

Chapter 3.50
DEVELOPMENT IMPACT FEES TO PAY FOR VARIOUS PUBLIC FACILITIES

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The City's General Plan land use and public facilities elements require that adequate public facilities be available to accommodate increased population created by new development within the City of Chula Vista.

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

The City Council of the City of Chula Vista has determined that a reasonable means of financing the public facilities is to charge a fee on all developments in the City of Chula Vista. Imposition of the public facilities development impact fee on all new development for which building permits have not yet been issued is necessary in order to protect the public safety and welfare, thereby ensuring effective implementation of the City's General Plan. (Ord. 3050 § 2, 2006).

3.50.020 Definitions.

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

A. ~~“Accessory Dwelling Unit” means an Accessory Dwelling Unit as defined in CVMC 19.58.022.~~

A.B. ~~“Building pPermit” means a permit required by and issued pursuant to the Uniform Building Code, as adopted by reference by this City.~~

B.C. ~~“Developer” means the owner or applicant developer of a dDevelopment Project.~~

C.D. ~~“Development pPermit” means any discretionary permit, entitlement or approval for a dDevelopment pProject issued under any zoning or subdivision ordinance of the City.~~

D.E. ~~“Development pProject” or “development” means any activity that results in a net increase in demand for service, as reasonably determined in the sole discretion of the City Manager, or designee, described as the following:~~

- ~~1. Any new residential dwelling unit, including any Accessory Dwelling Unit 750 square feet or larger, developed on vacant land;~~
- ~~2. Any new residential dwelling unit, including any Accessory Dwelling Unit 750 square feet or larger, developed on nonvacant land. The fees shall be based solely on the net increase in service demand;~~
- ~~3. Any physical conversion of an existing residential structure to create an Accessory Dwelling Unit 750 square feet or larger;~~
- ~~2.4. Any new commercial/office or industrial nonresidential development construction on, or enhancement to, constructed on vacant land;~~
- ~~3.5. Any expansions or intensification of nonresidential to established developments or new developments on nonvacant land in those land use categories listed in subsections (D)(1) and (D)(2) of this section, if the result is a net increase in dwelling units demand~~

for service. The fee shall be based solely on ~~this net dwelling unit increase~~the net increase in service demand;

4.6. 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. The fee shall be based solely on this net dwelling unit increase;~~

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

F. “Engineer’s Report” means, collectively, the “Report on Supplemental Development Impact Fee for Public Facilities” prepared by City staff dated June 1989; the “Development Impact Fees for Public Facilities” report prepared by Willdan Associates dated December 12, 1990; the “Development Impact Fee for Public Facilities 1999 Update” report prepared by City staff dated April 2000; the “Public Facilities DIF 2002 Update” report prepared by City staff dated March 2002; the “Public Facilities DIF November 2002 Amendment” prepared by City staff; and the “Public Facilities Development Impact Fee March 2006 Update” report prepared by City staff, which are on file in the office of the City Clerk.

G. “Fee Component” means a portion of the Fee allocated to specific Public Facilities, which corresponds to the cost of the various Public Facilities, plus the cost of administering the Fee program. The Fee Components are as follows:

1. Civic Center;
2. Police Department Facilities;
3. Corporation Yard;
4. Library System;
5. Fire Suppression System;
6. Major Recreation Facilities;
7. Administration

H. “Fee Credit” means credit that Developers may receive for costs they incur designing and constructing the Public Facilities in accordance with CVMC 3.54.150.

I. “Fee(s)” means the Public Facilities Development Impact Fees established pursuant to CVMC 3.50.050 and assessed in accordance with the Mitigation Fee Act (Government Code Sections 66000 through 66025), as described in the Engineer’s Report.

E.J. “Nonprofit Community Purpose Facility” means a facility that is not operated for profit and that which serves one of the following purposes:

1. Social and human 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 (primary and secondary only);
3. Private schools (primary and secondary only);
4. Day care;
5. Senior care and recreation;
6. Worship, spiritual growth and development.

