pursuant to the authority of paragraph (3) of subdivision (e) of Section 2 of Article XIII A of the California Constitution, the Board of Supervisors, after consultation with affected local taxing entities located within the boundaries of the County, authorizes the transfer, subject to the conditions and limitations of Revenue and Taxation Code section 69.3, of the base year value of real property that is located within another county in this state and has been substantially damaged or destroyed by a disaster to comparable replacement property of equal or lesser value, including land, that is located within Solano County. The acquisition or new construction of replacement property to replace the damaged or destroyed property must occur within three (3) years after the damage or destruction of the original property.

(b) The base year value of the original property shall be the base year value of the original property as determined in accordance with Section 110.1 of the Revenue and Taxation Code, with those adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property was substantially damaged or destroyed. The base year value of the original property shall also include any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the date of the substantial damage to, or destruction of, the original property and up to the date the replacement property is acquired or newly constructed. The base year shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(Ord. No. 1500, §1.)

Sec. 11-17. Definitions applicable to base year value transfer for damaged or destroyed property

(a) **Affected local agency** means any city, special district, school district or community college district that receives an annual allocation of ad valorem property tax revenues.

(b) **Comparable replacement property** means a replacement property that has a full cash value of equal or lesser value as defined in paragraph 11-17(e), below.

(c) **Consultation** means a noticed hearing that is conducted by a county board of supervisors concerning the adoption of an ordinance described in Section 11-16(a) and with respect to which all affected local agencies within the boundaries of the county are provided with reasonable notice of the time and the place of the hearing and a reasonable opportunity to appear and participate in the hearing.

(d) **Disaster** means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(e) **Equal or lesser value** means that the amount of the full cash value of a replacement property does not exceed one of the following:

(1) One hundred five percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the first year following the date of the damage or destruction of the original property.

(2) One hundred ten percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the second year following the date of the damage or destruction of the original property.

(3) One hundred fifteen percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the third year following the date of the damage or destruction of the original property.

(A) For the purposes of this paragraph, if the replacement property is, in part, purchased and, in part, newly constructed, the date the "replacement property is purchased or newly constructed" is the date of the purchase or the date of completion of new construction, whichever is later. For purposes of this paragraph, "full cash value of the original property" shall be the amount of its full cash value immediately prior to its substantial damage or destruction, as determined by the county assessor of the county in which the property is located.

(f) **Original property** means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated, that has been substantially damaged or destroyed by a disaster, as declared by the Governor. For purposes of this subdivision, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest

described in subdivision (c) of Revenue and Taxation Code Section 61, or a land purchase contract. For purposes of this paragraph, each unit of a multi-unit dwelling shall be considered a separate original property.

(g) **Owner or owners** means an individual or individuals, but does not include any firm, partnership, association, corporation, company other legal entity or organization of any kind.

(h) **Replacement property** means a building, structure, or other shelter, or other personal property that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of the land replacement dwelling includes only that area of reasonable size that is used as the site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Revenue and Taxation Code section 61 or a land purchase contract. For purposes of this paragraph, each unit of a multi-unit dwelling shall be considered a separate replacement dwelling.

(i) **Substantially damaged or destroyed** means property that sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the disaster. Damage includes a diminution of value in the value of property as a result of restricted access to the property where the restricted access was caused by the disaster and is permanent in nature.

(Ord. No. 1500, §1.)

Sec. 11-18. Procedure for transferring base year value on property substantially damaged or destroyed to new property

(a) At the time the base year value of the substantially damaged or destroyed property is transferred pursuant to this ordinance the substantially damaged or destroyed property shall be reassessed at its full cash value. However, the substantially damaged or destroyed property shall retain its base year value notwithstanding that transfer. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 of the Revenue and Taxation Code in the event of its reconstruction.

(b) Only the owner or owners of the property that has been substantially damaged or destroyed may receive property tax relief under this ordinance. Relief under this ordinance shall be granted to an owner or owners of a substantially damaged or destroyed property obtaining title to comparable replacement property. The acquisition of an ownership interest in a legal entity that, directly or indirectly, owns real property is not an acquisition of comparable replacement property for purposes of this ordinance.

(c) A claim for relief under this ordinance shall be filed with the assessor of the county in which the replacement property is located in accordance with procedures and requirements as prescribed by the board. Those procedures and requirements that are prescribed by the board pursuant to this section shall, to the extent not inconsistent with this section, be similar to those procedures and requirements established with respect to Revenue and Taxation Code section 69.5.

(d) Any taxes that were levied on the replacement property prior to the filing of a claim on the basis of the replacement property's new base-year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(e) This section shall apply to any comparable replacement property of equal or lesser value that is acquired or newly constructed as a replacement for property that has been substantially damaged or destroyed by a disaster occurring on or after October 20, 1991, and to the determination of base year values for the 1991-92 fiscal year and each fiscal year thereafter.

(Ord. No. 788, §1; Ord. No. 1500, §I.)

ARTICLE II. TRANSIENT OCCUPANCY TAX

Sec. 11-20. Definitions

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) **Hotel.** Any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, including any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure or portion thereof.

(b) **Occupancy.** The use or possession, or the right to use or possession, of any room or rooms or portion thereof in any hotel for dwelling, lodging or sleeping purposes.

(c) **Operator.** The person who is the proprietor of a hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent or any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this article and shall have the same duties and liabilities as the principal. Compliance with the provisions of this article by either the principal or the managing agent shall be considered to be compliance by both.

(d) **Rent.** The consideration charged, whether or not received, for the occupancy of space in a hotel, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction whatsoever.

(e) **Tax administrator.** The tax collector/county clerk of the county.

(f) **Transient.** Any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive days or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy.

(Ord. No. 583, §2; Ord. No. 788, §§ 2, 3, 4; Ord. No. 851, §1; Ord. No. 1218, §1, §4; Ord. No. 1465, §1)

Sec. 11-21. Imposition of tax, Payment of tax by transient

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of five per cent of the rent charged by the operator. Such tax constitutes a debt owned by the transient to the county which is extinguished only by payment to the operator or to the county. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.

(Ord. No. 583, §3; Ord. No. 728, §1; Ord. No. 788, §§ 5, 6; Ord. No. 851, §2; Ord. No. 1218, §2, §5; Ord. No. 1465, §1)

Sec. 11-22. Exemptions from payment of tax

No tax levied by this article shall be imposed upon:

(a) Any person as to whom, or any occupancy as to which, it is beyond the power of the county to impose the tax provided in this article; provided, that no exemption shall be available and that tax shall be imposed upon any officer or employee of the United States or this state and political subdivisions of the state when traveling on official business.

(b) Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

(c) No exemption shall be granted except upon a claim made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator.

(Ord. No. 583, §4; Ord. No. 594, §1; Ord. No. 851, §3; Ord. No. 1218, §3, §6; Ord. No. 1465, §1)

Sec. 11-23. Collection of tax by operator; advertisements that tax will not be collected prohibited

Every operator shall collect the tax imposed by this article to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirect, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner provided in this article.

(Ord. No. 583, §5; Ord. No. 1465, §1)

Sec. 11-24. Registration of hotels; issuance of certificates

Each operator of any hotel renting occupancy to transients shall register such hotel with the tax administrator and obtain from the administrator a "Transient Occupancy Registration Certificate," to be at all times posted in a conspicuous place on the premises. All operators of hotels commencing business shall comply with this section within thirty days after such commencement. Such certificate shall, among other things, state the following:

(a) The name of the operator.

(b) The address of the hotel.

(c) The date upon which the certificate was issued.

(d) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, not to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this county. This certificate does not constitute a permit."

(Ord. No. 583, §6; Ord. No. 851, §4; Ord. No. 1465, §1)

Sec. 11-25. Filing of reports; remittance of tax

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. The tax administrator may establish shorter reporting periods for any certificate holder if the administrator deems it necessary in order to insure the collection of the tax and the administrator may require further information in the return. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this article shall be held in trust for the account of the county until payment thereof is made to the tax administrator.

(Ord. No. 583, §7; Ord. No. 1465, §1)

Sec. 11-26. Penalties for delinquent payment

(a) **Original delinquency.** Any operator who fails to remit any tax imposed by this article within the time required shall pay a penalty of ten per cent of the amount of the tax, in addition to the amount of the tax.

(b) **Continued delinquency.** Any operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten per cent of the amount of the tax, in addition to the amount of the tax and the ten per cent penalty first imposed.

(c) **Fraud.** If the tax administrator determines that the nonpayment of any remittance due under this article is due to fraud, a penalty of twenty-five per cent of the amount of the tax shall be added in addition to the penalties stated in subdivisions (a) and (b) of this section.

(d) **Interest.** In addition to the penalties imposed, any operator who fails to remit any tax imposed by this article shall pay interest at the rate of one-half of one per cent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) **Penalties merged with tax.** Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax required to be paid under this article.

(Ord. No. 583, §8; Ord. No. 1465, §1)

Sec. 11-27. Determination of tax by tax administrator upon default of

operator

If any operator shall fail or refuse to collect the tax imposed pursuant to this article, and to make, within the time provided in this article, any report and remittance of such tax or any portion thereof required by this article, the tax administrator shall proceed in such manner as the administrator may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the tax administrator shall procure such facts and information as the tax administrator is able to obtain upon which to base the assessment of any tax imposed by this article and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the administrator shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this article. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at the operator's last known place address. Such operator may, within ten days after the serving or mailing of such notice, make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator, shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days written notice in the manner prescribed in this article to the operator to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this article of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in section 11-31.

(Ord. No. 583, §9; Ord. No. 1465, §1)

Sec. 11-28. Refunds

(a) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the county under this article, it may be refunded as provided in subdivisions (b) and (c) of this section; provided, that a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within three years of the date of payment. The claim shall be on forms furnished by the tax administrator.

(b) Any operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, that

neither a refund not a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

(c) A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the county by filing a claim in the manner provided in subdivision (a) of this section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

(d) No refund shall be paid under the provisions of this section unless the claimant establishes his right by written records showing entitlement.

(Ord. No. 583, §12; Ord. No. 778, §1; Ord. No. 1465, §1)

Sec. 11-29. Records to be kept

It shall be the duty of every operator liable for the collection and payment to the county of any tax imposed by this article to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as the operator may have been liable for the collection of and payment to the county, which records the tax administrator shall have the right to inspect at all reasonable times.

(Ord. No. 583, §11; Ord. No. 1465, §1)

Sec. 11-30. Collection of tax by court action

Any tax required to be paid by any transient under the provisions of this article shall be deemed a debt owned by the transient to the county. Any such tax collected by an operator which has not been paid to the county shall be deemed a debt owed by the operator to the county. Any person owing money to the county under the provisions of this article shall be liable to an action brought in the name of the county for the recovery of such amount.

(Ord. No. 583, §13; Ord. No. 1465, §1)

Sec. 11-31. Appeals

Any operator aggrieved by any decision of the tax administrator with respect to any amount of such tax, interest and penalties, if any, may appeal to the board of supervisors by filing a notice of appeal with the clerk to the board of supervisors within fifteen days of the serving or mailing of the determination of tax due. The board of supervisors shall fix a time and place for hearing such appeal, and the clerk to the board of supervisors shall give notice in writing to such operator at the operator's last known place of business. The findings of the board of supervisors shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of

notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. No. 583, §10; Ord. No. 1465, §1)

Sec. 11-32. Violations

No operator or other person shall fail or refuse to register as required in this article, or furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the tax administrator, or render a false or fraudulent return or claim. No person required to make, render, sign or verify any report or claim shall make any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this article to be made.

(Ord. No. 583, §14; Ord. No. 1465, §1)

ARTICLE III. SALES AND USE TAX¹

Sec. 11-40. Purposes of Article

This article is adopted to achieve the following, among other, purposes, and the provisions of this article are to be interpreted in order to accomplish these purposes:

- (a) To adopt sales and use tax regulations which comply with the requirements and limitations contained in part 1.5, division 2, of the California Revenue and Taxation Code.
- (b) To adopt sales and use tax regulations which incorporate provisions identical to those of the Sales and Use Tax Law of the state, insofar as those provisions are not inconsistent with the requirements and limitations contained in part 1.5, division 2, of the Revenue and Taxation Code.
- (c) To adopt a sales and use tax ordinance which imposes a one and one-quarter percent tax and provide a measure that can be administered and collected by the state board of equalization in a manner that adapts itself as fully as practicable to, and require the least possible deviation from, the existing statutory and administrative procedures followed by the state board of equalization in administering and collecting the state sales and use taxes.
- (d) To adopt sales and use tax regulations which can be administered in a manner that will be, to the degree possible, consistent with the provisions of part 1.5, division 2, of the Revenue and Taxation Code, minimize the cost of collecting county sales and use

¹For state law as to sales and use taxes, see Rev.&Tax. Code ' ' 6001 et seq. As to authority of county to adopt uniform sales and use taxes, see R&T Code ' 7201.

taxes and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this article.

(Ord. No. 424, §2; Ord. No. 500, §1; Ord. No. 788, §1; Ord. No. 1465, §1)

Sec. 11-41. Operative date; contract with state board of equalization

This chapter shall become operative on January 1, 1958, and the county shall contract with the state board of equalization to perform all functions incident to the administration and operation of this article.

(Ord. No. 424, §3; Ord. No. 1465, §1)

Sec. 11-42. Sales tax generally

(a)(1) For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the county at the rate of one percent of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the county on or after January 1, 1958, to and including June 30, 1972, and at the rate of one and one-quarter percent thereafter.

(2) For the purposes of this article, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the board of equalization.

(b)(1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of part 1.5, division 2, of the Revenue and Taxation Code, all of the provisions of part 1, division 2, of the Revenue and Taxation Code, as amended and in force and effect on January 1, 1958, applicable to sales taxes are adopted and made a part of this section as though fully set forth.

(2) Wherever, and to the extent that, in part 1, division 2, of the Revenue and Taxation Code, the state is named or referred to as the taxing agency, the county shall be substituted. Nothing in this subsection shall be deemed to require the substitution of the name of the county for the word "state" when that word is used as part of the title of the state controller, state treasurer, the state board of control, the state board of equalization, or the name of the state treasury, or of the Constitution of the state; nor shall the name of the county be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the county or any agency thereof, rather than by or against the state board of equalization, in

performing the functions incident to the administration or operation of this article; and neither shall the substitution be deemed to have been made in those sections, including but not necessarily limited to, sections referring to the exterior boundaries of the state, where the result of the substitution would be to provide an exemption from this tax with respect to certain gross receipts which would not otherwise be exempt from this tax while those gross receipts remain subject to tax by the state under the provisions of part 1, division 2, of Revenue and Taxation Code; nor to impose this tax with respect to certain gross receipts which would not be subject to tax by the state under the provisions of such part 1, division 2, of Revenue and Taxation Code; and, in addition, the name of the county shall not be substituted for that of the state in Sections 6701, 6702, except in its last sentence, 6711, 6715, 6737, 6797 and 6828 of Revenue and Taxation Code as adopted in this section.

