

ORDINANCE NO. 3327

ORDINANCE OF THE CITY OF CHULA VISTA UPDATING THE WESTERN TRANSPORTATION DEVELOPMENT IMPACT FEE TO MITIGATE TRANSPORTATION IMPACTS WITHIN WESTERN CHULA VISTA, AMENDING THE WESTERN TRANSPORTATION DEVELOPMENT IMPACT FEE BENEFIT AREA, ESTABLISHING THE BAYFRONT TRANSPORTATION DEVELOPMENT IMPACT FEE, AND AMENDING CHAPTER 3.55 OF THE MUNICIPAL CODE

WHEREAS, since January 1988, the City has had a program in place for the collection of a transportation development impact fee for the financing of street improvements in the area east of Interstate 805; and

WHEREAS, on March 18, 2008, the Western Transportation Development Impact Fee (WTDIF) was established by adoption of Ordinance Nos. 3106 through 3110. The WTDIF was codified in Chapter 3.55 of the Municipal Code. In addition to preparing the City for future growth in the western portion of the City, SANDAG required San Diego County cities to enact a Citywide TDIF program in order to continue receiving annual TransNet funds for local streets; and

WHEREAS, starting on July 1, 2008, each agency in the San Diego region was required to contribute \$2000 in exactions (updated annually) from the private sector per Equivalent Dwelling Unit to improve the Regional Arterial System (RAS). Starting on July 1, 2014, the required SANDAG contribution to the RAS became \$2254; and

WHEREAS, subsequent to adoption of the Western Transportation Development Impact Fee, the Pedestrian and Bikeway Master Plans were adopted and the Bayfront Development Master Plan was developed and prepared in 2013; and

WHEREAS, due to the amount of new streets and infrastructure needed in the Bayfront, the type and quantity of improvements needed in the Bayfront area is significantly different from the improvements needed in the rest of the Western area. Staff therefore recommends that a separate Development Impact Fee (DIF) be established for the Bayfront area; and

WHEREAS, due to new development projections and projects that have been completed or received funding since 2008, as well as the change in benefit area (i.e. removal of the Bayfront from the existing WTDIF area), an update of the WTDIF is needed; and

WHEREAS, on November 4, 2014, the City Council of the City of Chula Vista held a duly noticed public hearing at which oral or written presentations regarding the Western Transportation Development Impact Fee (WTDIF) and the Bayfront Development Impact Fee (BFDIF) could be made.

NOW, THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I. Amend Chapter 3.55 of the Chula Vista Municipal Code to read as follows:

**Chapter 3.55
WESTERN AND BAYFRONT TRANSPORTATION DEVELOPMENT IMPACT FEES**

3.55.010 General intent.

The City's General Plan Land Use and Transportation Element requires that adequate public facilities be available to accommodate increased population created by new development within the City of Chula Vista.

The City Council has determined that new development will create adverse impacts on the City's existing public transportation facilities which must be mitigated by the financing and construction of certain public transportation facilities which are the subject of this chapter. New development contributes to the cumulative burden on these public transportation facilities in direct relationship to the amount of vehicular traffic and population generated by the development or the gross acreage of the commercial or industrial land in the development.

The City Council has determined that a reasonable means of financing the public transportation facilities is to charge a fee on all developments within the area of the City east of Interstate I-805. Imposition of a transportation development impact fee would be placed on all new development in the Western portion of the City of Chula Vista (WTDIF) and a separate development impact fee would be placed on all new development Bayfront area of the City of Chula Vista (BFDIF). These fees (WTDIF and BFDIF) would only be applied to new development for which building permits have not yet been issued. The imposition and collection of the WTDIF and the BFDIF are necessary in order to protect the public health, safety and welfare, thereby ensuring effective implementation of the City's General Plan.

Prior to the development of the Bayfront Development Master Plan, the Western and Bayfront portions of the City of Chula Vista were considered a one area for which a single development impact fee was charged. However, subsequent to the development of the Bayfront Development Master Plan, it became apparent that a significant difference in the type of infrastructure needed in the Bayfront area as compared to the rest of western Chula Vista exists and equity requires that the two areas, previously combined, be separated such that each area will only be required to mitigate the transportation-related impacts caused by development within the respective area: therefore, two separate benefit areas are hereby established with different rates, the Western Transportation Impact Fee (WTDIF) and Bayfront Transportation Development Impact Fee (BFDIF), to be applied to the Western Area and the Bayfront Area, respectively. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.020 Definitions.

For the purposes of this chapter, the following words or phrases shall be construed as defined herein, unless from the context it appears that a different meaning is intended.