K. “Public Facility(ies)” or “Facilities” means the project or a portion of a project which involves the specified improvements authorized by CVMC 3.50.030.

F.L. “Special Land Use” means any nonresidential, noncommercial/office or nonindustrial development project (e.g., Olympic-Chula Vista Elite Athlete Training Center, hospitals, utilities), ~~or non-special purpose project.~~

~~G. “Special purpose project” means any for-profit community purpose facility (e.g., day care).~~

~~H. “Engineer report” refers to the April 20, 1993, “development impact fees for public facilities” report.~~

~~I. “Extraordinary project cost increases” means increases resulting from costs that could not have been reasonably foreseen at the time a project budget was established.~~

~~J. “Extraordinary dwelling unit change” means an increase or decrease in the number of remaining planned residential dwelling units or commercial/industrial acres for which building permits have not yet been pulled, which changes the existing total by more than 2,000 dwelling units or 200 commercial/industrial acres.~~

3.50.030 Public facilities to be financed by the Ffee.

A. The ~~p~~Public ~~f~~Facilities (“~~facilities~~”), which are the subject matter of the fee, include (but are not limited to) buildings, amenities, equipment and related one-time start-up costs or portions thereof, as detailed in subsection (C) of this section and in the ~~e~~Engineer’s ~~r~~Report on file in the office of the City Clerk.

B. The City Council of the City of Chula Vista may modify or amend ~~this-the~~ list of Public ~~f~~Facilities by ~~written-resolution-in-order-to-maintain-compliance-with-the-City’s-General-Plan-or-the-capital-improvement-program.~~

C. The Public ~~f~~Facilities are as follows:

1. Civic Center ~~e~~Expansion;
2. Police Department ~~f~~Facilities and Equipment;
3. Corporation Yard ~~r~~Relocation/Expansion;
4. Library System Expansion;
5. Fire Suppression System Expansion;
- ~~6. **Geographic information system expansion;~~
- ~~7. ** Computer system expansion;~~
- ~~8. ** Telecommunication system expansion;~~
- ~~9. ** Records management system expansion;~~
- ~~10.6. Major rRecreation Facilities (community centers, gymnasiums, swimming pools).~~

~~** Facility projects are complete. No future projects will be added.~~

3.50.040 Territory to which Ffee applicable.

The area of the City of Chula Vista to which the fee herein established shall be applicable shall be the territorial limits of the City of Chula Vista (“Territory”), as they may from time to time be amended.

3.50.050 Establishment of Ffee.

A. A Public Facilities development impact fee (“fee”) is hereby established to pay for the Public facilities within the Territory. The fee shall be paid no earlier than upon the issuance of building Permits and no later than final inspection or certificate of occupancy, whichever occurs first, for each development project within the City of Chula Vista.

B. Notwithstanding subsection (A) of this section, ~~except that, at the discretion of the City Manager, in his or her sole discretion, may require payment of the Fees in advance of final inspection or certificate of occupancy upon the occurrence of any of the following events: a developer may prepay all or part of civic center expansion fees that would be applicable to the developer’s future development projects. Prepayment would occur at the then current rate; however, the developer has sole responsibility for paying subsequent fee increases resulting from (1) extraordinary project cost increases, or (2) normal annual adjustments in the Consumer Price Index (CPI) or Building Construction Index (BCI), or (3) extraordinary dwelling unit changes.~~

1. The change of ownership of the Development Project, or any portion or portions thereof;
2. Upon the Finance Director’s determination that the Fees are necessary based on the adopted facilities program in accordance with California Government Code Section 66007(b)(1);
3. Upon determination of the Finance Director that there exists a risk associated with the collection of the Fees at a date later than permit issuance;
4. Upon entering into an agreement to prepay all or a portion of a Development Project’s Fees. Entering into such an agreement shall be solely at the City Manager’s discretion and shall require a minimum prepayment of \$5,000,000.

