

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE OF THE CITY OF CHULA VISTA ADDING  
CHAPTER 3.56 TO THE CHULA VISTA MUNICIPAL  
CODE RELATING TO DEVELOPMENT IMPACT FEES IN  
WESTERN CHULA VISTA**

WHEREAS, the Chula Vista Municipal Code establishes certain development impact fees that apply to development projects in the western portion of the City; and

WHEREAS, payment of these development impact fees at the time of permit issuance or occupancy has been found, in the absence of the redevelopment agency, to create an impediment to needed development in the western portion of the City; and

WHEREAS, in order to encourage needed development in the western portion of the City while also requiring payment of impact fees, the City Council desires to allow for the deferral of the payment of impact fees, subject to the terms and conditions of this ordinance.

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

**Section I.** Chapter 3.56 is hereby added to the Chula Vista Municipal Code to read as follows:

**Chapter 3.56  
Development Impact Fees In  
Western Chula Vista**

**Sections:**

<b>3.56.010</b>	<b>General Intent</b>
<b>3.56.020</b>	<b>Definitions</b>
<b>3.56.030</b>	<b>Requirements for Fee Deferral</b>
<b>3.56.040</b>	<b>Contents of Development Fee Deferral Agreement</b>
<b>3.56.050</b>	<b>Western Chula Vista Development Impact Fee Financing Community Facilities District</b>

**3.56.010 General Intent**

The City Council has determined that new development and redevelopment in Western Chula Vista, as defined herein, is an essential element to the overall growth and prosperity of the City, and is beneficial to the health, safety and welfare of its residents. In the absence of a state-authorized redevelopment

program or a community facilities district, which would assist in such development, certain projects that may have otherwise been developed and that would have provided significant benefit to the City may not currently be financially feasible, due to the upfront costs related to development impact fees. To encourage such development, the City Council believes it is imperative to allow for the deferral of certain development impact fees for those projects that it finds: (a) will provide a significant public benefit; and (b) would be infeasible absent such a deferral. This chapter is intended to set forth the requirements under which such a deferral may be granted. This chapter is also intended to provide a framework for the possible creation, in the City Council's sole discretion and if deemed appropriate by the City Council in the future, of a Western Chula Vista Development Impact Fee Financing Community Facilities District.

### **3.56.020 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. "Developer" means the person applying for the development permit for the development project.

B. "Development fee deferral agreement" means an agreement between the City, the developer, and the property owner, if different than the developer, which obligates the developer and property owner, if different than the developer, to pay the development impact fees applicable to the development project.

C. "Development impact fee" means the Public Facilities Development Impact Fee, the Western Transportation Development Impact Fee or the Park Development Fee, as established by chapters 3.50, 3.55 and 17.10 of the Chula Vista Municipal Code.

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

E. "Development project" or "development" means any of the activities described below that occur within western Chula Vista:

1. Any new residential dwelling unit;
2. Any new commercial/office or industrial development;
3. Any expansions to established developments or new developments on nonvacant land in those land use categories listed in subsections (E)(1) and (2) of this section, if the result is a net increase in dwelling units;
4. Any new or expanding special land use project;

5. Any special purpose project developed on vacant land or nonvacant land, or expanded within a pre-existing site, if the result is a net increase in dwelling units; and

6. Any other development project not listed above but described in Section 65927 and 65928 of the State Government Code.

F. "Property owner" means the owner of the fee title to the land on which the development project is developed.

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

H. "Special purpose project" means any for-profit community purpose facility (e.g., day care).

I. "Western Chula Vista" means the 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.

### **3.56.030 Requirements for Fee Deferral**

For development projects located in western Chula Vista that are required to pay a development impact fee, the developer, and property owner, if different than the developer, may receive a deferral of the payment of those fees if the following conditions are satisfied:

A. The developer submits an application for a deferral of the development impact fee(s) to the Development Services Director prior to issuance of any building permit for the development project.

B. The application for the fee deferral shall state in detail the factual basis for the deferral sufficient to allow the City to evaluate the application to determine if the project qualifies for deferral based on its location, public benefit and need.

C. Based on the evidence presented in the application for deferral and any additional evidence provided at the hearing on the deferral, the City Council makes the findings identified in Section 3.56.010 and, in its sole discretion, approves the deferral.

D. Concurrently with the approval of the deferral, the City Council approves a development fee deferral agreement consistent with the requirements of Section 3.56.040 below.

E. The developer and property owner executes a development fee deferral agreement, the form and content of which is approved by the City Attorney.

### **3.56.040 Contents of Development Fee Deferral Agreement**

The development fee deferral agreement shall, at a minimum, contain the following provisions:

A. The developer or property owner, as applicable, shall not oppose the formation of the Western Chula Vista Development Impact Fee Financing Community Facilities District.

B. Interest shall accrue on the outstanding balance of the fee(s) from the date the fees would have otherwise been due and payable at a fair market rate as determined by the City Council at the time of approval of the development fee deferral agreement.

C. The development fee deferral agreement shall be recorded against the property to be developed and shall be enforceable as a lien on the property.

D. The outstanding balance of the fee(s) shall be paid in full prior to any transfer, including sale or devise, of the development and associated entitlements to another party or entity.

E. Such other provisions as may be approved or required by the City Manager and the City Attorney, as necessary to secure performance from the developer and property owner.

### **3.56.050 Western Chula Vista Development Impact Fee Financing Community Facilities District (“CFD”)**

If the City Council in the future establishes a CFD to help developers finance development impact fees in western Chula Vista, a developer who has previously entered into a development fee deferral agreement may annex into that CFD at its election and subject to the terms and conditions of the CFD.

#### **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; provided, however, that if the invalid, unenforceable or unconstitutional portion cannot be severed from the remaining portions of the ordinance without defeating the general intent of the ordinance, the remaining portions shall not apply.

**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 take effect and be in force on the thirtieth day after its final passage.

**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.

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Eric Crockett  
Interim Director  
Economic Development

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Glen R. Googins  
City Attorney