A. "Building permit" means a permit required by and issued pursuant to the California Building Code.

B. "City Engineer" means the City Engineer, the City Engineer's designee or the City Manager's designee.

C. "Density" means dwelling units per gross acre identified for each planning area shown on the approved tentative map or approved tentative parcel map or as determined by the City Manager's designee.

D. "Developer" means the owner or developer of a development.

E. "Development permit" means any discretionary permit, entitlement or approval for a development project issued under any zoning or subdivision ordinance of the City.

F. "Development project" or "development" means any activity described as the following:

1. Any new residential dwelling unit developed on vacant land;
2. Any new commercial/office or industrial development constructed on vacant land;
3. Any expansions to established developments or new developments on non-vacant land in those land use categories listed in subsections (F)(1) and (2) of this section, if the result is a net increase in dwelling units. The fee shall be based solely on this net dwelling unit increase;
4. Any new or expanding special land use project;
5. Any special purpose project developed on vacant land or non-vacant land, or expanded within a pre-existing site, if the result is a net increase in dwelling units. The fee shall be based solely on this net dwelling unit increase;
6. Any other development project not listed above but described in Section 65927 and 65928 of the State Government Code.

G. "Community purpose facility" means a facility which serves one of the following purposes:

1. Social service activities, including such services as Boy Scouts and Girl Scouts, Boys and Girls Club, Alcoholics Anonymous and services for the homeless;
2. Public schools;
3. Private schools;
4. Day care;
5. Senior care and recreation;
6. Worship, spiritual growth and development.

H. "Western Area" generally means that area of the City of Chula Vista located between Interstate 5 on the west, Interstate 805 on the east, the City boundary on the north and the City boundary on the south, also including the area to the north of E Street, south of Naples Street and to the west of Interstate 5, as shown on the map entitled "Attachment 6" of the Council agenda statement for this ordinance, on file in the office of the City Clerk.

I. "Bayfront Area" means that area of the City of Chula Vista generally west of Interstate 5 and between E Street and Naples Street, excluding the United Technologies parcels, as shown on the map entitled "Attachment 6" of the Council agenda statement for this ordinance, on file in the office of the City Clerk.

J. "Engineering study" and "Engineer's Report" means the Engineer's Report for the Western Transportation Development Impact Fee prepared by City staff, dated February 2008; and the Engineer's Report (Nexus Study) for the Western Transportation Development Impact Fee dated October, 2014, and the Engineer's Report (Nexus Study) for the Bayfront Transportation Development Impact Fee, both prepared by City staff on file in the office of the City Clerk.

K. "Regional Arterial System (RAS)." RAS roadways are generally described as those facilities that act as a critical link in providing direct connections between communities ensuring system continuity and congestion relief in high volume corridors. They are roadways that are listed in the most recent edition of SANDAG's Regional Transportation Plan (RTP) or have been accepted for inclusion into the RTP.

L. "Special land use" means any nonresidential, noncommercial/office or nonindustrial development project (e.g., Olympic Training Center, hospitals, utilities), or non-special purpose project.

M. "Special purpose project" means any for-profit community purpose facility (e.g., day care). (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.030 Public transportation facilities to be financed by the WTDIF.

A. The public transportation facilities (facilities) which are the subject matter of the WTDIF are listed below as detailed in subsection (C) of this section and in the Engineer's Report on file in the office of the City Clerk.

B. The City Council may modify or amend the list of projects in order to maintain compliance with the Circulation Element of the City's General Plan.

C. The facilities are as follows:

Interstate 5 Improvements

1. (I-5-1) I-5/E Street NB off-ramp re-striping, add lane
2. (I-5-2) I-5/E Street/Bay Boulevard SB off-ramp re-striping, add lane
3. (I-5-4) E Street bridge widening over I-5 (250' X 20')
4. (I-5-5) F Street bridge widening over I-5 (250' X 20')
5. (I-5-6) I-5/H Street NB off-ramp re-striping, add lane
6. (I-5-7) I-5/H Street SB off-ramp re-striping, add lane
7. (I-5-8) H Street bridge widening over I-5 (200' X 40')
8. (I-5-9) I-5/J Street NB off-ramp re-striping, add lane
9. (I-5-10) I-5/J Street under-crossing widening, add EB-NB (175' X 20' X \$350.00/sf)
10. (I-5-11) L Street bridge widening over I-5 (S/W for peds 300' X 12') (18%)
11. (I-5-12) I-5/Bay Boulevard (south of L Street) SB on-/off-ramps traffic signal
12. (I-5-13) I-5/Industrial Boulevard NB on-/off-ramps, traffic signal
13. (I-5-14) I-5/Palomar Street bridge widening
14. (I-5-16) I-5/Main Street bridge widening (275 lf X 20 lf)
15. (I-5-17) I-5 HOV add managed lanes from SR 905 to SR 54 (50% in CV)

