

CHAPTER 3.38  
**RESIDENTIAL DEVELOPMENT IMPACT FEES**

**3.38.010. Purpose and intent.**

- A. This chapter establishes residential development impact fees, consisting of each of the fees set forth in this chapter. The residential development impact fee is intended to recover from each new residential development, its reasonable share, as determined in accordance with Government Code Section 66000, et seq., of the cost of each type of public facility and infrastructure improvements for which a fee is established hereunder, needed to serve that residential development and to ensure implementation of, and consistency with, the city's general plan and to protect the public health, safety and welfare by ensuring that adequate public facilities and related improvements will be constructed and made available to serve new residential development concurrent with the need.
- B. The city council has determined that the fees established by this chapter shall be collected from applicants of development projects for the cost of public facilities and infrastructure improvements that serve or will benefit each residential development, and to reimburse the city for expenditures previously made which benefit that development in accordance with the city's adopted development impact fee study, as updated and readopted from time to time.
- C. The fees imposed under this chapter are in addition to any other fees, dedication, construction requirements or other exactions imposed as a condition of approval for the development project, or under the provisions of any state or federal law, other provisions of this code, or city resolutions and policies.
- D. Wherever used, terms describing types of facilities and/or infrastructure improvements shall have the meaning given to them in the city's general plan and/or capital improvement plan, as adopted and amended from time to time.

**3.38.020. Compliance with chapter.**

No developer, property owner, or other person or entity shall be eligible to receive occupancy permits for any residential development project unless the provisions of this chapter have first been complied with for that project. The requirements of this chapter are hereby imposed as a condition of development approval for each residential development project in addition to being a requirement of this code. The city may impose such additional conditions of approval as are necessary or appropriate to implement the purposes of this chapter, including, but not limited to, reimbursement agreements for constructed improvements, and performance bonds in accordance with city policies and procedures.

**3.38.030. Arterial streets residential development impact fees.**

Arterial streets development impact fees shall be paid by applicants for residential development

projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, designing, constructing, improving, providing and maintaining, to the extent permitted by law, the arterial street improvements provided for in the city's general plan and its adopted capital improvement program, as amended from time to time. The fees referred to in this chapter were calculated to include only the arterial street improvements and do not include costs for freeway interchange improvements, local streets or collector streets.

#### **3.38.040. Traffic signals residential development impact fees.**

Traffic signals residential development impact fees shall be paid by applicants for residential development projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, designing, constructing, improving, providing and maintaining, to the extent permitted by law, the traffic signal improvements provided for in the city's general plan and its adopted capital improvement program, as amended from time to time.

#### **3.38.050. Interchange improvements residential development impact fees.**

Interchange improvements residential development impact fees shall be paid by applicants for residential development projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, designing, constructing, improving, providing and maintaining, to the extent permitted by law, the interchange improvements provided for in the city's general plan and its adopted capital improvement program, as amended from time to time.

#### **3.38.060. Fire facilities residential development impact fees.**

Fire facilities residential development impact fees shall be paid by applicants for residential development projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, designing, constructing, improving, providing and maintaining, to the extent permitted by law, fire services facilities provided for in the city's general plan and its adopted capital improvement program, as amended from time to time.

### **3.38.070. Police facilities residential development impact fees.**

Police facilities residential development impact fees shall be paid by applicants for residential development projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, designing, constructing, improving, providing and maintaining, to the extent permitted by law, police services facilities provided for in the city's general plan and its adopted capital improvement program, as amended from time to time.

### **3.38.080. Park improvements residential development impact fees.**

Park improvements residential development impact fees shall be paid by applicants for residential development projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, designing, constructing, improving, providing and maintaining, to the extent permitted by law, park improvements provided for in the city's general plan and its adopted capital improvement program or an adopted master plan of parks and recreation facilities, as amended from time to time.

### **3.38.090. Community/recreation center residential development impact fees.**

Recreation center residential development impact fees shall be paid by applicants for residential development projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, designing, constructing, improving, providing and maintaining, to the extent permitted by law, recreation/community center facilities provided for in the city's general plan and its adopted capital improvement program or an adopted master plan of parks and recreation facilities, as amended from time to time.

### **3.38.100. Library facilities and materials residential development impact fees.**

Libraries residential development impact fees shall be paid by applicants for residential development projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, designing, constructing, improving, providing and maintaining, to the extent permitted by law, the library facilities and improvements provided for in the city's general plan and its adopted capital improvement program, as amended from time to time, and the library materials

necessary or appropriate to serve such residential development.

**3.38.110. City Hall facilities residential development impact fees.**

City Hall facilities residential development impact fees shall be paid by applicants for residential development projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, designing, constructing, improving, providing and maintaining, to the extent permitted by law, the City Hall facilities and improvements provided for in the city's general plan and its adopted capital improvement program, as amended from time to time.