3.50.060 Determination of Fees by land use category.

For purposes of this fee, 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. Accessory Dwelling Units 750 square feet or larger shall be charged proportionately in relation to the square footage of the primary dwelling unit on the lot. Commercial/office and industrial development projects shall be charged on a per-gross acre basis. Development impact fees for single-family, multi-family, commercial and industrial land uses shall be based on the demand for service generated by that land use, for each public facility set forth in CVMC [3.50.030](#):

Public Facility	Service Demand Generated by Land Use			
	Single-Family Dwelling Unit	Multifamily Dwelling Unit	Commercial Acre	Industrial Acre
<u>Civic Center Expansion</u>	<u>.169</u>	<u>.742</u>	<u>.058</u>	<u>.031</u>
Police Department F Facilities and E Equipment	.150	.747	.075	.028
Corporation Y ard R elocation/ e Expansion	.125	.465	.228	.182
Library s ystem E xpansion (residential only)	.178	.822	.000	.000
Fire S uppression s ystem e Expansion	.212	.707	.060	.020
Major R ecreation F acilities (residential only)	.178	.822	.000	.000
General Government				
Civic Center expansion	.169	.742	.058	.031
<u>Program Administration</u>	.169	.742	.058	.031

The rate for each ~~S~~pecial ~~I~~and ~~U~~se-~~D~~evelopment ~~p~~roject, as defined in CVMC 3.50.020, ~~Development Project~~ shall be equivalent to the commercial/office rate per gross acre of land. The ~~Olympic-Chula Vista Elite Athlete~~ Training Center shall be equivalent to the industrial rate per gross acre of land. ~~The rate for each special purpose project, as defined in CVMC 3.50.020, shall be equivalent to one half the commercial/office rate per gross acre of land.~~ The charges shall be those outlined in CVMC 3.50.090.B(C). The ~~fee~~-Fee multiplied by the total number of dwelling units or acres within a given ~~d~~evelopment ~~p~~roject represents a ~~d~~eveloper's fair share ~~fee~~ obligation ("~~F~~air~~e~~ share~~O~~bligat~~i~~on") for that ~~D~~evelopment ~~P~~roject.

3.50.070 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, except that a developer of a development project providing low and/or moderate income housing in accordance with Section III, Objective 1 of the 1991 housing element of the General Plan may request authorization to prepay or defer the fee for up to 500 equivalent dwelling units (EDUs) and said request may be approved at the sole discretion of the City Manager. In order to facilitate those low and/or moderate income projects which are planned for construction through March 24, 2005, the fee for said projects shall be the fee existing as of March 25, 2002. The Fees for each Development Project shall be calculated based on the rates in effect at the time of payment.~~

3.50.080 Purpose and use of Ffee.

The fFee collected shall be used by the City for the following purposes, in such order and at such time as determined by the City Council:

- A. To pay for such of the Public fFacilities that the City Council determines should be constructed, installed or purchased at that time, or to reimburse the City for Public fFacilities funded by the City from other sources.
- B. To reimburse ~~d~~Developers who have been required or permitted by CVMC [3.50.140\(A\)](#) to construct, install or purchase approved Public fFacilities listed in CVMC [3.50.030\(C\)](#), in such amounts as the Council deems appropriate.
- C. To repay any and all persons who have, ~~pursuant to prior fee Ordinance Nos. 2320 or 2432, or~~ pursuant to this chapter, advanced or otherwise loaned funds for the construction of a Public fFacility identified herein.
- D. To repay the City for ~~administration~~ costs associated with administration of the fFee.