Interstate-805 Improvements

16. (I-805-2) Main Street under-crossing widening for EB-NB left turn lane

State Route 54 Improvements

17. (SR-54-2) SR-54 EB off-ramp at N. Fourth Avenue – add ramp lane

Regional Arterial System (RAS) Projects

18. (RAS-1) Bonita Road from First Avenue to I-805
19. (RAS-2) Broadway from C Street to south of Main Street (City Limits)
20. (RAS-3) E Street improvements – First Ave to Bonita Road/E. Flower Street
21. (RAS-4) E Street improvements, I-5 to 300 feet east of NB ramp
22. (RAS-5) E Street LRT grade separation (underpass LRT option)
23. (RAS-6) H Street LRT grade separation (underpass LRT option)
24. (RAS-7) H Street at Broadway EB queue jumper lane and traffic signal modifications
25. (RAS-9) H Street widening to six lanes from I-5 to Broadway
26. (RAS-10) H Street improvements from Second Avenue to Hilltop Drive
27. (RAS-11) East H St. north side improvements from Hilltop Drive to I-805
28. (RAS-13) L Street improvements south side west of Industrial Boulevard
29. (RAS-14) Telegraph Canyon Road at I-805 south side sidewalk

30. (RAS-15) Orange Avenue from Palomar Street to Hilltop Drive
31. (RAS-16) Palomar Street improvements from I-5 to I-805
32. (RAS-17) Main St. improvements from I-5 to I-805 (See GPU Table 5.10-6)
33. (RAS-18) H Street/4th Avenue add WB-NB and EB-SB right turn lanes
34. (RAS-19) H Street/4th Avenue add WB-NB and EB-SB right turn lanes
31. TF-358 Western Transportation Development Impact Fee
32. (RAS-21) Palomar Street LRT Grade Separation
33. (BP-4) Main Street bike lanes from Industrial Boulevard and I-805
34. (BP-7) H Street: Broadway to Second Ave. ped improvements
35. (BP-8) Broadway: D Street to Main Street ped improvements

Bicycle and Pedestrian Facilities Improvements

36. (BP-1) Bayshore Bikeway (bike path) between E Street and F Streets
37. (BP-2) F Street sidewalk/bike lane improvements from I-5 to Fourth Avenue
38. (BP-3) Industrial Boulevard improvements and bike lanes from L Street to Main Street
45. (BP-9) Bayshore Bikeway (bike path)

Other Roadways

39. (OR-2) Second Avenue/D Street all-way stop installation
40. (OR-4) Traffic Management Center

(Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.035 Public transportation facilities to be financed by the BFDIF.

A. The public transportation facilities (facilities) which are the subject matter of the BFDIF are listed below as detailed in subsection (C) of this section.

B. The City Council may modify or amend the list of projects in order to maintain compliance with the Circulation Element of the City's General Plan.

C. The facilities are as follows:

Interstate 5 Improvements

1. (I-5-1) I-5/E Street NB off-ramp re-striping, add lane
2. (I-5-2) I-5/E Street/Bay Boulevard SB off-ramp re-striping, add lane
3. (I-5-4) E Street bridge widening over I-5 (250' X 20')
4. (I-5-5) F Street bridge widening over I-5 (250' X 20')
5. (I-5-6) I-5/H Street NB off-ramp re-striping, add lane
6. (I-5-7) I-5/H Street SB off-ramp re-striping, add lane
7. (I-5-8) H Street bridge widening over I-5 (200' X 40')
8. (I-5-9) I-5/J Street NB off-ramp re-striping, add lane
9. (I-5-11) L Street bridge widening over I-5 (S/W for peds 300' X 12')
10. (I-5-12) I-5/Bay Blvd. (south of L Street) SB on/off ramps traffic signal
11. (I-5-13) I-5/Industrial Blvd. NB on/off ramps traffic signal
12. (I-5-14) I-5/Palomar Street bridge widening (275 lf X 50 lf)

13. (1-5-16) I-5/Main Street bridge widening (275 lf X 20 lf)
14. (1-5-17) I-5 HOV add managed lanes from SR 905 to SR 54 (50% in CV)