(3) If a seller's permit has been issued to a retailer under section 6067 of Revenue and Taxation Code, an additional seller's permit shall not be required by reason of this section.

(4) There shall be excluded from the gross receipts by which the tax is measured:

(A) The amount of any sales or use tax imposed by the state upon a retailer or consumer.

(B) Eighty percent of the gross receipts from the sale of property to operators of common carriers and waterborne vessels to be used or consumed in the operation of such common carriers or waterborne vessels principally outside of this county.

(5) There shall be excluded from the gross receipts by which the tax is measured:

(A) The amount of any sales or use tax imposed by the state upon a retailer or consumer.

(B) Eighty percent of the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of the persons or property under the authority of the laws of this state, the United States or any foreign government.

(6) There shall be excluded from the gross receipts by which the tax is measured:

(A) The amount of any sales or use tax imposed by the state upon a retailer or consumer.

(B) Eighty percent of the gross receipts from the sale of tangible personal property to operators of waterborne vessels to be used or consumed principally outside the county

in which the sale is made and directly and exclusively in the carriage of persons or property in such vessels for commercial purposes.

(C) Eighty percent of the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States or any foreign government.

(Ord. No. 424, §4; Ord. No. 500, §§2 to 4; Ord. No. 788, §§2 to 4; Ord. No. 851, §1; Ord. No. 1218, §§1, 4; Ord. No. 1465, §1)

Sec. 11-43. Use tax generally

(a) An excise tax is imposed on the storage, use or other consumption in the county of tangible personal property purchased from any retailer on or after January 1, 1958, for storage, use or other consumption in the county at the rate of one percent of the sales price of the property to and including June 30, 1972, and at the rate of one and one-quarter percent thereafter. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

(b)(1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of part 1.5, division 2, of the Revenue and Taxation Code, all of the provisions of part 1, division 2, of the Revenue and Taxation Code, as amended and in force and effect on January 1, 1958, applicable to use taxes, are hereby adopted and made a part of this section as though fully set forth.

(2) Wherever, and to the extent that, in part 1, division 2, of the Revenue and Taxation Code, the state is named or referred to as the taxing agency, the name of this county shall be substituted. Nothing in this subsection shall be deemed to required the substitution of the name of the county for the word "state" when that word is used as part of the title of the state controller, the state treasurer, the state board of control, the state board of equalization, or the name of the state treasury, or of the Constitution of the state; nor shall the name of the county be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the county or its agency rather than by or against the state board of equalization, in performing the functions incident to the administration, in perforating the functions incident to the administration or operation of this article; and neither shall the substitution be deemed to have been made in those sections including but not limited to, sections referring to the exterior boundaries of the state, where the result of the substitution would be to provide an exemption from this tax with respect to certain storage, use or other consumption remains subject to tax by the state under the provisions of part 1, division 2, of the Revenue and Taxation Code of the state, or to impose this tax with respect to certain storage, use or other consumption of tangible

personal property which would not be subject to tax by the state under such provisions of the Revenue and Taxation Code of the state; and in addition, the name of the county shall not be substituted for that of the state in sections 6701, 6702, except in its last sentence, 6711, 6715, 6737, 6797 and 6828 of the Revenue and Taxation Code as adopted in this section, and the name of the county shall not be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 nor in the definition of that phrase in Section 6203 of the Revenue and Taxation Code.

(3) There shall be exempt from the tax due under this section:

(A) The amount of any sales or use tax imposed by the state upon a retailer or consumer.

(B) The storage, use or other consumption of tangible personal property, the gross receipts from the sale of which has been subject to sales tax under a sales and use tax ordinance enacted in accordance with part 1.5, division 2, of the Revenue and Taxation Code of the state by any city and county, county or city in this state.

(C) Provided, however, that the storage or use of tangible personal property in the transportation or transmission of persons, property or communications or in the generation, transmission or distribution of electricity or in the manufacture, transmission or distribution of gas in intrastate, interstate or foreign commerce by public utilities commission of the state shall be exempt from eighty percent of the tax due under this section.

(4) There shall be exempt from the tax due under this section:

(A) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

(B) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with part 1.5 of division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state, shall be exempt from the tax due under this chapter.

(C) In addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use or other consumption of tangible personal property purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government, is exempt from eighty percent of the tax.

(5) There shall be exempt from the tax due under this section:

(A) The amount of any sales or use tax imposed by the State of California upon a retailer or consumer.

(B) The storage, use, or other consumption of tangible personal property, the gross receipts from the sale of which have been subject to sales tax under a sales and use tax ordinance enacted in accordance with part 1.5 of division 2 of the Revenue and Taxation Code by any city and county, county, or city in this state, shall be exempt from the tax due under this chapter.

(C) Provided, however, that the storage, use, or other consumption of tangible personal property purchased by operators of waterborne vessels and used or consumed by such operators directly and exclusively in the carriage of persons or property in such vessels for commercial purpose is exempted from eighty percent (80%) of the tax.

(D) In addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxation Code, the storage, use or other consumption of tangible personal property purchased by operators of and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government, is exempt from eighty percent of the tax.

(Ord. No. 424, §5; Ord. No. 500, §§5, 6; Ord. No. 788, §§5, 6; Ord. No. 851, §2; Ord. No. 1218, §§2, 5; Ord. No. 1465, §1)

Sec. 11-44. Credit for taxes paid to cities in the county-- levied under section 7202(h) of Revenue and Taxation Code

Any person subject to a sales or use tax, or required to collect a use tax under this chapter shall be entitled to credit against the payment of taxes due under this chapter, the amount of sales and use tax due any city in this county; provided, that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivisions (1) to (8), inclusive, of subdivision (h) of section 7202 of the Revenue and Taxation Code, and other applicable provisions of part 1.5 of division 2 of that Code.

(Ord. No. 424, §6; Ord. No. 500, §7; Ord. No. 1218, §3.)

Sec. 11-45. Same--Levied under section 7202(l) of Revenue and Taxation Code

Any person subject to a sales or use tax or required to collect a use tax under this chapter shall be entitled to credit against the payment of taxes due any city in this

county; provided, that the city sales and use tax is levied under an ordinance including provisions substantially conforming to the provisions of subdivision (1) to (10), inclusive, of subsection (l) of section 7202 of the Revenue and Taxation Code, and other applicable provisions of part 1.5 of division 2 of that Code, pursuant to Government Code § 25123(c).

(Ord. No. 851, §3; Ord. No. 1169, §1; Ord. No. 1218 §3; Ord. No. 1465, §1)

Sec. 11-46. Collection not to be enjoined

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or this county or against any officer of the state or this county to prevent or enjoin the Revenue and Taxation Code of any tax or any amount of tax required to be collected.

(Ord. No. 424, §7; Ord. No. 1169, §1; Ord. No. 1465, §1)

Sec. 11-47. Adoption of amendments to state law

All amendments of the Revenue and Taxation Code enacted subsequent to the effective date of this article which relate to the sales and use tax and which are not inconsistent with part 1.5, division 2, of the Revenue and Taxation Code, shall automatically become a part of this article.

(Ord. No. 424, §8; Ord. No. 1465, §1)

Sec. 11-48. Article may be made inoperative

This article may be made inoperative not less than sixty days, but not earlier than the first day of the calendar quarter, following the county's lack of compliance with article II (commencing with section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code.

(Ord. No. 788, §7; Ord. No. 1465, §1)

Sec. 11-49. Operative date--Board of Equalization

(a) Sections 11-20(b)(4.5), 11-21(b)(3.5) and 11-22.1 of this Code shall become operative on January 1 of the year following the year in which the state board of equalization adopts an assessment ratio which is required for local assessment by Section 401 of the Revenue and Taxation Code, at which time sections 11-20(b)(4), 11-21(b)(3) and 11-22 shall become operative.

(b) In the event that Sections 11-20(b)(4.5), 11-21(b)(3.5) and 11-22.1 of this Code become operative and the state board of equalization subsequently adopts an assessment ratio for state assessed property which is higher than the ratio which is required for local assessments by Section 401 of the Revenue and Taxation Code, Sections 11-20(b)(4), 11-21 (b)(3) and 11 -22 shall become operative on the first day of

the month next following the month in which such higher ratio is adopted, at which time Sections 11-20(b)(4.5), 11-21(b)(3.5) and 11-22.1 of this Code shall be inoperative until the first day of the month following the month in which the board again adopts an assessment ratio of state assessed property which is identical to the ratio required for local assessments by Section 401 of the Revenue and Taxation Code, at which time Sections 11-20(b)(4.5), 11-21(b)(3.5) and 11-22.1 shall again become operative, and Sections 11-20(b)(4), 11-21(b)(3) and 11-22 shall become inoperative.

(Ord. No. 851, §4; Ord. No. 1465, §1)

Sec. 11-50. Operative date--legislative action

Sections 11-20(b)(4.5), 11-21(b)(3.5) and 11-22 of this chapter shall be operative on January 1, 1984. Sections 11-20(b)(4.6), 11-21(b)(3.6) and 11-22.1 of this chapter shall be operative on the operative date of any act of the Legislature of the State of California which amends or repeals and reenacts Sections 7202 and 7203 of the Revenue and Taxation Code to provide an exemption for operators of waterborne vessels in the same or substantially the same language as that existing in those sections as they read on October 1, 1983.

(Ord. No. 1218, §7; Ord. No. 1222, §1; Ord. No. 1465, §1)

ARTICLE IV. DOCUMENTARY TRANSFER TAX²

Sec. 11-60. Levied; amount³

There is imposed on each deed, instrument or writing by which any lands, tenements or other realty within the county shall be granted, assigned, transferred or otherwise conveyed to or vested in the purchaser or any other person by that persons direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars a tax at the rate of fifty-five cents for each five hundred dollars or fractional part thereof. If the value of the consideration cannot be definitely determined, or is left open to be fixed by future contingencies, "value of the consideration" shall be deemed to mean the fair market value of the property at the time of transfer after deducting the amount of any lien or encumbrance, if any, of a type which would be excluded in determining the value of the consideration.

(Ord. No. 661, §2; Ord. No. 1465, §1)

Sec. 11-61. Persons liable for payment of tax

² For state laws to documentary transfer tax, see Revenue and Taxation Code ' ' 11901 et seq.

³ For state law authorizing county to levy documentary transfer tax, see Revenue and Taxation Code ' 1191 1.

The tax imposed by section 11-60 shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued.

(Ord. No. 661, §3; Ord. No. 1465, §1)

Sec. 11-62. Exemptions--Instruments securing debts

The tax imposed pursuant to this article shall not apply to written

- (a) Deeds of trust;
- (b) Mortgages;
- (c) Fee interests by deed when a lender is taking an equity interest in real property in lieu of a note and deed of trust or mortgage; or
- (d) A security agreement given to secure a debt.

(Ord. No. 661, §4; Ord. No. 1465, §1)

Sec. 11-63. Exemptions--governments

Any deed, instrument or writing to which the United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, is a party shall be exempt from any tax imposed pursuant to this article when the exempt agency is acquiring title.

(Ord. No. 661, §5; Ord. No. 778, §1; Ord. No. 1465, §1)

Sec. 11-64. Exemptions--Conveyances to make effective certain reorganizations or adjustments.

The tax imposed pursuant to this article shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment:

- (a) Conformed under the Federal Bankruptcy Act, as amended.
- (b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of section 205 of Title 11 of the United States Code, as amended.
- (c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of section 506 of Title 11 of the United States Code, as amended.

(d) Whereby a mere change of identity, form or place of organization is effected. Subdivisions (a) to (d), inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

(Ord. No. 661, §6; Ord. No. 1465, §1)

Sec. 11-65. Same--Certain conveyances to effectuate orders of Securities and Exchange Commission

The tax imposed pursuant to this article shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of section 1083 of the Internal Revenue Code of 1954, but only if:

(a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935.

(b) Such order specifies the property which is ordered to be conveyed.

(c) Such conveyance is made in obedience to such order.

(Ord. No. 661, §7; Ord. No. 1465, §1)

Sec. 11-66. Same--Certain transfers of interest by partnerships

(a) In the case of any realty held by a partnership, no tax shall be imposed pursuant to this article by reason of any transfer of an interest in the partnership or otherwise, if:

(1) Such partnership (or other partnership) is considered a continuing partnership within the meaning of section 708 of the Internal Revenue Code of 1954; and

(2) Such continuing partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership within the meaning of section 708 of the Internal Revenue Code of 1954, for the purposes of this article, such partnership shall be treated as having executed an instrument whereby there was conveyed, for full market value (exclusive of the value of any lien or encumbrance remaining thereon) all realty held by such partnership at the time of such termination.

(c) Not more than one tax shall be imposed pursuant to this article by reason of a termination described in subdivision (b) of this section, and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such on.

(Ord. No. 661, §8; Ord. No. 1465, §1)

Sec. 11-67. Credit for city taxes

If the legislative body of any city in the county imposes a tax pursuant to part 6.7 of division 2 of the Revenue and Taxation Code of the state equal to one-half the amount specified in section 11-60, a credit shall be granted against the taxes due under this article in the amount of the city's tax.

(Ord. No. 661, §9; Ord. No. 1465, §1)

Sec. 11-68. Assessor/Recorder to repurchase unused stamps

The assessor/recorder shall repurchase any unused documentary tax stamps sold by him or her prior to July 1, 1968. The recorder shall accept in payment of the tax any such stamps affixed to a document offered for recordation and shall cancel the stamps so affixed.

(Ord. No. 661, §10; Ord. No. 676, §2; Ord. No. 1465, §1)

Sec. 11-69. Payment prerequisite to recordation, documents to show amount of tax due; documents to show location of lands, etc

(a) The assessor/recorder shall not record any deed, instrument or writing subject to the tax imposed by this article unless the tax is paid. If the party submitting the document so requests, the amount of tax due shall be shown on a separate paper which shall be affixed to the document by the recorder after the permanent record is made and before the original is returned as specified in section 27321 of the Government Code.

(b) Every document subject to tax hereunder which is submitted for recordation shall show on the face of the document or in a separate document the amount of taxes due under this article, and the county assessor/recorder may rely thereon.

(c) Every document subject to tax under this article which is submitted for recordation shall show in the face of the document or in a separate document the location of the lands, tenements or other realty described in the document. If such lands, tenements or other realty are located within a city in the county, the name of the city shall be set forth. If such lands, tenements or other realty are located in the unincorporated area of the county, that fact shall be set forth.