3.50.090 Amount of Ffee.

A. The fFee shall be the amounts set forth in subsections ~~(B) and (C)~~ of this section. The Ffee shall be adjusted, starting on October 1, ~~2005~~2020, and on each October 1st thereafter, based on the following two indexes:

- 1. For the Ceivic eCenter eExpansion, HLibrary System Expansions, fire Suppression System Expansion, and Major Recreation Facilities Fee Components: The Engineering News Record, Building Construction Cost Index for the Los Angeles Area.
- 2. For the police Department Facilities and Equipment, Corporation Yard Relocation/Expansion, ~~geographic information systems, computer systems, telecommunications systems, records management~~ and Aadministration Fee

~~e~~C~~omponents~~: The U.S. Department of Labor, Bureau of Labor Statistics (San Diego Metropolitan Statistical Area).

Adjustments of the ~~F~~fee based upon annual changes to these two indexes shall be automatic, ~~and~~ shall not require further action by the City Council, and shall be published in the City's Master Fee Schedule.

The ~~PFDIF~~-Fee may also be reviewed and amended by the City Council as necessary based on changes in the type, size, location or cost of the ~~Public~~ ~~f~~Facilities to be financed by the ~~f~~Fee; changes in land use designation in the City's General Plan; ~~and-or~~ upon other sound engineering, financing and planning information. ~~Adjustments to the fee resulting from these discretionary reviews may be made by resolution amending this section.~~

~~B. The fee shall have portions which are, according to the engineer's report, allocated to a specific facility ("fee components"), which correspond to the costs of the various facilities, plus the administration cost for the fee.~~

~~C.B. The Fees, as of October 1, 2019 are as follows shall be the following, depending on the land use, and will be amended annually and from time-to-time, as provided in subsection A., above:~~

Land Use	Fee
Residential – Single-family dwellings	\$7,891 <u>11,175</u> /DU
Residential – Multifamily dwellings	\$7,477 <u>10,569</u> /DU
Commercial/Office	\$25,181 <u>34,560</u> /acre
Industrial	\$7,958 <u>10,871</u> /acre
Special L and u se	\$25,181 <u>34,560</u> /acre
Olympic—Chula Vista Elite Athlete Training Center	\$7,958 <u>10,871</u> /acre
Public p urpose	Exempt
Nonprofit e Community p urpose f acility	Exempt
Special purpose project	\$12,590 /acre

3.50.100 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. ~~Nonprofit~~ 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 as 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 ~~Nonprofit 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 additions, expansions, or changes of nonresidential uses shall be exempt if the addition, expansion or change of use does not result in a net increase in dwelling units or nonresidential intensity. 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. The Fee shall be assessed on any net additional dwelling units or nonresidential intensity. Any net reduction in dwelling units or nonresidential intensity shall not be entitled to a refund, but the property shall retain credit based on the former number of dwelling units or nonresidential intensity.~~

~~C.D. Accessory Dwelling Units smaller than 750 square feet are exempt from the provisions of the Fee, pursuant to California Government Code Section 65852.2(f)(3)(A).~~

3.50.110 Authority for accounting and expenditures.

~~A. Fees Collected Before the Effective Date of the Ordinance Codified in This Chapter.~~

~~1. All fees which have accrued shall remain in separate accounts (“accounts”) corresponding to the facilities listed in CVMC 3.50.030, as established by the Director of Finance, and shall only be expended for the purposes associated with each facility account.~~

~~2. The Director of Finance is authorized to maintain accounts for the various facilities identified in this chapter and to periodically make expenditures from the accounts for the purposes set forth herein.~~

~~B. Funds Collected On or After the Effective Date of the Ordinance Codified in This Chapter.~~

1. The ~~F~~ees collected shall be deposited into a public facility financing fund (~~the~~ “~~p~~ublic ~~f~~acilities ~~d~~evelopment ~~i~~mpact ~~f~~ee ~~F~~und,” or alternatively herein ~~the~~ “~~F~~und”), ~~which is hereby created and established by the Director of Finance and~~ shall be expended only for the purposes ~~set forth in this chapter~~ identified herein.

2. The Director of Finance is authorized to establish a single ~~F~~und for deposit of the Fees collected for the various Public ~~f~~acilities identified in this chapter and to periodically make expenditures from the ~~f~~und for the purposes set forth herein.