Regional Arterial System (RAS) Projects

15. (RAS-5) E Street LRT grade separation (underpass LRT option)
16. (RAS-6) H Street LRT grade separation (underpass LRT option)
17. (RAS-9) H Street widening to 6 lanes from I-5 to Broadway

Bicycle and Pedestrian Facilities Improvements (21% WTDIF share per GPU)

18. (BP-1) Bayshore Bikeway (bike path) between E Street and F Street
19. (BP-9) Bayshore Bikeway (bike path) between F Street and H Street
20. (BAY-15) Lagoon Drive (950 lf) bike and pedestrian trail
21. (BAY-27) Bayshore Bikeway Bayfront Loop (14,400 lf)

Bayfront Roadways – RAS

22. (BAY-13) E Street extension Bay Blvd. to H Street (52' x 5450')
23. (BAY-17) H Street from E Street to Marina Pkwy. (52' x 1650')(BAY-6)
24. (BAY-18) Marina Pkwy. 2-lane from H Street to C Street (52' x 1100')(GP-2)(BAY-8)
25. (BAY-20) Marina Pkwy. 2-lane from J Street to C Street (52' x 1450') (GP-2)(BAY-8)
26. (BAY-9) I-5/J Street NB on-ramp add EB-LT & WB-RT lanes (also I-5-10)
27. (BAY-22) J Street from Marina Pkwy. to Bay Blvd. (1650 lf) (GP-8)(BAY-10)
28. (BAY-29) Pump Station and Sewer Relocation Costs (Marina Pkwy. And J Street)

Bayfront Roadways – non-RAS

28. (BAY-14) F Street from Bay Blvd. to west cul-de-sac (1863 lf)
29. (BAY-19) "Street A" from H Street to C Street (74' x 1150')(BAY-11)
30. (BAY-21) "Street A" from C St. to J St. (1400 lf) (BAY-11)
31. (BAY-25) "Street A" – South of J Street to Street "B"
32. (BAY-23) "Street C" – Marina Pkwy. To Bay Blvd. (2600 lf)
33. (BAY-16) G Street (300 lf)
34. (BAY-26) "Street B" – "A Street" to Bay Blvd. (2600 lf)
35. (BAY-24) Marina Way (1100 lf)
37. (BAY-28) Traffic Signals (seven)
38. (BAY-16) G Street (300 lf)

3.55.040 Territory to which fee applicable.

The areas of the City of Chula Vista to which the fees herein amended and established shall be applicable are as follows: the WTDIF shall apply to the territorial limits of the Western Area and the BFDIF shall apply to the Bayfront Area as such areas are defined above, or as they may be amended from time to time. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.050 Establishment of a Western and a Bayfront Development Impact Fee.

Development impact fees (fees) are hereby established to pay for the facilities within the territories. The fees shall be paid upon the issuance of building permits for each development project within the Western Area and the Bayfront Area. The WTDIF and the BFDIF fees in the amounts set forth in CVMC 3.55.090 are hereby established to pay for transportation improvements and facilities within the Western and Bayfront Areas. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.060 Determination of fees by land use category.

A. For purposes of these fees, single-family dwelling units shall include single-family detached homes and detached condominiums; multifamily dwelling units shall include attached condominiums, townhouses, duplexes, triplexes, and apartments. The density of the development type shall be based on the number of dwelling units per gross acre for single-family or multifamily residential and shall be based upon the densities identified on the approved tentative map or approved tentative parcel map entitling the development unless otherwise approved in writing by the City Manager's designee.

B. Commercial/office and industrial development projects shall be charged on a per acre or per square footage basis. For purposes of this fee, gross acreage and/or square footage as it applies to the commercial, industrial and office development types means all land area that the City Manager's designee deems necessary within the boundary of the parcel or parcels of the development project for which building permits are being requested.

C. The fee multiplied by the total number of dwelling units, square footage or acres within a given development project represents a developer's fair share ("fair share") for that development project. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.070 Time to determine amount due.

The fee for each development shall be calculated at the time of building permit issuance and shall be the amount as indicated at that time, and not when the tentative map or final map was granted or applied for, or when the building permit plan check was conducted, or when application was made for the building permit. No building permit shall be issued unless the development impact fee is paid. The City Council finds that collection of the fees established by this chapter at the time of the building permit is necessary to ensure that funds will be available for the construction of facilities concurrent with the need for those facilities and to ensure certainty in the capital facilities budgeting for the western part of the City. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.080 Purpose and use of fee.