(Ord. No. 661, §12; Ord. No. 676, §4; Ord. No. 1465, §1)

Sec. 11-70. Same--Assessor/Recorder's parcel number

(a) Every document subject to tax under this article which is submitted for recordation shall have noted on its face the assessor/recorder's parcel number. Such number shall be used for administrative and procedural purposes only, and shall not be proof of title to the parcel.

(b) In the event of any conflict between the stated legal description and the assessor/recorder's parcel number, the legal description stated upon the document shall govern.

(c) The validity of any document shall not be affected by the fact that such parcel number is erroneous or omitted, and there shall be no liability attaching to any person for an error in such number or for omission of such number.

(d) It is the intention that the exemptions provided for by Sections 11-62, 11-63, 11-64, 11-65, and 11-66 of this chapter are applicable to this section.

(Ord. No. 1097, §1; Ord. No. 1465, §1)

Sec. 11-71. Repealed by Ordinance No. 676**Sec. 11-72. Claims for refunds**

Claims for refunds of taxes imposed pursuant to this article shall be governed by the provisions of chapter 5 (commencing with Section 5096) of part 9 of division 1 of the Revenue and Taxation Code.

(Ord. No. 661, §14; Ord. No. 1465, §1)

Sec. 11-73. Interpretation of article

In the administration of this article, the county assessor/recorder shall interpret its provisions consistently with those Documentary Stamp Tax Regulations adopted by the Internal Revenue Service of the United States Treasury Department which relate to the tax on conveyances and identified as sections 47.4361-1, 47.4361-2 and 47.4362.1 of part 47 of title 26 of the Code of Federal Regulations, as the same existed on November 8, 1967; except, that for the purposes of this article, the determination of what constitutes "realty" shall be determined by the definition or scope of that term under state law.

(Ord. No. 661, §15; Ord. No. 1465, §1)

Sec. 11-74. Assessor/Recorder may require true copies of records

Whenever the assessor/recorder has reason to believe that the full amount of tax due under this article has not been paid, the assessor/recorder may, by notice served upon any person liable, require the person to furnish a true copy of the persons records

relevant to the amount of the consideration or value of the interest or property conveyed.

(Ord. No. 661, §16; Ord. No. 1465, §1)

Sec. 11-75. Misrepresentation of facts

It shall be unlawful for any person to make, sign, issue or accept or cause to be made, signed, issued or accepted and submit or cause to be submitted for recordation any deed, instrument or writing subject to the tax imposed by this article and make any material misrepresentation of fact for the purpose of avoiding all or any part of the tax imposed by this article.

(Ord. No. 661, §17; Ord. No. 1465, §1)

ARTICLE V. AVIATION FUND

Sec. 11-80. Created

Pursuant to the provisions of Government Code Section 26020, there is created an aviation fund, which shall be set forth in each annual budget and be in addition to any other fund allowed by law and shall be known as follows: "Aviation Fund."

(Ord. No. 714, §1; Ord. No. 1465, §1)

Sec. 11-81. Annual tax levy for fund

The board of supervisors shall each year, in the same manner that it provides for the levy and collection of taxes for other purposes, provide for the levy and collection of such taxes as may be necessary to accumulate or maintain the fund for "aviation" in such an amount as may be set forth and provided in each annual budget of the county.

(Ord. No. 714, §2; Ord. No. 1465, §1)

Sec. 11-82. Expenditures

The fund accumulated as provided in this article may be expended for all purposes necessary for the furtherance of the establishing of airports. This includes, but is not limited to, the acquisition of real and personal property by lease or purchase, construction, reconstruction and remodeling of buildings.

(Ord. No. 714, §3; Ord. No. 1465, §1)

ARTICLE VI. TRANSPORTATION FUND

Sec. 11-90. Created

A transportation fund is created in compliance with Government Code Section 29530.

(Ord. No. 791, §1; Ord. No. 1465, §1)

**ARTICLE VII. GROSS RECEIPTS TAX ON EXISTING AND
OFF-SITE MULTIUSER HAZARDOUS WASTE FACILITIES**

Sec. 11-100. Definitions

(a) "Existing hazardous waste facility" is defined in Health and Safety Code section 25148.

(b) "Off-site, multi-user, hazardous waste facility" is defined in Health and Safety Code section 25173.5.

(Ord. No. 1326, §1; Ord. No. 1465, §1)

Sec. 11-101. Imposed; amount

There is imposed upon any existing hazardous waste facility and upon any off-site, multi-user hazardous waste facility within the county a tax, in the amount of ten percent of the annual gross receipts of each such facility.

(Ord. No. 1326, §1; Ord. No. 1465, §1)

Sec. 11-102. Payment

Tax payments are due on the last day of each month and payable by the fifteenth of the next following month. Payments shall be made to the county auditor-controller.

(Ord. No. 1326, §1; Ord. No. 1465, §1)

Sec. 11-103. Regulations

The board of supervisors may, by resolution, adopt rules and regulations governing the administration and interpretation of this article as necessary for the efficient collection of this tax.

(Ord. No. 1326, §1; Ord. No. 1465, §1)

ARTICLE VIII. FEES

Sec. 11-110. General

Unless otherwise required by statute, the county may adopt, by resolution, new fees or increase existing fees after a noticed public hearing.

(Ord. No. 1465, §1; Ord. No. 1520, §1.)

Sec. 11-110.1. Introduction and authority

Under the provisions of the statutes of the State of California, the Solano County Board of Supervisors adopts and implements fees to recover the costs for providing services by county departments and offices as set forth in the exhibits attached to this article and incorporated by this reference.

(Ord. No. 1491, §1; Ord. No. 1644, §1)

Sec. 11-110.2. Agriculture Department

(a) Under the provisions of the Food and Agriculture Code, the Government Code and this ordinance, the County Agricultural Commissioner is authorized to establish those fees for specific services, including services related to predator trapping and control, listed in the department's attached Exhibit "I" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Agricultural Commissioner fees.

(b) Under the provisions of the Business and Professions Code, the Government Code and his ordinance, the County Agricultural Commissioner, on behalf of the Weights and Measures Division, is authorized to establish those fees for the specific services listed in the department's attached Exhibit "I" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Weights and Measures fees.

(Ord. No. 1491, §1; Ord. No. 1624, §1; Ord. No. 1644, §4)

Sec. 11-110.3. Assessor/Recorder

(a) Under the provisions of the Government Code, the Revenue and Taxation Code and this ordinance, the Assessor/Recorder, on behalf of the Assessor's office, is authorized to establish those fees for the specific services listed in the department's attached Exhibit "II" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Assessor fees.

(b) Under the provisions of the Government Code and this ordinance, the Assessor/Recorder, on behalf of the Recorder's Division, is authorized to establish those fees for the specific services as listed in attached Exhibit "II" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Recorder fees.

(Ord. No. 1491, §1; Ord. No. 1520, §1; Ord. No. 1644, §6)

Sec. 11-110.4. Department of Resource Management

(a) Under the provisions of the Government Code, the Health and Safety Code and this ordinance, the Director of Resource Management, on behalf of the Environmental Health Division and its Hazardous Materials section, is authorized to establish those fees for the specific services listed in the department's attached Exhibit "III-A" and

incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Environmental Health and Hazardous Materials fees.

(b) Under the provisions of the Government Code and this ordinance, the Director of Resource Management, on behalf of the Planning Division, is authorized to establish those fees for the specific services listed in the department's attached Exhibit "III-B" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Planning fees.

(c) Under the provisions of the Government Code, the Health and Safety Code, the Public Resource Code and this ordinance, the Director of Resource Management, on behalf of the Building and Safety Division, is authorized to establish those fees for the specific services listed in the department's attached Exhibit "III-C" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Building and Safety fees.

(d) Under the provision of the Business and Professions Code, the Government Code and this ordinance, the Director of Resource Management is authorized to establish those fees for the specific services listed in the department's attached Exhibit "III-D" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to business license fees.

(e) Under the provisions of the Government Code and this ordinance, the Director of Resource Management, on behalf of the Surveyor and County Engineering functions, is authorized to establish those fees for the specific services listed in the department's attached Exhibit "III-E" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Public Works, Engineering and Surveyor fees.

(Ord. No. 1491, §1; Ord. No. 1520; §1; Ord. No. 1644, §9; Ord. No. 1660, §2; Ord. No. 1706, §1; Ord. No. 1728, §1)

Sec. 11-110.5. Public Guardian

Under the provisions of the Government Code and this ordinance, the Public Guardian is authorized, with the approval of the Solano County Courts, to establish those fees for the specific services listed in the office's attached Exhibit "IV" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors and approved by the Solano County Courts relating to Public Guardian fees.

(Ord. No. 1491, §1; Ord. No. 1644, §11)

Sec. 11-110.6. Tax Collector/Treasurer/County Clerk

Under the provisions of the Business and Professions Code, the Government Code, the Health and Safety Code, the Revenue and Taxation Code and this ordinance, the Tax Collector/Treasurer/County Clerk is authorized to establish those fees for the specific services listed in the department's attached Exhibit "V" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Tax Collector/Treasurer/County Clerk fees.

(Ord. No. 1491, §1; Ord. No. 1644, §14)

Sec. 11-110.7. Auditor/Controller

Under the provisions of the Government Code and this ordinance, the Auditor/Controller is authorized to establish those fees for the specific services listed in the department's attached Exhibit "VI" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Auditor/Controller fees.

(Ord. No. 1491, §1; Ord. No. 1520, §1; Ord. No. 1644, §16; Ord. No. 1660, §3; Ord. No. 1706, §2)

Sec. 11-110.8. Registrar of Voters

Under the provisions of the Elections Code, the Government Code and this ordinance, the Registrar of Voters is authorized to establish those fees for the specific services listed in the office's attached Exhibit "VII" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Registrar of Voters fees.

(Ord. No. 1491, §1; Ord. No. 1520, §1; Ord. No. 1644, §18)

Sec. 11-110.9. Clerk of the Board of Supervisors

Under the provisions of the Government Code and this ordinance, the Clerk of the Board of Supervisors is authorized to establish those fees for the specific services listed in attached Exhibit "VIII" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Clerk of the Board of Supervisors fees.

(Ord. No. 1491, §1; Ord. No. 1520, §1; Ord. No. 1644, §20)

Sec. 11-110.10. County Counsel

Under the provisions of the Government Code and this ordinance, the County Counsel is authorized to establish the legal fees for the specific services listed in the department's attached Exhibit "IX" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to County Counsel fees.

(Ord. No. 1491, §1; Ord. No. 1520, §1; Ord. No. 1644, §23)

Sec. 11-110.11. County Administrator

Under the provisions of the Government Code and this ordinance, the County Administrator is authorized to establish those fees for the specific services listed in the department's attached Exhibit "X" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to County Administrator fees.

(Ord. No. 1491, §1; Ord. No. 1644, §24)

Sec. 11-110.12. Department of Health and Social Services

Under the provisions of the Government Code, the Health and Safety Code and this ordinance, the Health and Social Services Director is authorized to establish those fees for the specific services in the areas of public health laboratory, public health nursing, medical and dental case listed in the department's attached Exhibit "XI" and incorporated by this reference. The fee schedule includes a sliding scale for reducing charges based upon income as appropriate and on a methodology approved by the Board of Supervisors. With the exception of the use of the approved sliding scale methodology, this fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Health and Social Services fees.

(Ord. No. 1491, §1; Ord. No. 1644, §28)

Sec. 11-110.13. Public Defender

(a) Under the provision of the Government Code, the Penal Code, the Welfare and Institutions Code and this ordinance, the Public Defender is authorized to establish the legal fees for the specific services listed in the department's attached Exhibit "XII" and incorporated by this reference.

(b) This ordinance also implements the provisions of Penal Code section 987.5 and Welfare and Institutions Code section 903.15. These sections provide that every defendant in an adult criminal court and the parent or other person liable for the support of a minor named in a 601 or 602 petition of the juvenile court, shall be assessed a registration fee not to exceed \$25.00 when represented by appointed counsel, unless he or she is unable to pay the fee.

(c) The Solano County Courts or the Public Defender, Conflict Public Defender or Other Public Defense offices are authorized to assess and collect a \$25.00 registration fee, or any portion of it, on behalf of the Public Defender, Conflict Public Defender or other appointed counsel. The funds shall be deposited in the appropriate revenue accounts of the Public Defender, Conflict Defender and other Public Defense budgets.

(d) Any fees collected shall be credited against any other charges for legal representation assessed under the Penal Code section 987.8 and Welfare and Institutions Code section 903.1 and 903.45.

(e) This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Public Defender fees.

(Ord. No. 1644, §31)

Sec. 11-110.14. Sheriff/Coroner

Under the provisions of the Government Code, the Health and Safety Code, the Penal Code and this ordinance, the Sheriff/Coroner is authorized to establish fees for the specific services listed in the department's attached Exhibit "XIII" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Sheriff/Coroner fees.

(Ord. No. 1644, §32)

Sec. 11-110.15. Probation

Under the provisions of the Government Code, the Penal Code, the Welfare and Institutions Code and this ordinance, the Chief Probation Officer is authorized to establish those fees for the specific services listed on the department's attached Exhibit "XIV" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Probation fees.

(Ord. No. 1644, §33)

Sec. 11-110.16. County Library

Under the provisions of the Education Code, the Government Code and this ordinance, the County Librarian is authorized to establish those fees for the specific services listed on the department's attached Exhibit "XV" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to County Library fees.

(Ord. No. 1644, §34)

Sec. 11-110.17. Department of Resource Management/Parks, Recreation and Other Public Property

Under the provisions of the Government Code, the Public Resource Code, Solano County Code Chapter 19 and this ordinance, the Director of Resource Management, is authorized to establish those fees for the specific services listed on the department's attached Exhibit "XVI" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Park, Recreation and use of Public Property fees.

(Ord. No. 1644, §36; Ord. No. 1711, §1; Ord. No. 1728, §2)

Sec. 11-110.18. Sheriff/Coroner/Animal Care and Control

Under the provisions of the Food and Agriculture Code, the Government Code, Solano County Code section 4-22 and this ordinance, the Sheriff/Coroner, on behalf of the Animal Care and Control Division, is authorized to establish those fees for the specific services listed in attached Exhibit "XVII" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Animal Care and Control fees.

(Ord. No. 1644, §37; Ord. No. 1728, §3)

Sec. 11-110.19. Department of Human Resources

Under the provisions of state law and this ordinance, the Director of Human Resources is authorized to establish those fees for the specific services listed in the department's attached Exhibit "XVIII" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Human Resources fees.

(Ord. No. 1660, §1; Ord. No. 1706, §3)

Sec. 11-110.20 Department of Child Support Services

Under the provisions of the Federal Deficit Reduction Act of 2005, Public Law 109-171, California Family Code section 17208(c) and this ordinance, the Director of Child Support Services is authorized to establish those fees for the specific services listed in the department's attached Exhibit "XIX" and incorporated by this reference. This fee schedule repeals all prior fee schedules adopted by the Board of Supervisors relating to Department of Child Support Services' fees.