3.50.120 Findings.

The City Council finds that collection of the ~~f~~ee established by this chapter ~~at the time of the building permit issuance~~ is necessary to provide funds for the Public ~~f~~acilities and to ensure certainty in ~~the~~ capital facilities budgeting for growth-impacted ~~p~~ublic ~~f~~acilities.

3.50.130 Fee additional to other fees and charges.

This ~~f~~ee 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 ~~d~~evelopment Projects.

~~3.50.135 Mandatory oversizing of facility—Duty to tender reimbursement offer.~~

~~Whenever a developer of a development project is required as a condition of approval of a development permit to cause a facility or a portion of a facility to be built to accommodate the demands created by the development project, the City may require the developer to install, purchase or construct the facility according to design specifications approved by the City, that being with such supplemental size or capacity required by the City (“oversized capacity requirement”). If such an oversized capacity requirement is imposed, the City shall offer to reimburse the developer from the fund either in cash or over time, with interest at the fair market value of money, as fees are collected, at the option of the City, for costs incurred by the developer for the design and construction of the facility, not to exceed the estimated cost of that particular facility as included in the calculation and updating of the fee. The City may update the fee calculation as the City deems appropriate prior to making such offer. This duty to offer reimbursement shall be independent of the developer’s obligation to pay the fee.~~

3.50.140 Developer construction of facilities.

Developer may construct or finance a Public Facility in accordance with the following:

A. ~~Any Whenever a dDeveloper of a Ddevelopment pProject would be required by application of City law ordinance, regulation, or policy, as a condition of approval of a dDevelopment pPermit to design, construct or finance a Public fFacility, or if aany dDeveloper that proposes to design, and construct, or finance a portion of a Public Ffacility in conjunction with the prosecution of a dDevelopment pProject within the Tterritory, andshall follows the procedure for doing same as set forth in this chapter and in CVMC 2.56.160(H).hereinbelow set forth, the City Council shall, in the following applicable circumstances, tender only the credit or reimbursement hereinbelow identified for that circumstance:~~

~~B.1. If the cost of the Public Ffacility, incurred by the developer-Developer and acceptable to the City, is less than or equal to that portion of the Ddeveloper's fair shareFee Obligation related to the Ffee Ceomponent for that Public fFacility, the City may only give a Fee eCredit ("developer credit") against that portion of the dDeveloper's fair shareFee Obligation related to the Ffee Ceomponent for that Public fFacility ("fair share of the fee component"); or,~~

~~C. 2. If the cost of the facility, incurred by the developer-Developer and acceptable to the City, is greater than that portion of the dDeveloper's Fee Obligation fair share-related to the fFee Ceomponent for that Public fFacility, but less than or equal to the dDeveloper's total fair shareFee Obligation, the City may give a credit, which credit shall first be applied against that portion of the Fee Obligationfair share related to the fFee eComponent for that Public fFacility, and the excess costs for the Public fFacility shall then be applied as Fee Credits against such other fFee Ceomponents of the Ddeveloper's total fair shareFee Obligation as the City Manager, in his or her sole and unfettered discretion, shall determine; or~~

~~3. If the cost of the facility, incurred by the dDeveloper and acceptable to the City, is greater than the dDeveloper's total fair shareFee Obligation, the City may give a Fee eCredit against the dDeveloper's total fair shareFee Obligation as the City Manager, in his or her sole and unfettered discretion, shall determine; and/or the City may tender to the Ddeveloper a reimbursement agreement to reimburse said dDeveloper only from the Ffund as moneys are available, over time, with interest at the fair market value of money, at the option of the City.~~

~~D. Unless otherwise stated herein, all developerFee eCredits shall be calculated on a dollar basis and converted into dwelling units at the time building permits are pulledto be applied toward payment of the assessed Fee at the time Fees are due, based on the then-current fFee.~~