The fees collected shall be used by the City for the following purposes as determined by the City Council:

- A. To pay for the construction of facilities by the City, or to reimburse the City for facilities installed by the City with funds from other sources.
- B. To reimburse developers who have been required by CVMC 3.55.150(A) to install improvements that are major streets and are listed in CVMC 3.55.030 or 3.55.035.
- C. To reimburse developers who have been permitted to install improvements pursuant to CVMC 3.55.150(B) (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.090 Amount of fees.

A. The fees shall be the amounts as set forth below in Table 1. The amount of a fee shall be adjusted on October 1, 2015 and on each October 1st thereafter. The annual inflation adjustment will be based on the one-year change (from July to July) in the Caltrans Highway Construction Cost Index or the Los Angeles Construction Cost Index as published by the Engineering News Record (ENR), or an increase of at least two percent. The program collects two percent of the total hard project cost estimate for program administration.

B. Adjustments to the fees based upon the annual adjustment authorized in CVMC 3.55.090(A) shall be automatic in accordance with annual action taken by the San Diego Association of Governments (SANDAG) Board of Directors and shall not require further action by the City Council. The WTDIF and BFDIF may also be reviewed and amended by the City Council as necessary based on changes in the type, size, location or cost of the facilities to be financed by the fee; changes in land use designation in the City's General Plan; and upon other sound engineering, financing and planning information.

Table 1**PROPOSED WTDIF/BFDIF FEE PER LAND USE CLASSIFICATION**

Proposed TDIF Fee per EDU:			\$3,907	\$9,442
Land Use Classification		EDUs	WTDIF Rate	BFDIF Rate
RESIDENTIAL				
Residential (LOW)	0 to 6 dwelling units per acre	1 per EDU	\$3,907/DU	\$9,442/DU
Residential (MED)	6.1 to 20 dwelling units per acre	0.8 per EDU	\$3,125/DU	\$7,554/DU
Residential (HIGH)	Over 20 dwelling units per acre	0.6 per EDU	\$2,344/DU	\$5,665/DU

Mobile Home		0.5 per EDU	\$1,953/DU	\$4,721/DU
COMMERCIAL				
Regional Commercial	Contain 1 – 5 major dept. stores and usually have more than 50 tenants. Typically larger than 40 acres.	20 EDU/Acre	\$78,140/Acre	\$188,840/Acre
Community Commercial	Smaller in that size than regional. Contain junior dept. store or variety store, (i.e., Target Center with other commercial stores) as a major tenant and have 15 to 50 other tenants. Smaller in size, 8 – 20 acres.	28 EDU/Acre	\$109,396/Acre	\$264,376/Acre
Neighborhood Commercial	Less than 10 acres. Includes supermarket and drug store. May include office spaces.	48 EDU/Acre	\$187,536/Acre	\$453,216/Acre
Neighborhood Commercial	Same as above but in square footage.	4.8 EDU/KSF	\$18,753/ KSF	\$45,322/ KSF
Street Front Commercial	Commercial activities found along major streets, not in a planned center with limited on-site parking.	16 EDU/Acre	\$62,512/Acre	\$151,072/Acre
Retail Commercial	Specialty retail/strip commercial.	16 EDU/Acre	\$62,512/Acre	\$151,072/Acre
Wholesale Trade	Usually located near transportation facilities. Structures are usually large and cover majority of the parcel. Examples are clothing and supply; also includes swap meet areas.	24 EDU/Acre	\$93,768/Acre	\$226,608/Acre
OFFICE				
High Rise Office	More than 100,000 S.F. and 6+ Stories	60 EDU/Acre	\$234,420/Acre	\$566,520/Acre
Low Rise Office	< 6 Stories	30 EDU/Acre	\$117,210/Acre	\$283,260/Acre
Low Rise Office (in thousands of square feet)	< 6 Stories	2 EDU/KSF	\$7,814/ KSF	\$18,884/ KSF
Medical Office	Medical and dental facilities	50 EDU/Acre	\$195,350/Acre	\$472,100/Acre
LODGING				

Low Rise Hotel/Motel	< 4 Stories	20 EDU/Acre	\$78,140/ Acre	\$188,840/ Acre
Low Rise Hotel/Motel	< 4 Stories	1 EDU/Room	\$3,907/ Room	\$9,442/ Room
High Rise Hotel	>=4 Stories	30/EDU/Acre	\$117,210/ Acre	\$283,260/ Acre
INDUSTRY				
Heavy Industry	Shipbuilding, airframe, and aircraft manufacturing. Usually located next to transportation facilities and commercial areas. Parcels are typically 20 – 50 acres.	12 EDU/Acre	\$46,884/ Acre	\$113,304/ Acre
Warehouse/Storage	Usually large buildings located near freeways, industrial or strip commercial areas.	6 EDU/Acre	\$23,442/ Acre	\$56,652/ Acre
Industrial Park	Office/industrial uses clustered into a center. The primary uses are industrial by may include high percentages of other uses in service or retail activities.	9 EDU/Acre	\$35,163/ Acre	\$84,978/ Acre
Light Industrial	All other industrial uses and manufacturing not included in categories above.	20 EDU/Acre	\$78,140/ Acre	\$188,840/ Acre