(Ord. No. 1728, §4)

Sec. 11-111. Miscellaneous department and offices

(a) Under the provisions of the Government Code and this ordinance, each county department or office not otherwise specifically granted photocopy cost recovery authority, is authorized to charge a fee for photocopies as set forth in the County Administrator's fee schedule Exhibit "X".

(b) Under the provisions of the Government Code and this ordinance, each county department or office not otherwise specifically authorized to charge an hourly rate for research, is authorized to charge a fee for research as set forth in the Clerk of the Board of Supervisors' fee schedule Exhibit VIII.

(c) Under the provisions of the Government Code and this ordinance, each county department or office not otherwise granted authority to charge a fee for returned checks, is authorized to establish the fee for returned checks as set forth in the Treasurers/Tax Collectors/County Clerk's fee schedule Exhibit "V".

(d) Any county department or office granted specific authority by a statute, ordinance or resolution for either of the fees in subdivisions (a) and (b) shall charge the amount for such fees as established by that specific authority, and not the fees set forth in this section.

(Ord. No. 1465, §1; Ord. No. 1644, §38; Ord. No. 1660, §4)

Sec. 11-112. Repealed

(Ord. No. 1465, §1; Ord. No. 1644, §26.)

Sec. 11-113. Repealed

(Ord. No. 1465, §1; Ord. No. 1644, §29)

Sec. 11-114. Repealed

(Ord. No. 1474, §1; Ord. No. 1644, §13.)

Sec. 11-115. Repealed

(Ord. No. 1488, §1; Ord. No. 1644, § 27.)

Sec. 11-116. Repealed

(Ord. No. 1533, §1; Ord. No. 1644, §30.)

Sec. 11-117. Repealed

(Ord. No. 1624, §2; Ord. No. 1644, §35.)

ARTICLE IX. REVENUE

Sec. 11-120. Revenue--Jail incarceration

(a) In any case in which a defendant is convicted of an offense and is ordered to serve a period of confinement in the county jail, after the effective date of the ordinance codified in this section, in either the county jail or the sentenced prisoner facility as a term of probation or a conditional sentence, the court may, after a hearing, make a determination of the ability of the defendant to pay all or a portion of the reasonable cost of such incarceration, including incarceration pending disposition of the case. The reasonable cost of such incarceration shall not exceed that amount determined by the board of supervisors, pursuant to an adopted ordinance of the board, to be the actual average cost thereof on a per-day basis. The court may, in its discretion before such hearing, order the defendant to file a statement setting forth his or her assets, liabilities and income, under penalty of perjury, and may order the defendant to appear before the

county officer designated by the board of supervisors to make an inquiry into the ability of the defendant to pay all or a portion of such costs. The court may hold additional hearings from time to time while the defendant is on probation, which hearings shall be limited to the issue of the defendant's ability to pay that amount of reimbursement previously determined, unless said additional hearing arises from and relates to, determination of additional costs of incarceration resulting from the modification or revocation of the court's prior probationary orders upon judgment and sentence. At any hearing, the defendant shall be entitled to have the opportunity to be heard in person or to be represented by counsel; to present witnesses and other evidence; and to confront and cross-examine adverse witnesses. A defendant represented by counsel appointed by the court in the criminal proceedings shall be entitled to such representation at any hearing held pursuant to this section. If the court determines that the defendant has the ability to pay all or a part of the costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Execution may be issued on the order in the same manner as on a judgment in a civil action. The order to pay all or part of the costs shall not be enforced by contempt.

If practicable, the court shall require that any payment ordered shall be made on a monthly basis and the payments shall be made payable to the county officer so designated by the board of supervisors, or the officer's designee.

A payment schedule for reimbursement of the costs of incarceration pursuant to this section, based upon income, shall be developed by the county officer so designated by the board of supervisors, or that officer's designee, and approved by the presiding judges of the municipal and superior courts.

(b) The term "ability to pay" means the overall capability of the defendant to reimburse the costs or a portion of the costs of incarceration, and shall include, but shall not be limited to, the defendant's

(1) Present financial obligations, including family support obligations and fines, penalties and other obligations, to the court. Such costs shall be viewed as the primary financial responsibility of the defendant, the payment of which shall have priority over the determination of the sums to be reimbursed under this section.

(2) Reasonably foreseeable future financial position base years' estimated future earnings and other income.

(3) Likelihood that the defendant shall be able to obtain employment within the one-year period from the date of the hearing.

(4) Any other factor or factors which may bear upon the defendant's financial ability to reimburse the county for costs.

(c) All sums paid by a defendant pursuant to this section shall be deposited into the general fund of the county.

(d) The board of supervisors shall determine the average per-day costs of incarceration in the county jail or sentenced prisoner facility, and shall adopt the average per-day cost by ordinance of the board as the maximum amount to be repaid for each day of incarceration by a prisoner under this section. The board of supervisors shall review the average per-day costs of incarceration annually, and amend its ordinance of determination in accordance with its findings.

(e) The board of supervisors designates the Sheriff, or that officer's designee, as the county officer who shall make inquiry into the ability of a defendant to pay all or a portion of incarceration costs, and to develop a payment schedule for reimbursement, once determined by the courts. All payments for incarceration costs shall be made to the officer designated herein, or that officer's designee.

(Ord. No. 1284, §1; Ord. No. 1331, §1; Ord. No. 1465, §1)

Sec. 11-121. Criminal justice administration fee

(a) **Purpose and authority.** This ordinance implements the provisions of California Government Code sections 29550 and 29550.2, that provide for the imposition of a criminal justice administration fee, commonly referred to as a booking fee.

(b) **Booking fee imposed on designated governmental entities.** There is imposed upon every city, special district, school district or community college school district in the county, a booking fee for the reimbursement of county expenses incurred with respect to the booking or other processing of persons arrested by an employee of such city, special district, school district or community college and brought to a county detention facility for booking or detention. The fee imposed will not exceed the actual administrative costs, including applicable overhead costs as permitted by federal Circular A-87 standards, as defined in Government Code Section 29550, subdivision (d), or its successor. The Board of Supervisors will apportion the fee between the book and detain process and the book and release process.

(c) **Booking fee imposed on convicted persons.** There is imposed upon every convicted person whom any government entity not specified in subdivision (b) arrests and books into a county detention facility, a booking fee for administration costs incurred with respect to the arrest and booking. The fee imposed will not exceed the actual administrative costs, including applicable overhead costs as permitted by federal Circular A-87, as defined in Government Code section 29550.2, subdivision (c), or its successor. The Board of Supervisors will apportion the fee between the book and detain process and the book and release process.

(d) **Auditor-controller report.** On or before November 30 in each calendar year, or as otherwise ordered by the Board of Supervisors, the Auditor-Controller will report to the Board of Supervisors the actual administrative costs incurred in booking or otherwise processing arrested persons. The report will constitute any proposed booking fee.

(e) **Public hearing.**

(1) After its receipt of the Auditor-Controller's report and if the report supports a change in the prevailing booking fee, the Board of Supervisors will set a date for a public hearing to consider adoption of the proposed fee. Before the hearing, any governmental entity specified in subdivision (b) and any person may file written objections to the proposed fee with the clerk of the board. The hearing will take place at a regularly scheduled meeting of the Board of Supervisors, when any person may provide an oral or a written presentation on the proposed fee.

(2) The clerk of the board will publish a notice of the time and place of the hearing, including a general explanation of the proposed fee, as required by Government Code section 66018.

(3) The clerk of the board will mail a notice of the time and place of the hearing, including a general explanation of the proposed fee, a statement that the data supporting the proposed fee is available for inspection and review and a copy of the Auditor-Controller's report, to every city, special district, school district and community college district in the county.

(f) **Fee determination.**

(1) After the public hearing, the Board of Supervisors will make written findings on the Auditor-Controller's report and on each written objection received, will determine the amount of the booking fee, will apportion the fee between the booking and detain process and the booking and release process, and will adopt the fee by resolution. The booking fee will be listed on the Sheriff's Department's fee schedule, Exhibit XIII to Solano County Code section 11-113.

(2) The clerk of the board will mail certified copies of the board's findings and resolution to every city, special district, school district and community college district in the county, the presiding judge of the Solano County Courts and the county's chief probation officer.

(3) The Auditor-Controller and the Sheriff will jointly review annually the booking fee to verify its accuracy.

(g) **Collection of booking fees.**

- (1) The Sheriff will submit a quarterly invoice to every city, special district, school district and community college district in the county, for the booking fees owed by each governmental entity.
- (2) If any invoice remains unpaid after thirty days, the county may retain up to one-half of the property taxes to which the governmental entity may otherwise be entitled, but not to exceed the amount of the invoice, including accrued interest.
- (3) Any invoice that remains unpaid after thirty days will bear interest at the legal rate established under California Code of Civil Procedure section 685.010 on the unpaid balance.
- (4) The Sheriff will notify the Solano County Courts and the probation department that the booking fee under Government Code section 29550.2 is due and will request enforcement.
- (h) **Regulations.** The Sheriff may adopt regulations governing the application and administration of the booking fee.
- (i) **Severability.** If any provision of this ordinance or its application to any governmental entity, person or circumstance is held invalid, the remainder of the ordinance or the application of such provision to other entities, persons or circumstances will not be affected.

(Ord. No. 1463, §1; Ord. No. 1465, §1; Ord. No. 1486, §1; Ord. No. 1606)

Sec. 11-122. Same--Property tax administrative cost recovery

- (a) **Purpose and authority.** This ordinance implements in Solano County the provisions of Revenue and Taxation Code section 97 [1990 Statutes, chapter 466, section 4 (SB 2557)] which provides for the recovery by counties of property tax administrative costs.
- (b) **Property tax administrative cost recovery.** In each fiscal year, the county shall receive from, or on behalf of, every incorporated city and every other local jurisdiction for which the county provides property tax assessment and collection services, an amount equal to the county's property tax administrative costs proportionately attributable to each incorporated city or local jurisdiction for the previous year.
- (c) **Local jurisdiction--defined.** "Local jurisdiction" means the County of Solano and every school district, redevelopment agency, special district, or other governmental entity, excepting incorporated cities, for or on behalf of which the county provides property tax assessment or collection services.

(d) **Auditor-controller report.** In every fiscal year the auditor-controller shall report to the board of supervisors the property tax-related costs of the assessor/recorder, tax collector/county clerk, and auditor, including the applicable administrative overhead costs permitted by the federal circular A-87 standards last approved by the State of California for the County of Solano, for the previous fiscal year, proportionately attributable to each incorporated city and to each local jurisdiction in the ratio of property tax revenue received by each incorporated city and local jurisdiction divided by the total property tax revenue received by all incorporated cities and local jurisdictions in the county for the previous fiscal year. Such report shall constitute proposed charges against each incorporated city and local jurisdiction for its proportion of such administrative costs.

(e) **Public hearing.**

(1) After its receipt of the report from the auditor-controller of the property tax related costs of the assessor/recorder, tax collector/county clerk and auditor proportionately attributable to each incorporated city and local jurisdiction in the county for the previous year, the board of supervisors and the auditor-controller shall jointly hold a public hearing at which any incorporated city and local jurisdiction may file written objections to the report of the auditor-controller, and at which any person may make oral or written presentations concerning the report, at a regularly scheduled meeting of the board of supervisors.

(2) The clerk of the board shall publish notice of the time and place of the hearing and a general explanation of the matter to be considered as required by Government Code section 54994.1; and the clerk of the board shall mail notice of the hearing, including a general explanation of the matter to be considered and a statement that the data required by the section is available for on at the office of the clerk of the board, as required by Government Code section 54986, together with a copy of the report to every incorporated city and local jurisdiction in the county.

(f) **Findings and determinations.**

(1) After the hearing, the board of supervisors shall severally make findings and determinations on the report and on each written objection received, and the board of supervisors and the auditor-controller shall severally determine the property tax administrative costs proportionately attributable to each incorporated city and to each local jurisdiction for the prior fiscal year.

(2) The clerk of the board shall give notice to every incorporated city and to each local jurisdiction in the county of such findings and determinations.

(g) **Correction of property tax administrative costs.**

(1) For the purpose of the computations required by Revenue and Taxation Code section 97, the amount of property tax presumed to have been received by the county in the prior fiscal year shall be increased by the amount of property tax administrative costs for the prior fiscal year attributable to incorporated cities.

(2) The auditor-controller shall offset the amount owed by each city and the amount owed by each school district or community college district against property taxes due to the city and shall submit an invoice to all other local jurisdictions other than the county for the property tax administrative costs for the prior year attributable to such local jurisdiction.

(3) In addition to any remedy otherwise available to it, the county may retain up to one-half of any increased property tax allocation to which an incorporated city or a local jurisdiction may otherwise be entitled, but not to exceed the amount of property tax administrative costs to which the county is entitled plus accrued interest.

(4) Any invoice for property tax administrative costs which remains unpaid in whole or in part after 30 days and for which the county is unable to retain increased property tax allocations, shall bear interest at the legal rate per annum established pursuant to section 685.010 of the Code of Civil Procedure, on the unpaid balance thereof.

(h) **Fee determination.** After hearing and after making findings and determinations on the report and the written objections received, the board of supervisors may adopt or amend an ordinance determining the amount of the costs to be recovered for property tax administration.

(i) **Amount of fee.** The initial amount of the fee to be charged under provisions of this ordinance shall be based upon the results of an independent study, and the amount shall be reviewed annually to verify the accuracy of the costs to be recovered, and amended as necessary, pursuant to this ordinance.

(j) **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 each 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 be declared invalid or unconstitutional.

(Ord. No. 1461, §1; Ord. No. 1465, §1)

Sec. 11-123. Parimutuel Wagering

(a) Pursuant to the provisions of Business and Professions Code sections 19610.3 or 19610.4, the County of Solano elects to receive a distribution of the proceeds of parimutuel wagers made at the Solano County Fairgrounds.

(b) At such time after January 1, 1996 as the County of Solano elects to impose or imposes a license tax, possessory interest tax, excise tax, or fee as described in Business and Professions Code sections 19610.3 or 19610.4, then this ordinance shall no longer be operative until such time as the payment of possessory interest taxes assessed after January 1, 1996, on which the county has a right to levy as an escape assessment are satisfied as provided in Section 19610.3 or 19610.4.

(Ord. No. 1522, §§1, 2, 3.)

ARTICLE X. PUBLIC FACILITIES FEES**Sec. 11-130. Findings**

(a) Beginning in January 1990, the Board of Supervisors and county staff have continued to express concern that new residential, commercial and industrial development in the county was placing increasing demands on a variety of county facilities. This concern was evidenced by Resolution 90-16 of the Solano County Board of Supervisors, which was jointly adopted by all of the cities in the County.