~~E. The requirements of CVMC 3.50.145, 3.50.150, and 3.50.155 may, in the City's discretion, be modified through an agreement between the Developer and the City, as approved by resolution of the City Council.~~

3.50.145 Mandatory oversizing of facility – Duty to tender reimbursement offer.

Whenever a Developer of a Development Project is required as a condition of approval of a Development Permit to cause a Public Facility to be built to accommodate the demands created by the Development Project, the City may require the Developer to install, purchase or construct the Public Facility according to design specifications approved by the City, that being with such supplemental size or capacity required by the City (“Oversized Capacity Requirement”). If such an Oversized Capacity Requirement is imposed, the City shall tender to the Developer a reimbursement agreement for City-approved costs associated with the Oversized Capacity Requirement, to be paid in cash when funds are available, as determined by the City Manager, or designee. The City may, in its discretion, enter into an agreement with the Developer to issue Fee Credits in lieu of a reimbursement agreement for costs associated with the Oversized Capacity Requirement, or some combination thereof. This duty to offer reimbursement shall be independent of the Developer’s obligation to pay the fee.

3.50.150 Procedure for issuance of credits or tender of reimbursement offer.

The City’s extension of ~~Fee e~~Credits or tender of a reimbursement offer to a ~~D~~developer pursuant to CVMC 3.50.140 shall be conditioned on the ~~d~~Developer complying with the terms and conditions of this section:

A. Developer shall comply with the procedures described in CVMC 2.56.160(H), except that approval to proceed and change order approvals for Developer-constructed Public Facilities to be constructed for Fee Credit shall be granted by the City Manager, or designee, and shall not require action of the City Council.

A.B. Written authorization shall be requested by the developer from the City and issued by the City Council by written resolution, or the City Manager for Public Facilities to be constructed for Fee Credit, before dDeveloper may incur any costs eligible for reimbursement relating to the Public fFacility.

B.C. The request for authorization shall contain the information listed in this section and such other information as may from time to time be requested by the City. In addition to the requirements of CVMC 2.56.160(H), Developer shall perform the following:

C. If the Council grants authorization, it shall be by written agreement with the developer, and on the following conditions among such other conditions as the Council may from time to time impose:

1. Developer shall prepare all plans and specifications and submit same for approval by the City;

2. Developer shall secure land and dedicate any right-of-way required to provide access to for the Public Facilityies;

3. Developer shall secure all required permits and environmental clearances necessary for construction of the Public Facilityies;

3. Developer shall provide a detailed cost estimate that itemizes those costs of the construction attributable to the Public Facility and excludes any work attributable to a specific subdivision project. The estimate shall be preliminary, and the final amount of the reimbursement or Fee Credit shall be subject to final determination of the City Manager, or designee, upon completion of the Public Facility;

3.4. Developer shall provide performance bonds in a form and amount and with a surety satisfactory to the City (where the developer intends to utilize provisions for immediate credit, the performance bond shall be for 100 percent of the value of the project estimated cost of the Public Facility, pursuant to subsection (B)(4) of this section);

4.5. Developer shall pay all City fees and costs;

5.6. The City shall be held harmless and indemnified, and upon tender by the City, defended by the Developer for any of the costs and liabilities associated with the construction of the Public Facilityies;

6.7. The City will not be responsible for any of the costs of constructing the Public Facilityies. The Developer shall advance all necessary funds to construct the Public Facilityies;

7.8. The developer shall secure at least three qualified bids for work to be done. The construction contract shall be granted to the lowest qualified bidder. If qualified, the developer may agree to perform the work at a price equal to or less than the low bid. Any claims for additional payment for extra work or charges during construction shall be justified and shall be documented to the satisfaction of the Director of Public Works City Manager, or designee;

8. The developer shall provide a detailed cost estimate which itemizes those costs of the construction attributable to the facilities and exclude any work attributable to a specific subdivision project. The estimate is preliminary and subject to final determination by the Director of Public Works upon completion of the facilities;