(Ord. 3246 § 1, 2012; Ord. 3214 § 1, 2011; Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.100 Development projects exempt from the fee.

A. Development projects by public agencies shall be exempt from the provisions of the fee if those projects are designed to provide the public service for which the agency is charged (public purpose).

B. Community purpose facilities which are not operated for profit (nonprofit community purpose facilities) are also exempt inasmuch as these institutions provide benefit to the community as a whole, including all land use categories which are the subject matter of the fee. The City Council hereby determines that it is appropriate to spread any impact such nonprofit community purpose facilities might have to the other land use categories subject to the fee. In the event that a court determines that the exemption herein extended to community purpose facilities shall for any reason be invalid, the City Council hereby allocates the nonprofit community purpose facilities' fair share to the City of Chula Vista and not to any of the land use categories which are the subject matter of the development impact land use categories.

C. Development projects which are additions or expansions to existing dwelling units or businesses, except special land use projects, shall be exempt if the addition or expansion does not result in a net increase in dwelling units or commercial/industrial acreage. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.110 Authority for accounting and expenditures.

A. The fees collected shall be deposited into a specific fund based on the area within which the development occurs. Fees collected for development within the Western Area shall be deposited into a Western Transportation Development Impact Fee financing fund and a fees collected from development within the Bayfront Area shall be deposited in a Bayfront Development Impact Fee financing fund (WTDIF and BFDIF fee funds, or funds), which funds are hereby created.

B. The Director of Finance is authorized to establish two separate funds for the facilities identified in this chapter, to establish accounts within the funds for the various improvements and facilities identified in this chapter, and to periodically make expenditures from the funds only for the purposes set forth herein in accordance with the facilities phasing plan or capital improvement plan adopted by the City Council. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.120 Findings.

The City Council finds that:

A. Collection of the fee established by this chapter at the time of the building permit issuance is necessary to provide funds for the transportation facilities identified in CVMC 3.55.030 and 3.55.035 and to ensure certainty in the capital facilities budgeting for growth-impacted public transportation facilities; and

B. The purpose of the fees hereby enacted prevents new development from reducing the quality and availability of public transportation infrastructure facilities provided to residents of the City by requiring new development to contribute to the cost of additional capital transportation infrastructure improvements needed to meet the growth generated by such development; and

C. The revenue from the fees hereby enacted will be used to construct public facilities and infrastructure and pay for other capital expenditures needed to serve new development as identified in the Engineer's Report dated February, 2008, the 2014 WTDIF Nexus Study, the 2014 BFDIF Nexus Study and as provided by the San Diego Unified Port District (collectively "Fee Studies"); and

D. Based on analyses presented in the Fee Studies there is a reasonable relationship between:

1. The use of the fees and the types of development projects on which they are imposed;
2. The need for facilities and the types of development projects on which the fees are imposed; and
3. 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. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.130 Fee additional to other fees and charges.

This fee is in addition to the requirements imposed by other City laws, policies or regulations relating to the construction or the financing of the construction of public improvements within subdivisions or developments. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.150 Developer construction of transportation facilities.

A. Whenever a developer of a development project would be required by application of City law or policy, as a condition of approval of a development permit, to construct or finance the construction of a portion of a transportation facility identified in CVMC 3.55.030 or 3.55.035, the City Council may impose an additional requirement that the developer install the improvements with supplemental size, length or capacity in order to ensure efficient and timely construction of the transportation facilities network. If such a requirement is imposed, the City Council shall, in its discretion, enter into a reimbursement agreement with the developer, or give a credit against the fee otherwise levied by this chapter on the development project, or some combination thereof.

B. Whenever a developer requests reimbursement, or a credit against fees, for work to be done or paid for by the developer under subsection (A) of this section, the request shall be submitted in writing to the City Manager's designee.