(b) To this point, new development has not borne its fair share of the cost for additional County public facilities.

(c) Resolution No. 90-16 led to the hiring by the County of Recht Hausrath & Associates to identify the needs for new public facilities caused by additional residential, commercial and industrial development in the county, and to advise the county on appropriate means of recovering those costs. A study made available to the public, dated August 2, 1991, entitled SOLANO COUNTY "THE COST OF GROWTH" (the Initial Report) by Recht Hausrath & Associates, incorporated herein by reference as Exhibit "A", identified a number of categories of facilities for which new development triggers additional public facility needs. Background technical information and raw data sources were also provided for public review.

(d) The Initial Report estimates public facilities needs based on population growth. The population growth estimates and the resulting estimated public facilities needs are reasonable and consistent with the Board of Supervisor's knowledge of and experience in county affairs.

(e) County public facilities needs have grown with population in the past, and will continue to grow at least as fast as the population. New residents and employees are likely to require the same services as the county now provides to existing residents and

employees. In fact, the public facilities needs projected by the Initial Report are conservative, since they are based on providing the existing level of services to an expanding population, while the county's goal is to provide many services at a higher level in the future.

(f) The Initial Report fairly allocates the fee, in general, equally within the different cities in the county, and fairly allocates additional costs to unincorporated areas for the same county-wide public facilities and services furnished in those areas.

(g) The Initial Report fairly identifies services which are affected primarily by residential development, such as juvenile justice. It fairly allocates between residential, commercial and industrial development the costs of providing new public facilities needed as a result of residential, commercial and industrial development.

(h) The amount of the fees to be charged shall be adopted by the Board of Supervisors by this Ordinance, based upon the results and consideration of the AB1600 Final Report, entitled "Solano County, The Cost of Growth", Phase Two, (The Final Report) incorporated herein by reference, as Exhibit "B". The Final Report specifically identifies the purpose of the fees, identifies the uses to which the fees may be put and for what groups of public facilities the fees may be expended. The Final Report sets forth findings as to the reasonable relationship between the fee and the type of development projects for which the fee will be imposed, and also sets forth findings as to the reasonable relationship between the needs for public facilities and the type of development project on which the fee will be imposed.

(i) The Final Report fairly reflects the public facilities needs which are generated by new residents and employees, respectively, from development. The Initial Report reasonably applied residential densities and employment densities for different land uses in calculating the fee. The fees specified fairly represent the variations in resident and employee demand for services. The variation of the fee between residential, commercial and industrial is reasonable, and is not large enough to make the fee unreasonable for particular projects within each category.

(j) The costs estimated for constructing public facilities are reasonable in light of the Board's experience with planning, design and construction of county public facilities, and the conservative assumptions of the Initial Report on such points as financing, inflation and building standards. Higher costs are appropriately assigned to certain public facilities, such as criminal justice facilities, including jails.

(k) This ordinance properly limits use of all fees collected to public facilities, improvements, fixed assets and furnishings attributable to new development, and further limits use of fees to specific categories of facilities and improvements until and unless subsequent evidence justifies reallocation.

(l) Fees collected under this ordinance will go toward public facilities for county-wide services. The most conservative judgment supports the finding that facilities of at least the type provided for by this ordinance will be needed. It is not possible to specify now the location of individual facilities. In any event, a necessarily tentative attempt to specify the potential location, schedule or design would not materially affect the fee amount, since neither the need nor the services will generally be geographically differentiated. Nonetheless, such an attempt would add significantly to the delay and expense of implementing fees, adversely affecting both those paying the fee and county taxpayers in general.

(m) Development within incorporated cities will cause more than ninety percent of the demand for new public facilities in the identified categories. The County has incorporated into its general plan the concept that what is urban development should be municipal. Substantially greater development outside the existing cities would cause unacceptable loss of productive agricultural land.

(n) The cities do not and cannot provide the identified public facilities and the related services, while the county is required to do so.

(o) Development within the cities should pay a fair share toward the new public facilities which it requires. Otherwise, the costs of those public facilities will be growth and unfairly borne by other county taxpayers, specifically those residing in the unincorporated area of the county, or will unfairly reduce the level of service provided to present county residents.

(p) In order to recover its costs resulting from development within cities, the county must exercise authority over that development, solely to the extent of requiring payment of a fee.

(q) The purpose of the fees required by this ordinance is to pay for costs of additional public facilities, improvements, fixed assets and furnishings used to provide sheriffs services in the jails, justice services, general administration, public and mental health services, public assistance services, regional parks, libraries and animal shelters.

(r) The fees received pursuant to this ordinance are to be used to assess the need for, plan, design, construct, develop, lease-purchase and otherwise acquire the public facilities, improvements, fixed assets and furnishings identified in the preceding paragraph.

(s) Residential projects and commercial and industrial improvements bring additional residents and employees into the County. Those residents and (except as specified in the Initial Report and not charged fees under this ordinance) those employees will need social, health and mental health, probation, jail, justice and county administrative services, parks, veterans services, animal shelters and libraries.

(t) Fees collected under this ordinance will be used to fund public facilities required to furnish the services listed in subdivision (q), as more specifically described in the AB1600 study, Exhibit "B". These services and public facilities are needed as a result of the additional residents and employees in the developments which pay the fee.

(u) 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. This 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.

(v) 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 county services are provided.

(Ord. No. 1446, §1; Ord. No. 1465, §1)

Sec. 11-131. Definitions

(a) **Construction** for which fees apply means all residential, multi-family, commercial, manufacturing, office, retail and wholesale buildings, as defined in the applicable building and/or zoning ordinances of each city in Solano County, and in the building and zoning ordinances of the County itself.

(b) **Exempt construction** means

(1) those projects for which a building permit was issued prior to October 26, 1992, or the effective date of this ordinance, whichever is later, or

(2) projects which do not otherwise require the payment of city development fees due to their minor nature.

(Ord. no. 1446, §1; Ord. No. 1465, §1)

Sec. 11-132. Authorization required

After October 26, 1992, or the effective date of this ordinance, whichever is later in time, all construction not otherwise exempt pursuant to provisions of Section 11-131(b), shall be subject to and pay the county public facilities fee. Such development fee shall be paid and collected as provided in Sections 11-133 and 11-134. Construction and development shall not be otherwise regulated under this ordinance.

(Ord. No. 1446, §1; Ord. No. 1465, §1)

Sec. 11-133. Payment of fee

(a) **Time for Payment of Fee.** Fees for applicable development shall be paid prior to the issuance of the certificate of occupancy, or at the time of final inspection, whichever comes first, or, if the provisions of Government Code section 66007 are met, at the time of issuance of a building permit for any non-exempt construction under the provisions of this ordinance. Government Code section 66007 requires that to collect fees at the building permit stage, an account has to be established for the fees to be collected and funds appropriated, and the board has to adopt a proposed construction schedule or plan prior to final inspection of issuance of the certificate of occupancy.

(b) **Fee Amounts.** Except to the extent reduced by an in-lieu contribution approved pursuant to subdivision (d), which in-lieu contribution will only apply to development within the unincorporated areas of the county, fees under this section shall be payable in those specific amounts designated by the board of supervisors, and amended from time to time by board resolution. The amount payable shall be reduced by the amount of any fee charged to the developer by any other jurisdiction to provide funding for the same county facilities. During the first five calendar years beginning after adoption of this ordinance, the board of supervisors may, without a further study such as the Initial Report, adjust by resolution the fee amounts one time annually based on the percentage increase in the Engineering News Record Construction Cost Index or a similar index which measures typical construction costs for facilities generally similar to those to be built by the county.

(c) **Appeal.**

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

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

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

(A) A statement that the required payment is tendered, 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 the dispute and the legal theory forming the basis of the protest.

(3) The protest must be filed no 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 section 66020 et seq.

(d) **Demolition or destruction offset.** Where a building permit is issued within two years after demolition on the same lot, or where new construction replaces a structure on the same lot which was damaged or destroyed by fire, earthquake or other causes similarly beyond the owner's control, the amount of new construction taken into account under this ordinance shall be reduced by the number of square feet which were demolished or destroyed.

(e) **In-lieu Contribution.** The county may authorize for affected development within the unincorporated areas of the county, in connection with approval of a subdivision map or any other development approval subject to a required public hearing before any agency of the county, the substitution of completed facilities or another contribution of at least equivalent value to the public facilities fee in place of all or part of the fees required under this ordinance. The facilities or other contribution must reduce the need for new county public facilities in one or more of the areas specifically identified in this ordinance as being supported by these fees. Where the facilities or other contribution exceed in value the fee amount in the category or categories in which a benefit is provided, the county may (but shall not be required to) credit the excess value against fees in other categories and may further provide for a compensating allocation to the other categories of future fee receipts from the category in which a benefit is provided.

(f) **Information Required.** Where the county is to issue a building permit, the person liable for the fee shall submit to the Department of Environmental Management such information as the Department may require to calculate the amount due, or, where a city certifies square footage and use, or number of dwelling units, pursuant to section 11-134(b), the information necessary to calculate the fee shall be submitted to the city by the applicant.

(Ord. No. 1446, §1; Ord. No. 1465, §1)

Sec. 11-134. City collection of fees

(a) **Collection of fee.** Each incorporated city within the county shall, pursuant to a separate agreement entered into between that city and the county, collect the fee required under the provisions of this ordinance, and in the amount as may be amended by subsequent county resolution, on behalf of the county. The city will collect a fee for all non-exempt property pursuant to provisions of this ordinance and the attached AB1600 study, or as that fee may be modified from time to time, at the time of the issuance of a certificate of occupancy or upon final inspection, whichever occurs first, or if the provisions of Government Code Section 66007 are met, at the time of issuance of a building permit.

(b) Remitting of fee by city. Each city shall remit to the County, on a quarterly basis, the sum of those fees collected during that quarter. The quarter shall be based upon a fiscal year quarter. The remittance shall be less any administrative charges as set out in (c) below.

(c) Administrative charge for city. Each city which collects the county facilities fee pursuant to subsection (a) and pays the fee to the County Tax Collector pursuant to subsection (b) shall be entitled to retain an administration charge specified pursuant to section 11-136.

(d) County to defend. Upon reasonable notice by a city after notice of any claim or challenge, the county will defend, at its expense and with counsel of its choice, indemnify and hold harmless any city for any losses incurred as a result of implementation of the collection system, including claims, demands, protest, or causes of action and /or judgments, including attorneys fees and costs, except to the extent of the city's own willful misconduct or gross negligence.

(Ord. No. 1446, §1; Ord. No. 1465, §1)

Sec. 11-135. Use of fees

(a) Fee allocation. The County Auditor-Controller shall allocate all fees received into accounts corresponding to the categories of facilities shown in the Final Report, attached to this ordinance. The amount so allocated shall be the fee amount attributable to the respective category of facilities under the Final Report (as it may be adjusted from year to year). The County Auditor-Controller shall maintain such accounts from year to year.

(b) Use limitation. Amounts in each of the accounts shall be expended exclusively to determine the necessity of, plan, design, carry to completion, acquire or lease-purchase expanded or additional public facilities of the type corresponding to that fund, except as provided in subsections (1) and (2) below. In no event shall any fee collected pursuant to this ordinance (other than an administrative or processing charge) be expended for any purpose other than expanded or additional public facilities described in the Final Report.

(1) Funds may be advanced from one account to another where the advance is for public facilities which are proceeding sooner than those public facilities to be funded by the account from which the advance is furnished, and where the advance will be repaid from future fee revenue allocations to the account receiving the advance.

(2) Funds may be transferred between accounts where the transferred amount is used for a public facility for which the actual cost attributable to new development as shown by subsequent evidence exceeds the corresponding amount estimated by the

Initial Report, provided that this subsection provides no authority to increase in any respect the aggregate fee amount payable by any development.

(c) Government Code requirements. The County Auditor-Controller shall deposit, invest and account for all fees received under this ordinance pursuant to California Government Code section 66006 (and any successor provision). AR fees received under this ordinance and not expended or committed within five (5) years after receipt shall be refunded pursuant to California Government Code § 66001 (and any successor provision), unless the county otherwise complies with the requirements of section 66006.

(d) Reference to Initial Report A determination as to whether a facility falls within any category in the Final Report shall be made with reference to the Initial Report and if necessary, its background information.

(e) Annual Report. An annual report shall be prepared by the county and provided to all cities to account for the use of all the fees collected under this ordinance. This report shall be prepared pursuant to the provisions of Government Code section 66006. The cities will provide any fiscal information relative to the collection of these fees that is requested by the Auditor-Controller, in order to facilitate the preparation of these reports.

(Ord. No. 1446, §1; Ord. No. 1465, §1)

Sec. 11-136. Administration

(a) Charge. The County Auditor-Controller shall determine the estimated costs of administration of this ordinance and may recommend to the board of supervisors a charge to recover those costs. Initially, costs shall be estimated and the board may establish a charge separately, by ordinance, for at least the following two types of administration:

(1) Administration through a city which collects and pays over to the county the county facilities fee pursuant to Section 11-135(a). In lieu of an administrative charge based upon the calculations set forth herein a city may elect to retain the interest earned on those fees collected while the city retains the fees, prior to remittance at the end of each quarter. The latter option has been selected by all of the cities for the recovery of all administrative charges, at least initially.

(2) Administration by the county, including any additional costs resulting from implementing a county review process to identify applicable developments and carry out this ordinance, or from analysis by the county, not otherwise required, of the number of dwelling units, use or square footage of a development, in order to determine the facilities fee payable.

(3) The board of supervisors may, by ordinance, modify or terminate any charge set under this section and may establish additional charges related to administration of this ordinance.

(b) Additional rules and regulations. The board of supervisors may adopt by resolution rules, regulations, guidelines and procedures for administration of this ordinance. The County Department of Environmental Management shall provide for availability of pre estimates of fees payable by impacting developments. The Environmental Management Department, County Assessor and County Auditor-Controller may each adopt such further rules or regulations not in conflict with any action of the board of supervisors, as may be appropriate to carry out this ordinance.

(Ord. No. 1446, §1; Ord. No. 1465, §1)

Sec. 11-137. Enforcement

(a) 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 and the payment of the fees required hereby may be suspended by a court of competent jurisdiction. Violation of this ordinance interferes with provision of public services, and shall be a public nuisance.

(b) Costs of securing compliance. Any person or entity not in compliance with this ordinance shall be liable, in addition to other amounts provided for in this section, for attorneys' fees, or the reasonable costs of staff legal services incurred by the county, and all other reasonable costs of securing compliance, including the collection of the fees.

(c) Interest. Interest shall accrue on all fees not paid when due pursuant to this ordinance 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.