9. Developer shall be entitled to immediate Fee Credit equal to 50 percent of the estimated cost of the Public Facility upon City acceptance of the estimate provided

pursuant to subsection (B)(4) of this section and the provision of performance bonds pursuant to subsection (B)(5) of this section;

10. The City may grant partial credit for costs incurred by the developer on the facility upon determination of satisfactory incremental completion of the facility, as approved and certified by the Director of Public Works, in an amount not to exceed 75 percent of the cost of the construction completed to the time the partial credit is granted, thereby retaining 25 percent of such credits until issuance by the City of a notice of completion. Following receipt of valid bids for the Public Facility which comply with all applicable requirements, entering into binding contracts for the construction of the Public Facility, and meeting all requirements and conditions set forth above, as approved by the City Manager or designee, the Developer shall be entitled to additional Fee Credits, increasing the cumulative immediate Fee Credit award to 75 percent of the bid amount attributable to the Public Facility, thereby retaining 25 percent of such Fee Credits until issuance by the City of a final expenditure determination;

9.11. If the Developer uses all of the immediate Fee Credit before final completion of the Public Facility project, then the Developer may defer payment of the 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 Public Facility project;

10.12. When all Public Facility construction work has been completed to the satisfaction of the City Manager or designee, the Developer shall submit to the City verification of payments made for the construction of the Public Facility, to the City. The Director of Public Works, City Manager or designee shall make the final determination on of which expenditures which are eligible for Fee eCredit or reimbursement. The Developer shall receive additional Fee Credit in an amount equal to the difference between the final expenditure determination and the 75 percent immediate Fee Credit issued pursuant to subsection (B)(11) of this section. If the amount of the final Fee Credit award is less than the deferred obligation pursuant to subsection (B)(12) of this section, then the Developer shall have 30 calendar days to pay the deferred Fee. If the deferred Fees are not paid within this period, the City may make a demand against the liquid security and apply the proceeds to the Fee Obligation.

3.50.155 Developer transfer of credits.

A. A ~~d~~Developer who, in accordance with the provisions of CVMC 3.50.140, 3.50.145, and 3.50.150, receives Fee eCredits against future payments of the Ffee for one or more Ffee Ceomponents may transfer those Fee Ceredits as provided herein to another ~~d~~Developer (“Credit Transfer”). If the Developer complies with all conditions of this section, the City shall permit and execute the Credit Transfer. Fee Credits associated with Ffacilities acquired or financed by

assessment districts or special tax districts are not eligible for Credit Transfer beyond the boundaries of said district(s).

B. The Ddeveloper shall provide the City with written ~~notice request of such~~ eCredit ~~Transfer within 30 days~~ no later than three business days prior to the desired effective date of the Credit Transfer. The ~~notice request~~ shall provide the following information:

1. The name of the ~~d~~ Developer ~~to whom the credits were transferred~~ receiving the Credit Transfer;
2. The dollar value of the transferred Fee eCredits; and
3. The ~~f~~ Fee C component(s) against which the Fee C credits will be applied; ~~and~~

~~The projected rate, by fiscal year, that the credits will be applied, until said credits have been fully redeemed.~~

~~A. Credits received by a developer of a low and/or moderate income project in accordance with CVMC 3.50.070 can only be transferred to another low and/or moderate income development project.~~

3.50.160 Procedure for Ffee modification or reduction.

A. Any Ddeveloper who, because of the nature or type of uses proposed for a Ddevelopment ~~project~~ Project, contends that application of this ~~f~~ Fee is unconstitutional or unrelated to mitigation of the burdens of the Ddevelopment Project may apply to the City ~~Council Manager, in writing,~~ for a modification or reduction of the ~~f~~ Fee. ~~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 for 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 modification or reduction. The City ~~Council Manager~~ shall issue a decision within 10 business days of receipt of the application for Fee modification or reduction. The requested modification or reduction shall be considered denied by the City Manager if a decision is not issued within 10 business days. The decision of the City Manager may be appealed to the City Council. Unless the requirement for timely filing is waived by the City, the appeal shall be made in writing and filed with the City Clerk not later than 10 business days after issuance of the City Manager's decision. The appeal shall state in detail the factual basis for the claim of modification or reduction. The City Council shall consider the application at a public hearing on same, notice of which shall be provided directly to the appellant, but need not be published other than by description on the agenda of the meeting at which the public hearing is held. The City Council shall make reasonable efforts to hold the public hearing within 60 days of the filing of the appeal. ~~make reasonable efforts to consider the application within 60 days after its filing.~~