1. The request shall contain a description of the project with a detailed cost estimate which itemizes those costs of the construction attributable to the transportation facility project and excludes any work attributable to a specific subdivision project. The estimate is preliminary and the amount of reimbursement or credit against fees is subject to final determination by the City Manager's designee. Additional information shall be provided to the City by the developer upon request of the City.
2. Such reimbursement or credit against fees shall be subject to the following conditions:

- a. Requirements of Developer.

- i. Preparation of plans and specifications for approval by the City;
 - ii. Secure and dedicate any right-of-way required for the transportation facility project;
 - iii. Secure all required permits and environmental clearances necessary for the transportation facility project;
 - iv. Provision of performance bonds (where the developer intends to utilize provisions for immediate credit, the performance bond shall be for 100 percent of the value of the transportation facility project);
 - v. Payment of all City fees and costs.
- b. The City will not be responsible for any of the costs of constructing the transportation facility project. The developer shall advance all necessary funds to construct the transportation facility project.
- c. The developer shall secure at least three qualified bids for work to be done and shall award the construction contract to the lowest qualified bidder. The developer may combine the construction of the transportation facility project with other development-related work and award one construction contract for the combined work based on a clearly identified process for determining the low bidder, all as approved by the City Manager's designee. Should the construction contract be awarded to a qualified bidder who did not submit the lowest bid for the transportation facility project portion of the contract, the developer will only receive transportation development impact fee credit based on the lowest bid for the transportation facility portion of the contract. Any claims for additional payment for extra work or charges shall be justified, shall be documented to the satisfaction of the City Manager's designee and shall only be reimbursed at the prices for similar work included in the lowest bid for the transportation facility portion of the contract.
- d. Upon complying with the conditions set forth in subsections (B)(1) and (B)(2)(a) of this section as determined by the City and upon approval of the estimated cost by the City Manager's designee, the developer shall be entitled to immediate credit for 50 percent of the estimated cost of the construction attributable to the transportation facility project. Once the developer has received valid bids for the project which comply with subsection (B)(2)(c) of this section, entered into binding contracts for the construction of the project, and met the conditions set forth in subsections (B)(1) and (B)(2)(a) of this section as determined by the City, all of which have been approved by the City Manager's designee, the amount of the immediate credit shall be

increased to 75 percent of the bid amount attributable to the transportation facility project. The immediate credits shall be applied to the developer's obligation to pay transportation development impact fees for building permits issued after the establishment of the credit. The developer shall specify these building permits to which the credit is to be applied at the time the developer submits the building permit applications.

e. If the developer uses all of the immediate credit before final completion of the transportation facility project, then the developer may defer payment of development impact fees for other building permits by providing to the City liquid security such as cash or an irrevocable letter of credit, but not bonds or set-aside letters, in an amount equal to the remaining amount of the estimated cost of the transportation facility project.

f. When all work has been completed to the satisfaction of the City, the developer shall submit verification of payments made for the construction of the transportation facility project to the City. The City Manager's designee shall make the final determination on expenditures which are eligible for credit or cash reimbursement.

g. After final determination of eligible expenditures has been made by the City Manager's designee and the developer has complied with the conditions set forth in subsection (B) of this section, the final amount of transportation development impact fee credits shall be determined by the City Manager's designee. The developer shall receive credit against the deferred fee obligation in an amount equal to the difference between the final expenditure determination and the amount of the 75 percent immediate credit used, if any. The City shall notify the developer of the final deferred fee obligation, and of the amount of the applicable credit. If the amount of the applicable credit is less than the deferred fee obligation, then the developer shall have 30 days to pay the deferred fee. If the deferred fees are not paid within the 30-day period, the City may make a demand against the liquid security and apply the proceeds to the fee obligation.

h. At the time building permits are issued for the developer's project, the City will incrementally apply credit which the developer has accrued in lieu of collecting the required transportation development impact fees. The amount of the credit to be applied to each building permit shall be based upon the fee schedule in effect at the time of the building permit issuance. The City Manager's designee shall convert such credit to an EDU basis for residential development and/or a gross acre basis for commercial or industrial development for purposes of determining the amount of credit to be applied to each building permit.

i. If the total eligible construction cost for the transportation facility project is more than the total transportation development impact fees which will be required for the developer's project, then the amount in excess of development impact fees will be paid in cash when funds are available as determined by the City Manager; a reimbursement agreement will be executed; or the developer may waive reimbursement and use the excess as credit against future transportation development impact fee obligations. The City may, in its discretion, enter into an agreement with the developer to convert excess credit into EDU and/or gross acre credits for use against future development impact fee obligations at the fee rate in effect on the date of the agreement.

j. The requirements of this subsection (B) of this section may, in the City's discretion, be modified through an agreement between the developer and the City and approved by City Council.