(Ord. No. 1446, §1; Ord. No. 1465, §1)

Sec. 11-138. Termination of ordinance as it applies to cities

It is provided that the provisions of this ordinance, as they apply to the imposition and collection of capital facilities fees by the cities in Solano County on behalf of the County, for non-exempt construction within the incorporated limits of cities, shall terminate upon any of the following events occurring:

(a) The county board of supervisors fails to adopt, impose, and levy a Solano County Public Facilities Fee as authorized by provisions of Government Code section 66000 et seq.

(b) The county fails to maintain the land use policy of "what is urban shall be municipal," or unreasonably modifies, amends, or alters the Solano County General Plan to increase existing densities or existing designations of residential, commercial and industrial land uses as presently in place or presently under study, and so long as existing county land uses are subject to limitations on land use development similar to those provided by County Measure "A," whether those provisions continue in effect by act of the electorate or are imposed by the board of supervisors.

(c) The county public facilities fee to be collected by cities is greater than the rate imposed on development occurring in the unincorporated areas of the county.

(d) The county fails to adopt a public facilities capital improvement plan in support of said fee, such plan having been initially adopted, and thereafter annually updated, following a noticed public meeting between representatives of the county and the cities within the county, so that close cooperation can be maintained between the county and the cities within the county with respect to the capital improvements proposed to be funded by the county public facilities fee.

(Ord. No. 1446, §1; Ord. No. 1465, §1; Ord. No. 1466, §1.)

Sec. 11-139. Severability

If any provision of this ordinance, or its application to any person or circumstances, shall be held invalid or unenforceable, the remainder of this ordinance shall not be affected; the provisions of this ordinance are intended to be severable. If the amount of any fee payable under this ordinance is held excessive, or invalid or unenforceable in part, the remainder of the fee shall nonetheless be due and payable.

(Ord. No. 1446, §1; Ord. No. 1465, §1)

**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.)

ARTICLE XII. BUSINESS LICENSE TAX

Sec. 11-160. Tax imposed

Pursuant to the authority granted by Revenue and Taxation Code section 7284, as amended, there is established and imposed a business license tax on those activities and in those amounts specified below:

(a) Solid waste disposal at the base rate of five dollars (\$5.00) per ton of waste deposited at a licensed solid waste disposal facility, which rate shall be reduced to three dollars (\$3.00) per ton of waste deposited upon the occurrence of the three conditions set forth in paragraphs (1) and (2) below, and to remain at the three dollar base rate until December 31, 2013, except for annual adjustments based upon the Bay Area Economic Consumer Index (ECI), so long as the conditions set forth in subsections (1) and (2) below are in effect.

(1) The Potrero Hills Landfill operator shall have received all necessary approvals from the County, including a Conditional Land Use Permit and a Marsh Development Permit, to allow for the receipt of expanded tonnage and/or Potrero Hills and Hay Road landfills reach an agreement for disposal of waste tonnage in the County which are in excess of the current permitted limit at Potrero Hills; and

(2) That the present exemption set forth under Section 11-163(f)(2) of this code for placement of asbestos materials in landfills, under the Solid Waste Mitigation Fee shall be eliminated.

(b) Well drilling mud disposal at the base rate of twenty cents (\$0.20) per ton of well drilling mud deposited at a licensed drilling mud disposal facility.

(c) Electrical energy produced by commercial wind turbine generators at the base rate of three one-thousandths of one cent (\$0.00003) per kilowatt hour of electrical energy generated.

(Ord. No. 1470, §1; Ord. No. 1496, §1; Ord. No. 1680, §1.)

Sec. 11:161. Purpose of tax

This tax is enacted solely to raise revenue for general governmental purposes of the County and not for regulation. All of the proceeds from the tax imposed by this chapter shall be placed in the County's general fund and used for the usual current expenses of the County, however incurred.

(Ord. No. 1470, §1; Ord. No. 1496, §1; Ord. No. 1680, §1)

Sec. 11-162. Effect of other ordinances

Persons required to pay a license tax for transacting and carrying on any business under this chapter shall not be relieved from the payment of any license fee for the privilege of doing such business required under any other ordinance of the County and shall remain subject to the regulatory provisions of other ordinances.

(Ord. No. 1470, §1; Ord. 1496, §1; Ord. No. 1680, §1)

Sec. 11-163. Definitions

(a) Commercial wind turbine generator means a wind-driven machine that converts wind energy into production of electrical power for the primary purpose of resale or off-site use.

(b) Drilling mud waste means all drilling mud derived from the development and production of oil and natural gas wells.

(c) Kilowatt hours (kwh) means a measurement of electrical energy produced by commercial wind turbine generators in kilowatts per hour.

(d) Licensed drilling mud waste disposal facility means any facility or location where disposal of drilling mud occurs and is permitted by the local land use authority which has permit authority over the use, location or operation of the facility.

(e) Licensed solid waste disposal facility means any facility or location where disposal of solid waste occurs and is permitted by the local land use authority, local solid waste enforcement agency and any other agency which has permit authority over the use, location or operation of the facility.

(f) Solid waste:

- (1) Means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, de treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.
- (2) Does not include hazardous waste or low-level radioactive waste regulated under the Health and Safety Code.
- (3) Does not include medical waste regulated under the Health and Safety Code, provided that the medical waste, whether treated or untreated, is not disposed of at a solid waste disposal facility. Medical waste which has been treated and which is deemed to be solid waste shall be regulated pursuant to this ordinance.
- (4) Does not include drilling mud derived from the development and production of oil and gas wells.
- (5) Does not include materials which are recycled as defined by Public Resources Code section 40180, as amended.
- (g) Tonnage means the difference between the total weight of the solid waste or drilling mud received (measured in pounds) and the total weight diverted for recycling (measured in pounds) divided by two thousand (2,000).
- (h) Wind Energy Generation Facility means an installation of one or more commercial wind turbine generators.

(Ord. No. 1470, §1; Ord. No. 1496, §1; Ord. No. 1680, §1.)

Sec. 11-164. Reporting, of tonnage or kilowatt hours

- (a) For purposes of determining the net tonnage deposited for computation of the tax, each licensed Solid Waste Facility or Drilling Mud Facility shall make monthly reports of net tonnage to the Solano County Department of Resource Management by the twenty-fifth day of the of the following month. The Department of Resource Management shall verify the reports and submit the data quarterly to the Solano County Auditor-Controller on the twenty-fifth day of the month following the end of the quarter.
- (b) For purposes of determining the electrical energy produced for computation of the wind energy tax, each Wind Energy Generation Facility shall make monthly report of the kilowatt hours of energy produced by the facility to the Solano County Department of Resource Management by the twenty-fifth day of the following month. The Department

of Resource Management shall verify the reports and submit the data quarterly to the Solano County Auditor-Controller.

(Ord. No. 1470, §1; Ord. No. 1496, §1; Ord. No. 1680, §1.)

Sec. 11-165. Payment of tax

The Solano County Auditor-Controller shall issue a quarterly tax bill to each licensed Solid Waste Facility and to each licensed Drilling Mud Disposal Facility and Wind Energy Generation Facility, which shall be due and payable to the Solano County Auditor-Controller upon receipt and delinquent at the end of the month following the month issued.

(Ord. No. 1470, §1; Ord. No. 1496, §1; Ord. No. 1680, §1)

Sec. 11-166. Penalty for delinquency

A ten percent (10%) penalty shall be assessed on any tax not paid by the delinquent date. Any licensed facility not current in its payment of taxes pursuant to this Chapter at the time of the annual renewal of its Solano County Business license issued pursuant to Chapter 14 of the Solano County Code may be denied a license renewal until all taxes and penalties are paid.

(Ord. No. 1470, §1; Ord. No. 1496, §1.)

Sec. 11-167. Sunset provision

It is provided that this Business License Tax shall be effective for a period of two years, and will no longer be in effect on or after July 1, 1995, unless the Solano County Board of Supervisors has reenacted this measure after the required public hearings prior to that date.

(Ord. No. 1470, §1.)

ARTICLE XIII. SOLID WASTE DISPOSAL MITIGATION FEE

Sec. 11-200. Findings

(a) Solid waste hauling and disposal is an issue that local governmental entities are being required to address more frequently, due to (1) the increasing difficulty in siting new solid waste landfills; (2) the increasing restrictions being placed on the types and quantities of materials that may be disposed of at licensed landfills by the State; (3) court decisions that have made it more difficult to restrict the importation of solid waste from outside the County; and (4) additional requirements for monitoring the closure of the licensed sites, once closure commences.

- (b) The State has imposed new statutory monitoring requirements on local enforcement agencies, under the provisions of Public Resources Code section 40000, et seq., as amended, which require additional staff to properly enforce the provisions.
- (c) There is increased demand to prepare amendments to, and update existing siting elements of the local agencies General Plan.
- (d) There are more stringent requirements imposed in the environmental review process for Environmental Impact Reports (EIRs) for all new siting activities.
- (e) The transportation and disposal of solid waste within the County of Solano has and continues to impose litter problems on the roads and in the areas around the landfill sites in the unincorporated areas of the County.
- (f) These additional obligations imposed on the County have created a demand for services directly related to the acts of the hauling and disposal of solid waste, by both residents and non-residents of Solano County.

(Ord. No. 1469, §1; Ord. No. 1495, §1; Ord. No. 1680, §2.)

Sec. 11-201. Mitigation fee imposed

Pursuant to the authority granted by Public Resources Code section 41900 et seq., as amended, and based upon the findings set forth in Section 11-200 of this code there is established and imposed, a solid waste disposal mitigation fee which shall be payable in those specific amounts designated by the board of supervisors, and amended from time to time by board resolution per ton of waste deposited at any permitted solid waste landfill.

(Ord. No. 1469, §1; Ord. No. 1495, §1; Ord. No. 1680, §2; Ord. No. 1705, §1)

Sec. 11-202. Purpose of fee

This fee is enacted to mitigate the costs of providing identified services which are required as a direct result of the hauling and disposal of solid waste within the unincorporated portions of Solano County. All of the funds derived from this fee shall be used to reimburse the direct costs of the affected departments of the county in (1) enforcing compliance with Public Resources Code section 40000 et seq., as amended; (2) the preparation of the siting element, or the EIR for the siting element of the county general plan, including necessary consultant services, and (3) litter control and roadside litter pick-up.

(Ord. No. 1469, §1; Ord. No. 1495, §1; Ord. No. 1680, §2.)

Sec. 11-203. Definitions

(a) **Licensed solid waste disposal facility** shall be defined as set forth in Section 11-163 (d) of this chapter.

(b) **Siting element** means the solid waste siting element of the Solano County Integrated Waste Management Plan, as required pursuant to the provisions of the Public Resources Code sections 41700, et seq., as amended.

(c) **Solid Waste** shall be defined as set forth in Sections 11-163(f)(1)-(5) of this code.

(d) **Tonnage** shall be defined as set forth in Section 11-163(g) of this code.

(Ord. No. 1469, §1; Ord. No. 1495, §1; Ord. No. 1680, §2.)

Sec. 11-204. Reporting of tonnage

For purposes of determining the net tonnage deposited for computation of this fee, each licensed solid waste disposal facility shall make monthly reports of net tonnage to the Solano County Department of Resource Management by the tenth day of the following month. The Department of Resource Management shall verify the reports. This report can be the same report required under provisions of Section 11-164 of this code.

(Ord. No. 1469, §1; Ord. No. 1495, §1; Ord. No. 1680, §2.)

Sec. 11-205. Payment of fee

The Department of Resource Management shall issue a quarterly statement to each licensed solid waste facility, which shall delineate the amount of the mitigation fee due to the Department of Resource Management, and the fee is due and payable upon receipt of the statement, and shall be delinquent at the end of ninety (90) days after issuance of the statement.

(Ord. No. 1469, §1; Ord. No. 1495, §1; Ord. No. 1680, §2.)

Sec. 11-206. Penalty for delinquency

A penalty of ten (10%) percent shall be assessed on any fee not paid by the delinquent date.

(Ord. No. 1469, §1; Ord. No. 1495, §1; Ord. No. 1680, §2)

Sec. 11-207. deleted

(Ord. No. 1469, §1; Ord. No. 1705, §2)

**ARTICLE XIV. SOLANO COUNTY PUBLIC LIBRARY TRANSACTIONS
AND USE TAX**

Sec. 11-300. Title

This ordinance will be known as the “Solano County Public Library Transactions and Use Tax Ordinance.” The transactions and use tax provisions of this ordinance will be applicable in the incorporated and unincorporated territory of Solano County (“District”).

(Ord. No. 1551, §1)

Sec. 11-301. Purpose

This ordinance is adopted to achieve the following, among other, purposes and directs that its provisions are interpreted to accomplish those purposes:

- (a) To extend the imposition of the existing one-eighth of one percent (0.125%) retail transactions and use tax according to the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, and as specifically authorized by Section 7286.59 of Part 1.7 of the Revenue and Taxation Code; which authorizes the County to extend this tax ordinance which shall be operative if a two-thirds majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose;
- (b) To adopt a retail transactions and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are consistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code;
- (c) To adopt a retail transactions and use tax ordinance which imposes a tax and provides a measure for it that the State Board of Equalization can administer and collect in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California Sales and Use Taxes;
- (d) To adopt a retail transactions and use tax ordinance which can be administered in a manner which will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, reduce the cost of collecting the transactions and use taxes and simultaneously reduce the burden of record keeping upon persons subject to taxation under the provisions of this ordinance;
- (e) To adopt a retail transactions and use tax ordinance that provides for funding public library operations, programs and acquisitions within Solano County. These revenues will be used only to supplement existing expenditures for public libraries and

will not be used to supplant existing funding for the support of Solano County public libraries.

(Ord. No. 1551, §1; Ord. No. 1724, §1)

Sec. 11-302. Expenditure Plan

The expenditure plan is designed to accomplish the specific projects listed below with the revenues from the transactions and use tax. The expenditure plan provides for maintaining the existing public libraries and their collections, programs and services.

This expenditure plan is intended to provide Solano County with libraries which are on a par with those operated in other Bay and Sacramento Area communities.

The specific projects for which the revenues from the transactions and use tax will be expended are as follows:

- (a) Maintaining local public libraries throughout the county;
- (b) Maintaining open hours at Solano County Library branches in the cities of Fairfield, Rio Vista, Suisun City, Vacaville and Vallejo; the Benicia Public Library and the Dixon Public Library District;
- (c) Maintaining funding to the book and materials budgets at Solano County Library branches, Benicia Public Library and Dixon Public Library District;
- (d) Maintaining library programs for children and young adults at Solano County Library branches, Benicia Public Library and Dixon Public Library District;
- (e) Maintaining the cost of the Literacy Program at Solano County Library.

(Ord. No. 1551, §1; Ord. No. 1724, §1)

Sec. 11-303. Contract with State

Before October 1, 2014, the Solano County Library will contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Solano County Library has not contracted with the State Board of Equalization before October 1, 2014, it will nevertheless reach an agreement, with the operative date the first day of the first calendar quarter following the execution of the contract.