The decision of the City Council shall be final. If a reduction or modification is granted, any change in use within the Development Pproject shall subject the ~~developer~~ Developer to payment of the Ffee for the new use. The procedure provided by this section is additional to any other procedure authorized by law for ~~protection~~ protesting or challenging ~~this the Ffee imposed by this chapter~~.

B. A Development Project, which is designated and intended as a temporary use (10 years or less) and which is conducted in facilities which are, by their natures, short-term interim facilities such as a portable or modular building (including mobile homes, trailers, etc.) may qualify for a waiver or reduction, as determined by the City Manager or designee. The City Manager's or designee's determination may be appealed to the City Council pursuant to Subsection (A) of this section.

C. A deferral of the Fee may be granted if the City Manager, or designee, reasonably determines in his or her sole discretion that one of the following circumstances exists: (i) the Developer has demonstrated an economic hardship or funding sequencing challenge; or (ii) the Project offers a public benefit. The deferral shall only be granted if the City Manager or designee determines that: (i) the amount deferred will bears interest at a fair market rate, such that the City will receive an amount that is equal to, or greater than, the total amount of Fees owed prior to the deferral; and (ii) the amount deferred is adequately secured by a written agreement with the applicant, the terms of which shall be subject to approval of the City Manager.

D. Any Developer who proposes the construction of a new hotel/motel, which does not otherwise receive an economic subsidy from the City, may apply to the City for a deferral and/or reduction of the Fee based on the nature of the hotel/motel.

A deferral pursuant to this subsection may be granted for a period of up to four years from the certificate of occupancy for the Development Project. The deferral period shall begin upon the issuance of a temporary certificate of occupancy, as applicable. The total amount deferred shall be secured through a written agreement between the City and the Developer, the terms of which shall be subject to approval of the City Manager.

E. At a minimum, deferral agreements pursuant to subsection (C) and (D) of this section shall require the following:

1. The Fee obligation be secured through a promissory note and a recorded lien, deed of trust, or other security instrument in real property, in a form acceptable to the City Manager or designee, of at least equivalent value to the Ffees due pursuant to CVMC 3.50.090, to be located within the City of Chula Vista.

2. Any sale or transfer of the Development Project property shall require the new owner to assume all obligations of the transferring party, including, without limitation, full responsibility for the outstanding deferred balance and the provision of appropriate security acceptable to the City Manager or designee. The City of Chula Vista shall be provided with notice of the transfer and documentation satisfactory to the City Manager or designee demonstrating that the new owner has fully assumed all obligations of the transferring party. Failure to provide such notice shall cause the outstanding deferred Fee balance to become immediately due and payable.

3.50.170 Fund loans.

A. *Loans by the City.* The City may loan funds to the ~~fund~~ Fund to pay for Public facilities ~~Facilities~~ should the ~~fund~~ Fund have insufficient funds to cover the cost of ~~said~~ planned ~~facility~~ ies. Said loans, if granted, shall be approved by resolution of the City Council upon the adoption of the annual City budget and shall carry interest rates pursuant to City Council Policy 220-06 (Interfund Loan Policy) or such other policies as may be subsequently adopted ~~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 3.50.140 and 3.50.150. The City may repay said developer loans with interest, under the terms listed in subsection (A) of this section.

3.50.180 Effective date.

This chapter shall become effective ~~January-December 65, 2007~~ 19.