C. Whenever a transportation development impact fee credit is generated by constructing a transportation facility using assessment district or community facilities district financing, the credit shall only be applied to the transportation development impact fee obligations within that district. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.160 Procedure for fee waiver or reduction.

A. Any developer who, because of the nature or type of uses proposed for a development project, contends that application of the fee imposed by this chapter is unconstitutional, or unrelated to mitigation of the traffic needs or burdens of the development, may apply to the City Council for a waiver, reduction, or deferral of the fee. A development which is designed and intended as a temporary use (10 years or less) and which is conducted in facilities which are, by their nature, short-term interim facilities such as a portable or modular building (including mobile homes, trailers, etc.) may qualify for a waiver, reduction, or deferral. In addition, a deferral may be granted on the basis of demonstrated economic hardship on the condition that: (1) the use offers a significant public benefit; (2) the amount deferred bears interest at a fair market rate so as to constitute an approximate value equivalent to a cash payment; and (3) the amount deferred is adequately secured by agreement with the applicant. Unless the requirement for timely filing is waived by the City, the application shall be made in writing and filed with the City Clerk not later than 10 days after notice of the public hearing on the development permit application or the project is given or, if no development permit is required, at the time of the filing of the building permit application. The application shall state in detail the factual basis for the claim of waiver or reduction.

B. The City Council shall consider the application at a public hearing on same, notice of which need not be published other than by description on the agenda of

the meeting at which the public hearing is held. Said public hearing should be held within 60 days after its filing. The decision of the City Council shall be final. If a deferral, reduction or waiver is granted, it should be granted pursuant to an agreement with the applicant and the property owner, if different from the applicant, providing that any change in use within the project shall subject the development to payment of the full fee. The procedure provided by this section is additional to any other procedure authorized by law for protesting or challenging the fee imposed by this chapter. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.170 Assessment districts.

If any assessment or special taxing district is established for any or all of the facilities listed in CVMC 3.55.030 or 3.55.035, the owner or developer of a project may apply to the City Council for a credit against the fee in an amount equal to the development's attributable portion of the cost of the authorized improvements as determined by the City Manager's designee, plus incidental costs normally occurring with a construction project, but excluding costs associated with assessment district proceedings or financing. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.180 Economic incentive credit.

The City Council may authorize the City to participate in the financing of transportation facility projects or portions of transportation facility projects as defined in CVMC 3.55.030 or 3.55.035 at the time of the appropriation of funds by City Council for the construction of an eligible transportation facility; the City shall be eligible to receive a credit known hereafter as an economic incentive credit. Such economic incentive credit may be applied to development impact fee obligations for those projects which the City Council determines, in its sole discretion, to be beneficial to the City. The use of the economic incentive credit may be subject to conditions which shall be set forth in a written agreement between the developer of the project and the City and approved by City Council.

The City may receive economic incentive credit only for those eligible projects identified in CVMC 3.55.030 and 3.55.035 for amounts of funding not identified in the most recent engineering study. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.190 Fund loans.

A. Loans by the City. The City may loan funds to the funds to pay for facilities should the funds have insufficient funds to cover the cost of said facility. Said loans, if granted, shall be approved upon the adoption of the annual City budget or upon resolution of the City Council and shall carry interest rates as set by the City Council for each fiscal year. A schedule for repayment of said loans shall be established at the time they are made and approved by the Council, with a maximum term not to exceed the life of the fund.

B. Developer Loans. A developer may loan funds to the City as outlined in CVMC 3.55.150. The City may repay said developer loans with interest, under the terms listed in subsection (A) of this section. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

3.55.200 Effective date.

This chapter shall become effective January 18, 2014. (Ord. 3110 § 2, 2008; Ord. 3109 § 2, 2008; Ord. 3108 § 2, 2008; Ord. 3107 § 2, 2008; Ord. 3106 § 2, 2008).

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall become effective 60 days after its second reading and adoption.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by


Richard A. Hopkins
Director of Public Works


Glen R. Googins
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 2nd day of December 2014, by the following vote:

AYES: Councilmembers: Bensoussan, Ramirez, Salas and Cox

NAYS: Councilmembers: None

ABSENT: Councilmembers: Aguilar



Patricia Aguilar, Deputy Mayor

ATTEST:



Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3327 had its first reading at a regular meeting held on the 18th day of November 2014 and its second reading and adoption at a regular meeting of said City Council held on the 2nd day of December 2014; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

Dec 18, 2014
Dated



Donna R. Norris, CMC, City Clerk