(Ord. No. 1551, §1; Ord. No. 1724, §1)

Sec. 11-304. Transactions tax rate

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the incorporated and unincorporated territory of the District at the rate of one-eighth of one percent (0.125%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the territory on and after October 1, 2014.

(Ord. No. 1551, §1; Ord. No. 1724, §1)

Sec. 11-305. Place of sale

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, despite the place to which delivery is made. In the event a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

(Ord. No. 1551, §1)

Sec. 11-306. Use tax rate

An excise tax is imposed on the storage, use or other consumption in the District of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in the territory at the rate of one-eighth of one percent (0.125%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax despite the place to which delivery is made.

Sec. 11-307. Adoption of provisions of State law

Except as otherwise provided in this ordinance and to the extent that they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are adopted and incorporated by this reference.

(Ord. No. 1551, §1)

Sec. 11-308. Limitations on adoption of State law and collection of use taxes

(a) In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, wherever the State of California is named or referred to as the taxing authority, the name of this District will be substituted for it. However, the substitution will not be made when:

(1) The word “State” is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(2) The result of that substitution would require action to be taken by or against this District or any agency, officer, or employee of it rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance;

(3) In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the substitution would be to:

(A) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code;

(B) Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the State under the provisions of that code.

(4) In sections 6701,6702 (except in its last sentence), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

(b) The word “District” will be substituted for the word “State” in the phrase “retailer engaged in business in this State” in Section 6203 and in the definition of that phrase in Section 6203.

(Ord. No. 1551, §1)

Sec. 11-309. Permit not required

If a seller’s permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, this ordinance will not require an additional transactor’s permit.

(Ord. No. 1551, §1)

Sec. 11-310. Exemptions and exclusions

(a) There will be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county or county pursuant to the Bradley-Burns Uniform Local Sale and Use Tax Law or the amount of any state administered transactions or use tax.

(b) There are exempted from the computation of the amount of transactions tax the gross receipts from:

(1) Sales of tangible personal property other than fuel or petroleum products to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of California, the United States, or any foreign government;

(2) Sales of property to be used outside the District which is shipped to a point outside the District, pursuant to the contract of sale, by delivery to such point by the retailer or his or her agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this subsection, delivery to a point outside the District will be satisfied:

(A) With respect to vehicles other than commercial vehicles subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed according to Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code, by registration to an out-of-District address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

(B) With respect to commercial vehicles, by registration to a place of business out-of-District and declaration under penalty of perjury, signed by the buyer, stating that the vehicle will be operated from that address.

(3) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price under a contract entered into before October 1, 2014.

(4) A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease before October 1, 2014.

(5) For the purposes of subsections (3) and (4) of this section, the sale or lease of tangible personal property will be deemed not to be obligated under a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(c) There is exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this District of tangible personal property:

- (1) The gross receipts from the sale of which have been subject to a transactions tax under any state administered transactions and use tax ordinance;
 - (2) Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued under the laws of California, the United States or any foreign government. This exemption is in addition to the exemptions provided in sections 6366 and 6366.1 of the Revenue and Taxation Code;
 - (3) If the purchaser is obligated to purchase the property for a fixed price under a contract entered into before the operative date of this ordinance;
 - (4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease before the operative date of this ordinance;
 - (5) For the purposes of subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property will be deemed not to be obligated under a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised;
 - (6) Except as provided for in subsection (7), a retailer engaged in business in the District will not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the District or participates within the District in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the canvasser, solicitor, subsidiary, or person in the District under the authority of the retailer;
 - (7) "A retailer engaged in business in the District" will also include any retailer of the following: vehicles subject to registration under Chapter 1 (commencing with section 4000) of Division 3 of the Vehicle Code, aircraft licensed according to section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code. This retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel or aircraft at an address in the District.
- (d) Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or a retailer liable for a transactions tax under Part 1.6 of Division 2 of the Revenue and

Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

(Ord. No. 1551, §1; Ord. No. 1724, §1)

Sec. 11-311. Amendments

All amendments after October 1, 2014 to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes which are consistent with Part 1.6 of Division 2 of the Revenue and Taxation Code, will automatically become a part of this ordinance; but, no such amendment will operate to affect the rate of tax imposed by this ordinance.

(Ord. No. 1551, §1; Ord. No. 1724, §1)

Sec. 11-312. Enjoining collection forbidden

No injunction or writ of mandate or other legal or equitable process will issue in any suit, action or proceeding in any court against the State of California or the District, or against any officer of the State of California or the District, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

(Ord. No. 1551, §1)

Sec. 11-313. Use of the taxes

(a) Any and all transactions and use tax shall be used exclusively for countywide library programs and operations.

(b) The percentage of the total transactions and use taxes collected countywide which shall be allocated to the City of Benicia shall be the percentage of sales tax generated in the incorporated area of the City of Benicia for the prior fiscal year as set out in the most current edition of the State Board of Equalization's published document entitled, "Taxable Sales in California: Sales and Use Tax Annual Report."

(c) The percentage of the total transactions and use taxes collected countywide which shall be allocated to the Dixon Public Library District shall be the percentage of sales tax generated in the incorporated area of the City of Dixon for the prior fiscal year as set out in the most current edition of the State Board of Equalization's published document entitled, "Taxable Sales in California: Sales and Use Tax Annual Report."

(d) The percentage of the total transactions and use taxes collected countywide which shall be allocated to the Vacaville Unified School District/Library District shall be the percentage of sales tax generated in the incorporated area of the City of Vacaville for the prior fiscal year as set out in the most current edition of the State Board of

Equalization's published document entitled, "Taxable Sales in California: Sales and Use Tax Annual Report."

(e) The balance of the total amount of transactions and use taxes collected each fiscal year shall be allocated to the Solano County Library for use for library operations and services within all areas of the County of Solano except the incorporated areas of the City of Benicia, the City of Dixon and the City of Vacaville.

(f) Each jurisdiction named in this section shall be responsible for its portion of any fees imposed to administer this tax.

(Ord. No. 1551, §1; Ord. No. 1724, §1)

Sec. 11-314. Independent Citizens' Oversight Committee

The Board of Supervisors shall appoint a seven member citizen's' oversight committee with one member appointed from each of the seven cities within the county's public library systems. The committee shall review and report on the public libraries' administration of and compliance with the expenditure plan and the terms of this measure, monitor and audit the use of the funds and prepare an annual report on the expenditures of the Board of Supervisors and the community.

(Ord. No. 1551, §1; Ord. No. 1724, §1)

Sec. 11-315. Implementing policies and regulations

Upon approval of this ordinance by two-thirds of the voters, the public libraries within Solano County may adopt policies and regulations and take such other action as may be necessary for the implementation of the one-eighth of 1 percent (0.125%) transactions and use tax authorized by this ordinance.

(Ord. No. 1551, §1)

Sec. 11-316. Effective and operative dates

This ordinance will take effect as provided by law. This ordinance will take effect according to law only if at least two-thirds of the electors voting on the measure at the June 2, 2014 election, approve the enactment of the ordinance. If approved, the provisions of this ordinance authorizing the levy of the one-eighth of 1 percent (0.125%) transactions and use tax will become operative on October 1, 2014.

(Ord. No. 1551, §1; Ord. No. 1724, §1)

Sec. 11-317. Termination date

This ordinance will terminate on September 30, 2030.

(Ord. No. 1551, §1; Ord. No. 1724, §1)

Sec. 11-318. Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected.

(Ord. No. 1551, §1; Ord. No. 1724, §1)

ARTICLE XV. TRANSPORTATION IMPACT FEE PROGRAM

Sec. 11-400. Introduction and purpose

The Solano County Transportation Impact Fee program is established to implement the goals and objectives of the County of Solano General Plan, including the Land Use and Circulation Element of the General Plan, to mitigate the impacts caused by new development in certain areas in the county and to implement certain public roadway improvements to ensure a safe and efficient level of service. The Board of Supervisors has determined that a transportation impact fee is needed in order to ensure that new development pays its fair share of the construction costs of these improvements, and thereby implement applicable General Plan policies. In establishing the fee described in the following sections, the Board of Supervisors has found the fee to be consistent with its General Plan and, pursuant to Government Code Section 65913.2, has considered the effects of the fee with respect to the county's housing needs as established in the housing element of the General Plan.

(Ord. No. 1610, §1)

Sec. 11-410. General plan relationship

The basis for the Solano County Transportation Impact Fee program is the County General Plan and its amendments, and the fee subscribes to the policies of the General Plan elements. Specifically the Land Use and Circulation Element of the General Plan, under the section on Streets and Roads, sets forth policies for achieving the goals of the Plan. These policies encourage the planning and design of street and road systems to serve areas where growth is desired and anticipated and ensuring that the cost of improvements to the road system to accommodate new development should be borne by the developer.

The General Plan and its various elements are available for review at the Environmental Management Department, during office hours.

(Ord. No. 1610, §1)

Sec. 11-420. Alternative method and compliance with other laws

The transportation impact fee program is intended to establish a supplemental method for funding the cost of certain facilities and services, the need for which will be generated by the level of development within the transportation impact fee area. The provisions of this ordinance shall not be construed to limit the power of the county to impose any other fees or exactions, but shall be in addition to any other requirements which the county may impose, or has previously imposed, as a condition of approving entitlements within the transportation impact fee area pursuant to state and local laws.

The development fees established for this area are necessary for the mitigation of significant impacts, which will be created by future development in the transportation impact fee area. If, for any reason, any portion of this chapter is challenged in a court of competent jurisdiction, such challenge may constitute new information for purposes of CEQA that might, in turn, require additional environmental review of development projects. The refusal to pay fees imposed herein represents a failure on the part of the developer to participate in area-wide mitigation fees and may constitute the basis for the county's refusal to make a statement of overriding consideration in connection with cumulative environmental impacts generated by such project.

(Ord. No. 1610, §1)

Sec. 11-430. Collection of fees

(a) The fees imposed by this ordinance shall be required whenever the Building Division of the Department of Environmental Management approves building permits for new residential dwelling units, including second units authorized pursuant to this code.

(b) The fees imposed and required by this ordinance shall be paid prior to the issuance of the certificate of occupancy or at the time of final inspection, whichever occurs first; or after the establishment of a separate account for the transportation impact fees and the adoption of a capital improvement plan for the use of these monies, the fee shall be paid prior to issuance of a building permit.

(Ord. No. 1610, §1)

Sec. 11-440. Fee adjustments

(a) A developer of any project subject to the fee established by the Transportation Impact Fee Program may apply to the County Transportation Director for a reduction to the fee, or a waiver of that fee, based upon:

(1) The absence of any reasonable relationship or nexus between the traffic and transportation impacts of that development and either the amount of the fee charged or the types of improvements to be financed; and

(2) The nature of the development being sufficiently specialized such that the fee should be specially calculated so as to maintain a reasonable relationship between the type of the development project and the amount of the fee.

(3) The application shall be made in writing and filed with the County Transportation Director no later than the time of filing the request for a building permit. The application shall state in detail the factual basis for the claim of waiver, reduction or adjustment. The director shall consider the application and render a decision.

(b) The decision of the County Transportation Director may be appealed to the Board of Supervisors, by the developer, within 10 calendar days after any such decision has been made. Only filing an appeal application that shall state in detail the factual basis for the appeal may commence an appeal. No appeal application shall be accepted for processing unless it contains all information, data and papers prescribed by the forms supplied by the Clerk of the Board of Supervisors and are accompanied by payment of the fee, if any, specified by the Board of Supervisors. The decision of the Board of Supervisors on appeal shall be final and conclusive.

(Ord. No. 1610, §1)

Sec. 11-450. Separate account for fees

All fees received pursuant to this ordinance shall be deposited with the County Auditor-Controller into a separate account or fund pursuant to Government Code Section 6

(Ord. No. 1610, §1)

Sec. 11-460. Interest on fees

The interest accrued on the fees collected by the Solano County Transportation Impact Fee Program will continue to accumulate in the trust account and will be used for the purpose for which the fee was originally collected.

(Ord. No. 1610, §1)

Sec. 11-470. Annual adjustment and review of fees

Beginning in the year 2001, the development fees imposed by this ordinance shall be adjusted by the Department of Transportation each January 1 and July 1 by a percentage amount equivalent to the percentage change in the Engineering News Record Construction Cost Index for the preceding six (6) month period. The fee amount shall be that amount in effect as of the date of the Building Division of the Department of Environmental Management=s approval of the building permit.

The Board of Supervisors shall view the adequacy of the development fees established herein at least once every five (5) years pursuant to Government Code section 66001(d).

The Department of Transportation and the Department of Environmental Management shall provide an annual report to the Board of Supervisors that meets the requirements of Government Code section 66006(b).

(Ord. No. 1610, §1)

Sec. 11.480. In lieu dedication and/or improvements

As a condition of approval of a subdivision project, a developer may be required to dedicate right-of-way and/or complete road improvements on the roads being improved by the Transportation Impact Fee Program. Pursuant to Government Code section 66006.5, cases where a subdivider dedicates or improves an adjoining road to a standard greater than that required by Chapter 26 of the Solano County Code, the subdivider or his/her successor in interest may be authorized by the Transportation Director to receive credit toward the impact fee if the dedication and/or improvements have been made prior to issuance of the building permit. The developer should contact the Transportation Department to determine the eligibility for credit of the dedication or road improvement.

(Ord. No. 1610, §1)

Sec. 11-500. English Hills Transportation Impact Fee area

(a) The English Hills Transportation Impact Fee area is the same as the English Hills Specific Plan area shown in the English Hills Specific Plan, Final Draft, August 1994, Figure 3, which is on file with the Department of Environmental Management, and is incorporated by this reference.

(b) There is created for the office of the Transportation Department a Public Works Improvement Trust Fund entitled "English Hills Area Road Improvement Reserve Account." All amounts collected from roadway development fees in the English Hills Transportation Impact Fee area shall be deposited in that account. The fees in this account shall not be commingled with other funds and the interest earned on the account shall be deposited back into the account. These fees shall be expended in accordance with the provisions of the General Plan to finance the roadway facilities and improvements described in Exhibit A, attached hereto and incorporated by this reference. These funds may also be used to reimburse the developers within the fee area who have been required or permitted to install roadway facilities which are oversized with supplemental size, length or capacity.

(Ord. No. 1610, §1)

Sec. 11-510. Background

(a) For some time, development has had an increasingly adverse incremental impact on the existing network of County roads. There are vacant parcels of land in the

English Hills Transportation Impact Fee area where homes may be built, and under the General Plan, subdivision of some of the existing parcels will create new parcels with potential for additional residential development. The existing transportation system is inadequate to handle the additional traffic that would be generated from the projected development. This transportation impact fee is needed to mitigate the impact of this projected development on the County road system and to provide a program that will distribute the cost of new improvements proportionally to the impact generated by the new development, rather than forcing existing residents to subsidize the roadway infrastructure needs of new growth.