**3.38.120. Corporate yard facilities residential development impact fees.**

Corporate yard facilities residential development impact fees shall be paid by applicants for residential development projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, designing, constructing, improving, providing and maintaining, to the extent permitted by law, the city corporate yard facilities and improvements provided for in the city's general plan and its adopted capital improvement program, as amended from time to time.

**3.38.130. Maintenance equipment residential development impact fees.**

Maintenance equipment residential development impact fees shall be paid by applicants for residential development projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, to the extent permitted by law, the major maintenance equipment needs of the city provided for in its adopted capital improvement program, as amended from time to time.

**3.38.140. Animal shelter residential development impact fees.**

Animal shelter residential development impact fees shall be paid by applicants for residential development projects as set forth in this chapter and in the amounts adopted by the city council by resolution from time to time. No occupancy permit, shall be issued for any new residential dwelling unit unless the fees specified in this chapter are paid. Fees collected pursuant to this chapter shall be deposited into a separate fund and used only for the purpose of acquiring, designing, constructing, improving, providing and maintaining, to the extent permitted by law, the animal shelter facilities and improvements provided for in the city's general plan and its adopted capital improvement program, as amended from time to time.

### **3.38.150. Collection of fees.**

A. The following applies to designated residential development projects:

1. The City shall not require the payment of fees for construction of public improvements or facilities until the date the first certificate of occupancy or first temporary certificate of occupancy is issued, whichever occurs first, unless the construction of the residential development does not begin within five years of the date upon which the building permit is issued. However, utility service fees related to connections may be collected at the time an application for service is received, provided that those fees do not exceed the costs incurred by the utility provider resulting from the connection activities.
2. The amount of the fees shall be the same amount as would have been paid had the fees and charges been paid prior to the issuance of building permits, and the City shall not charge interest or other fees on any amount deferred pursuant to this provision.
3. If the development contains more than one dwelling, the City may determine whether the fees or charges described shall be paid
  - i. On a pro rata basis for each dwelling when it receives its certificate of occupancy,
  - ii. On a pro rata basis when a certain percentage of the dwellings have received their certificate of occupancy, or
  - iii. On a lump-sum basis when all the dwellings in the development receive their certificate of occupancy.
4. The City may withhold a certificate of occupancy or a temporary certificate of occupancy until payment of those fees or charges is received.

B. Notwithstanding Subsection A, The City may require the payment of those fees or charges at an earlier time if either of the following conditions is met:

1. The fees or charges are to reimburse the City for expenditures previously made to the extent those expenditures have not been paid or reimbursed by another party.
2. The City determines both of the following:
  - a. The fees or charges will be collected for any of the following public improvements or facilities:
    - i. Public improvements or facilities related to providing water service to the residential development.
    - ii. Public improvements or facilities related to providing sewer or wastewater service to the residential development.
    - iii. Public improvements or facilities related to providing fire, public safety, and emergency services to the residential development.
    - iv. Roads, sidewalks, or other public improvements or facilities for the transportation of people that serve the development, including the acquisition of all property, easements, and rights-of-way that may be required to carry out the improvements or facilities.
    - v. Construction and rehabilitation of school facilities, if a school district has a five-year plan pursuant to subdivision (c) of Section 17017.5 of Education Code.
  - b. An account has been established and funds appropriated, and for which the local agency has adopted a proposed construction schedule or plan before final inspection or issuance of the certificate of occupancy or for the public improvements or facilities described in this subsection. "Appropriated," as used in this subsection, means authorization by the City Council for which the fee is collected to make expenditures and incur obligations for specific purposes.

3. Methods of complying with the requirement in Subsection B that a proposed construction schedule or plan be adopted, include, but are not limited to,
  - a. The adoption of the capital improvement plan described in Section 66002 of the California Government Code, or
  - b. The submittal of a five-year plan for construction and rehabilitation of school facilities pursuant to subdivision (c) of Section 17017.5 of the Education Code.
- C. Subsection B does not apply to units reserved for occupancy by lower income households included in a residential development proposed by a housing developer in which at least 49 percent of the total units are reserved for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable rent, as defined in Section 50053 of the Health and Safety Code. Fees and charges exempted from Subsection B under this subparagraph shall become immediately due and payable when the residential development no longer meets the requirements of this subparagraph.
  1. The exception provided in this subsection does not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.
- D. The developer may elect to post a performance bond or a letter of credit from a federally insured, recognized depository institution to guarantee payment of any fees or charges that are subject to this section.
  1. If the developer does not post a performance bond or letter of credit pursuant to this subsection, the City may collect any fees and charges subject to this subsection that are not paid at the time the first certificate of occupancy or first temporary certificate of occupancy is issued, whichever occurs first, in accordance with the following procedure:
    - i. On or before August 10 of each year, the building official of the City shall furnish in writing to the county auditor a description of each parcel of land for which a performance bond or letter of credit has not been posted within the City's jurisdiction upon which fees or charges are unpaid and the amount of the unpaid fees or charges.
    - ii. The amount of the unpaid fees or charges shall constitute a lien upon the land for which the fees or charges are unpaid.
    - iii. The unpaid fees or charges shall be collected in the same manner and at the same time as county ad valorem taxes.
    - iv. The unpaid fees or charges shall be subject to the same penalties, lien priority, and procedure and sale in case of delinquency that apply to county ad valorem taxes.
    - v. All laws applicable to the levy, collection, and enforcement of county ad valorem taxes shall be applicable to the unpaid fees and charges.
  2. Subsection D does not apply to projects that dedicate 100 percent of units, exclusive of a manager's unit or units, to lower income households, as defined by Section 50079.5 of the Health and Safety Code, and have a recorded regulatory agreement with the California Tax Credit Allocation Committee, the California Debt Limit Allocation Committee, or the Department of Housing and Community Development.
- E. If the City does not issue certificates of occupancy for the type of residential developments described in this subdivision, the final inspection shall serve as the certificate of occupancy.
- F. For the purposes of this chapter, "designated residential development project" means a residential development project that meets any of the following conditions:
  1. The project dedicates 100 percent of units, exclusive of a manager's unit or units, to lower income households, as defined by Section 50079.5 of the Health and Safety

Code.

2. The project meets the requirements described in Section 65662 of the California Government Code.
  3. The project is approved by a local government pursuant to Article 2 (commencing with Section 65912.110) or Article 3 (commencing with Section 65912.120) of Chapter 4.1. of the California Government Code.
  4. The project meets the requirements described in subdivision (a) of Section 65913.4. of Chapter 4.1. of the California Government Code.
  5. The project meets the criteria described in subdivision (c) of Section 65913.16. of Chapter 4.1. of the California Government Code.
  6. The project is entitled to a density bonus pursuant to subdivision (b) of Section 65915. of Chapter 4.1. of the California Government Code.
  7. The project includes 10 or fewer units.
- G. If any fee or charge specified in this section is not fully paid prior to issuance of a building permit for construction of any portion of the residential development encumbered thereby, the City may require the property owner, or lessee if the lessee's interest appears of record, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge, or applicable portion thereof, within the time specified in this section. If the fee or charge is prorated pursuant to this section, the obligation under the contract shall be similarly prorated.
1. The obligation to pay the fee or charge shall inure to the benefit of, and be enforceable by the City regardless of whether it is a party to the contract. The contract shall contain a legal description of the property affected, shall be recorded in the office of the county recorder of the county and, from the date of recordation, shall constitute a lien for the payment of the fee or charge, which shall be enforceable against successors in interest to the property owner or lessee at the time of issuance of the building permit. The contract shall be recorded in the grantor-grantee index in the name of the City as grantee and in the name of the property owner or lessee as grantor. The City shall record a release of the obligation, containing a legal description of the property, in the event the obligation is paid in full, or a partial release in the event the fee or charge is prorated pursuant to this section.
  2. The contract may require the property owner or lessee to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit was issued and to provide in the escrow instructions that the fee or charge be paid to the City from the sale proceeds in escrow prior to disbursing proceeds to the seller.
  3. The City Council authorizes the City Manager, or designee, to approve and execute contracts under this section on behalf of the City.
  4. Before requiring execution of a contract under this section, the City shall post a model form of contract on its internet website.
- H. This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.
- I. "Final inspection," "temporary certificate of occupancy," or "certificate of occupancy," as used in this section, has the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 edition.
- J. The City may defer the collection of one or more fees up to the close of escrow. This shall not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of

Part 10.5 of Division 1 of Title 1 of the Education Code.

**3.38.160. Credit for improvements provided by developers.**

Credit against a residential development impact fee may be given for qualifying facilities and improvements constructed as part of each residential development project in accordance with city policies and procedures. The applicant shall be responsible for providing sufficient evidence of the eligibility and cost of such facilities and improvements to the satisfaction of the city's public works director/city engineer, who will determine whether the evidence is satisfactory to render a fee credit, and will determine the amount of the fee credit, which shall not exceed the projected costs of such facilities and improvements for purposes of establishing the affected impact fee.

**3.38.170. Adoption of fees and fee revisions.**

The amount of any residential development impact fee may be amended annually or from time to time by a resolution of the city council in accordance with the procedures and based upon the findings set forth in Government Code Section 66000, et seq., for such fees. The city council may authorize by resolution annual adjustments to the residential development impact fees to account for the escalation in construction costs, based upon the figures published in the Engineering News Record's Building Cost Index—20 Cities Annual Average. Land costs may be evaluated annually and adjusted, as necessary, based on the current market conditions at the time.

**3.38.180. Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The city council 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 subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.