(b) One of the policy statements within the Streets and Roads section of the Circulation and Transportation Chapter of the Land Use and Circulation Element of the Solano County General Plan is as follows:

(c) The cost of on and off-site improvements to County roads to accommodate new development should be borne by the developer. (Solano County Land Use and Circulation Element, page 128.)

(d) Accordingly, development should not occur unless a mechanism is in place to provide the funding for the infrastructure necessary to serve the new development. This program institutes a fee to provide funds for constructing road improvements made necessary by new residential development. Requiring all new development to pay an impact fee will help ensure its participation in the cost of improving the road system. Because the fee is based on new development's impact on the road system and the costs of the improvements necessary to mitigate this impact, the fee amount is roughly proportional to the development impact.

(Ord. No. 1610, §1)

Sec. 11-520. Findings and determinations of the Board of Supervisors

The following findings are made in compliance with Section 66001 of the Mitigation Fee Act (Government Code section 66000, et seq.)

(Ord. No. 1610, §1)

Sec. 11-521. Purpose of the fee

The purpose of the fee is to pay the costs of roadway facilities and improvements in accordance with the provisions of the Solano County General Plan, including the Land Use and Circulation Element, to implement the County's General Plan, and to use the authority of Article XI, Section 7 of the California Constitution by imposing development fees to fund the costs of certain facilities and services, the need for which is generated by the type and level of development planned for the English Hills Transportation Impact Fee area.

(Ord. No. 1610, §1)

Sec. 11-522. Use of the fees

The use to which the fees are to be put is to pay new development's proportionate share of the costs of the roadway facilities and improvements identified in Exhibit A, attached hereto and incorporated herein by reference. These fees will only finance the minimum roadways needed to meet traffic level of service and safety demands attributed to new development. Amenities that do not have a direct effect on capacity, such as general lighting, extensive longitudinal storm drain systems, and sidewalks, are not included. These improvements are considered to be frontage improvements by the Board of Supervisors, and as such are the responsibilities of the owner of the adjacent properties. As these properties develop, the frontage improvements may be provided by the developer through conditions of approval, or by other future means such as additional fees or assessment districts.

(Ord. No. 1610, §1)

Sec. 11-523. Relationship between use of fees and type of development projects

There is a reasonable relationship between the fee's use and the type of development projects on which the fee is imposed for reasons set forth in the Solano County General Plan. The fee area is designated and zoned for residential development, and the fee will be imposed on the construction of new residences within the area. Road improvement projects for which the fees will be used will be needed to ensure and maintain the safety and the capacity of the road network serving the residents of the English Hills Transportation Impact Fee area of incorporated Solano County, given the additional usage of these roadways by the new residential development.

(Ord. No. 1610, §1)

Sec. 11-524. Relationship between need for road improvements and type of development

There is a reasonable relationship between the need for the roadway facilities and improvements identified in Exhibit A and the development projects on which the fee is imposed. New development will generate new demand for roadway facilities, which must be accommodated by construction of new or expanded facilities. The amount of demand generated and, therefore, the benefit gained, varies according to the number of vehicles trips the development generates.

The road shall be designed and constructed in accordance with the Solano County Road Improvement Standards and Land Development and Subdivision Requirements (Road Standards), which list the minimum roadway standard with requirements for public roads. These minimum standard widths are based on the average daily traffic (ADT) that the roadway facilities can efficiently and safely carry.

For design and estimating traffic generated from a residential development, Section 1-2.1, Public Road Improvement Standards, Traffic Projections, of the Road Standards, states that the number of trips generated for a residential dwelling is assumed to be an average of ten trips (one-way) per day per home site. Commercial developments within the English Hills Transportation Impact Fee area will be evaluated on an individual basis and are not included in the English Hills Transportation Impact Fee Program.

The English Hills Transportation Impact Fee is based on distributing the cost of the road improvement program attributable to new development to that development in proportion to the number of average daily trips generated by each particular new dwelling unit. All new dwelling units will be required to pay a fee to fund the needed roadway improvements.

Without the adoption of this ordinance and the construction of infrastructure improvements as called for in Exhibit A, additional residential development in the English Hills Transportation Impact Fee area will result in decreased levels of service on certain roadways, increased congestion, decreased roadway safety, increased accidents, inadequate structural sections, road services deterioration to the point where they cannot be safely maintained, lack of shoulders meeting basic safety standards, substandard traffic intersections, and an increase in flooding potential.

(Ord. No. 1610, §1)

Sec. 11-525. Relationship between the amount of the fee and the cost of the road improvements attributable to the development

There is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed. While some county roads in the fee area do not currently meet county road standards, the fee for each new dwelling unit is limited to its proportionate share of the total cost of mitigating new development's impact on the county roads in the fee area. This mitigation amount was calculated by deducting the cost of improving the selected roads in the fee area to the minimum road standard required for the current dwelling units based on the current ADT from the cost of improving the same roads to the minimum road standard based on the projected ADT when all dwelling units are constructed that are now allowed by the General Plan for the same area.

The cost estimates in Exhibit B are based upon actual current costs of construction as determined by the County Transportation Director through an analysis of recent public works projects.

Sec. 11-530. Amount of Transportation Impact Fee

The transportation impact fee required for roadway improvements shall be apportioned equitably among new residential dwelling units in the English Hills Transportation

Impact Fee area. The road network to be improved consists of the circulation routes for the study area, as determined by the Transportation Department, and as reflected in Exhibit A.

The amount of the fee was calculated by deducting the cost of improving the listed roads to the applicable road standards based on the existing average daily traffic (ADT) from the cost of improving the same roads to the applicable road standards based on the projected ADT at build-out of the General Plan. This cost difference attributable solely to the traffic impact of anticipated new dwellings, was then distributed equally amount the projected additional dwelling units. Exhibit B outlines in details the methodology for determining the fee.

The road improvements will be funded and constructed in conjunction with the actual development of the area and, therefore, the actual need for the improvements. As new development occurs and fees for road impacts are collected, the County will allocate its share of the total improvement costs (see Section 11-525) and systematically proceed to make the planned improvements.

(Ord. No. 1610, §1)

ARTICLE XVI. FIRE PROTECTION DISTRICT IMPACT FEE

Sec. 11-600. Purpose

This Article is enacted to provide the authority for and process by which development fees may be imposed for fire prevention, suppression and safety within the unincorporated territory of the County of Solano. Such fees may be imposed for each fire protection district which prepares and presents to the Board of Supervisors a study adequate to demonstrate the reasonable relationship between new development and the fee to be charged. It is intended that new development shall pay its fair share to maintain the pre-existing level of service, thereby mitigating the impact of development on the fire protection district's ability to provide such service.

(Ord. No. 1659, §1)

Sec. 11-610. Definitions

(a) **Development projects** means all residential, multi-family, commercial, manufacturing, office, retail and wholesale buildings, as defined in the building and zoning ordinances of the County.

(b) **Exempt development projects** means (1) those projects for which a building permit was issued prior to June 30, 2005, or the effective date of this ordinance, whichever is later, or (2) new construction which increases an existing structure's square footage by 200 square feet or less.

(Ord. No. 1659, §1)

Sec. 11-630. Establishment of Fee, Exemptions

A fire protection district impact fee is established for all non-exempt new development projects within the unincorporated areas of Solano County and within the boundaries of a fire protection district for which a fee is established pursuant to this Article. The Board of Supervisors shall establish the amount of such fee for each individual fire protection district by resolution at a publicly noticed meeting upon completion by the fire protection district of an adequate study, commissioned, adopted and provided by such district. The study shall establish a reasonable development fee for the district and demonstrate by competent analysis the reasonable relationship between such fee and the impacts of such development, satisfying the statutory requirements for fees for development projects contained in Chapter 5 of Division 1 of Title 7 of the Government Code sections 66000 et seq., commonly referred to as AB 1600. These fees may from time to time be amended as circumstances warrant by the adoption of a subsequent resolution by the Board of Supervisors. Any action to adopt a resolution levying or increasing such fee for any individual fire protection district shall follow the procedures set forth in Government Code sections 66016 et seq., and any subsequent amendments, including, without limitation, notice, public hearing and effective date provisions.

(Ord. No. 1659, §1)

Sec. 11-640. Payment of Fee

(a) **Time for Payment of Fee** Fees for applicable development shall be paid to and collected by the county on a fire protection district's behalf prior to the issuance of the certificate of occupancy, or at the time of final inspection, whichever comes first, or, if the provisions of Government Code section 66007 are met, at the time of issuance of a building permit for any non-exempt construction under the provisions of this ordinance.

(b) **Fee Amounts** Fees under this section shall be payable in those specific amounts designated by the board of supervisors, and amended from time to time by board resolution. The amount payable shall be reduced by the amount of any fee charged to the developer by any other jurisdiction to provide funding for the same fire protection facilities. During the first five calendar years beginning after adoption of this ordinance, the board of supervisors may, without a further study by a fire protection district, adjust by resolution the fee amounts one time annually based on the percentage increase in the Engineering News Record Construction Cost Index or a similar index which measures typical construction costs for facilities generally similar to those to be built by the fire protection districts.

(c) **Appeal** Any person may protest the imposition of any fee imposed under the provisions of this ordinance by meeting the following requirements.

(1) Tendering any required payment in full or providing satisfactory evidence of

arrangements to ensure performance of the conditions necessary to meet the requirements imposed.

(2) Serving written notice on the clerk of the board of the fire protection district, which notice shall contain all of the following information:

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

(B) A statement informing the board of fire protection district of the factual elements of the dispute and the legal theory forming the basis of the protest.

(3) The protest must be filed no 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 section 66020 et seq.

(d) **Demolition or destruction offset** Where a building permit is issued within two years after demolition on the same lot, where new construction replaces a structure on the same lot which was damaged or destroyed by fire, earthquake or other causes similarly beyond the owner's control, the amount of new construction taken into account under this ordinance shall be reduced by the number of square feet which were demolished or destroyed.

(e) **Information Required** Where the county is to issue a building permit, the person liable for the fee shall submit to the Department of Resource Management such information as the Department may require to calculate the amount due.

(Ord. No. 1659, §1)

Sec. 11-650. Use of Fees, Hold Harmless

(a) The fire protection district impact fees collected on behalf of the districts who have complied with this Article shall be used by the respective local fire protection districts for capital expenditures to mitigate the impacts attributed to new development. Specifically, these fees shall be used to pay the entire applicable portion of the costs of capital improvements to public facilities necessitated by the development projects, whether identified by a capital improvement plan or otherwise. Fees remaining unexpended or uncommitted five (5) or more years after deposit shall be subject to the provisions of Government Code section 66001.

(b) Each fire protection district on whose behalf the county is collecting fees shall agree to hold the County of Solano harmless and to indemnify and defend the County

from all actions, claims and damages related to said fees, including, without limitation, any challenge to the validity of or use of said fees. The fees collected, together with any interest, shall be maintained and accounted for in a separate capital facilities account or fund in a manner to avoid any commingling of such moneys with other revenues or funds and expended in a timely fashion only for approved purposes. County shall withhold 2% of the total fee collected to cover administrative costs associated with the implementation of this Article.

(Ord. No. 1659, §1)

EXHIBIT A

ENGLISH HILLS TRANSPORTATION IMPACT FEE AREA,
ROAD IMPROVEMENT LIST

ALLENDALE ROAD

from Timm Road to Interstate 505

BROWN VALLEY ROAD

from Cantelow Road to McMurty Lane

CANTELOW ROAD

from Timm Road to Steiger Hill Road

ENGLISH HILL ROAD

from Peaceful Glen Road to Cantelow Road

GIBSON CANYON ROAD

from Cantelow Road to 0.08 miles north of Pamela Lane

MIDWAY ROAD

from Timm Road to Vacaville City Limits

PEACEFUL GLEN ROAD

from Timm Road to Vacaville City Limits

STEIGER HILL ROAD

from English Hills Road to Timm Road

TIMM ROAD

from Cantelow Road to Allendale Road

EXHIBIT B**ENGLISH HILLS TRANSPORTATION IMPACT FEE AREA COSTS**

1. The primary roads serving the fee area were determined by the Transportation Department based on the circulation patterns of the area.
2. For each existing road segment, the typical existing right of way width, road width, segment length, and average daily traffic (ADT) were determined. Segments or roads with poor horizontal and/or vertical alignments were identified.
3. Using the existing ADT's the right of way width and road width needed to meet the County Road Improvement Standards was determined for each segment. The estimated cost to acquire right of way and improve the existing roads to meet the standards was then calculated.
4. The estimated ADT's at build out of the fee area under the current General Plan were then determined. These ADT's were based on information in the English Hills Specific Circulation Analysis contained in the Final Draft English Hills Specific Plan, Final EIR, (Final EIR), except for Steiger Hill Road which was based on the Circulation Analysis contained in the Final Draft English Hills Specific Plan, and Cantelow Road (from English Hills Road to Steiger Hill Road) which was not analyzed in the EAR and is therefore based on a Transportation Department projection.
5. Using the ADT's anticipated from build out of the current General Plan, the right of way width and road width needed to meet the County Road Improvement Standards was determined for each segment. The cost to acquire right of way and improve each road to the standard called for based on build out of the General Plan was then calculated.
6. By subtracting the cost of acquiring right of way and improving each road to the standard required in paragraph 3 above, (standards applicable to current level of development) from the cost of acquiring right of way and improving each road to the standard required in paragraph 5 above, (standards applicable at build out of the General Plan), the remainder represented the cost attributable to the impacts of the new development.
7. The cost to upgrade the road from the standard based on current ADT's to the standard based on future ADT's, as calculated in Section 6 above, was then divided by the number of new dwelling units allowable under the current General Plan (805), to determine the fee to be assessed per new dwelling unit. This amount includes both the costs for right of way acquisition and for road improvement. The number of potential new dwelling units was assumed to be the number of additional dwelling units allowed under the current General Plan, as identified in the Final EIR (805), minus the number of dwellings for which building permits have been issued since the Final EIR was prepared (41). The fee for residential dwellings was determined to be \$288 for right of way acquisition and \$4638 for roadway improvements.

NOTE: The English Hills Transportation Impact Fee area is designated by the General Plan and zoned for rural residential development. Due to the limited extent of nonresidential development expected in the fee area, this fee applies only to residential development. Should nonresidential development occur in the fee area, an impact mitigation fee would be determined on an individual basis based on the proportionate impact of such development on the primary road network, and the residential fee would then be adjusted accordingly.

(Ord. No. 1610)

(Ord. No. 1097, §1; Ord. No. 1106, §1; Ord. No. 1362, §1; Ord. No. 1385, §1)