

ORDINANCE NO. 3120

ORDINANCE OF THE CITY OF CHULA VISTA
ESTABLISHING THE DEVELOPMENT AND PROCESSING
IMPACT FEE PAYMENT PLAN PROGRAM

WHEREAS, the City of Chula Vista (City) requires the payment of various types of development impact fees to help address the impacts of new development; and

WHEREAS, on August 7, 1990, pursuant to Ordinance No. 2384, the City Council established the Telegraph Canyon Drainage Fee; and

WHEREAS, Ordinance No. 2384 requires that the Telegraph Canyon Drainage Fee be paid before the approval by the City of the development project, or if not paid at the time of approval of the final map or parcel map, the fee must be paid before the issuance of the first building permit for the development; and

WHEREAS, on December 9, 1997, pursuant to Ordinance No. 2716, the City Council establish the Poggi Canyon Sewer Basin Development Impact Fee; and

WHEREAS, Ordinance No. 2716 requires that the Poggi Canyon Sewer Basin Development Impact Fee be paid in cash upon the issuance of a building permit; and

WHEREAS, on January 5, 1999, pursuant to Ordinance No. 2767, the City Council established the Otay Ranch Village 1 and 5 Pedestrian Bridge Development Impact Fee; and

WHEREAS, Ordinance No. 2767 requires that the Otay Ranch Village 1 and 5 Pedestrian Bridge Development Impact Fee be paid prior to the issuance of building permits for residential development projects; and

WHEREAS, on February 18, 2003, pursuant to Ordinance No. 2898, the City Council established the Pedestrian Bridge Development Impact Fee Program for Otay Ranch Village 11; and

WHEREAS, Ordinance No. 2898 requires that the Pedestrian Bridge Development Impact Fee for Otay Ranch Village 11 be paid in cash upon the issuance of a residential building permit; and

WHEREAS, Chapter 3.32 of the Chula Vista Municipal Code establishes the Residential Construction Tax; and

WHEREAS, the Residential Construction Tax requires that the tax be paid upon the application for a building permit; and

WHEREAS, Chapter 3.50 of the Chula Vista Municipal Code establishes the Development Impact Fees to Pay for Various Public Facilities (PFDIF); and

WHEREAS, the PFDIF requires that the fee be paid upon the issuance of a building permit; and

WHEREAS, Chapter 3.54 of the Chula Vista Municipal Code establishes the Transportation Development Impact Fee for the Eastern Territories of the City (TDIF) and Chapter 3.55 of the Municipal Code establishes the Western Transportation Development Impact Fee (WTDIF); and

WHEREAS, both the TDIF and the WTDIF require that the fee be paid upon the issuance of a building permit; and

WHEREAS, Section 13.14.090 of the Chula Vista Municipal Code establishes the Sewage Capacity Charge; and

WHEREAS, the City recognizes that the payment of fees represents a substantial financial commitment for many projects; and

WHEREAS, the City recognizes that establishing a payment plan for certain fees may assist in the development of projects; and

WHEREAS, this Ordinance establishes a payment plan for certain development processing and impact fees for a specified period of time.

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

Section 1. Environmental Review

The City's Environmental Review Coordinator has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA.

Section 2. Purpose

The City Council of the City of Chula Vista desires to encourage the construction of residential and nonresidential development projects within the City. The City Council finds that the early payment of certain impact fees for new development creates such a barrier to such development and desires, by the adoption of this Chapter, to ease such barrier by establishing a payment plan for certain development impact fees.

Section 3. Definitions

“Applicant” means the owner of the real property or the developer with an approved development project who seeks a development impact fee payment plan pursuant to this Ordinance.

“Approved Residential Development Project” means a market rate residential development consisting of single-family or multifamily residential units sold or rented at prevailing market rates and free of any affordability restrictions which has received final discretionary action by the City and which is in compliance with all environmental requirements due prior to issuance of a building permit.

“Approved Development Project ” means a nonresidential development which has received final discretionary action by the City and which is in compliance with all environmental requirements due prior to issuance of a building permit.

Section 4. Development Impact Fees Subject to the Payment Plan Program

Notwithstanding the provisions of Chapters 3.32, 3.54 and 3.55 of the Chula Vista Municipal Code and the Ordinances listed below, the provisions of this Ordinance shall apply only to the following development impact fees:

- (a) the Sewer Capacity Fee codified in Section 13.14.090 of the Chula Vista Municipal Code;
- (b) the Residential Construction Tax codified in Chapter 3.32 of the Chula Vista Municipal Code;
- (c) the Development Impact Fees to Pay for Various Public Facilities codified in Chapter 3.50 of the Chula Vista Municipal Code;
- (d) the Eastern Area Transportation Development Impact Fee codified in Chapter 3.54 of the Chula Vista Municipal Code;
- (e) the Western Transportation Development Impact Fee codified in Chapter 3.55 of the Chula Vista Municipal Code;
- (f) the Telegraph Canyon Drainage Fee established on August 7, 1990 pursuant to Ordinance No. 2384;
- (g) the Poggi Canyon Sewer Basin Development Impact Fee established on December 9, 1997, pursuant to Ordinance No. 2716;
- (h) the Otay Ranch Village 1 and 5 Pedestrian Bridge Development Impact Fee established on January 5, 1999, pursuant to Ordinance No. 2767; and

- (i) and the Pedestrian Bridge Development Impact Fee Program for Otay Ranch Village 11 established on February 18, 2003, pursuant to Ordinance No. 2898.

Section 5. Establishment of the Development Impact Fee Payment Plan Program

- (a) The Development Impact Fee Payment Plan Program is established for those development impact fees listed in Section 4.
- (b) The Development Impact Fee Payment Plan Program shall apply only to Approved Residential Development Projects and Approved Development Projects as defined in this Ordinance.
- (c) An Applicant may file an application with the City to request a payment plan for any or all of those development impact fees listed in Section 4.
- (d) The Applicant shall deposit with the City an amount to be determined by the City Manager for an Approved Residential Development Project or an Approved Development Project at the time the building permits are issued. No building permit shall be issued for an Approved Residential Development Project or an Approved Development Project subject to this Ordinance unless the Applicant has paid this deposit.
- (e) The Applicant, and the owner of the property, if different, shall be required to enter into an agreement with the City, in a form approved by the City Attorney, agreeing to the payment plan.
- (f) The maximum period for any payment plan pursuant to this Chapter is twelve (12) months from the date of issuance of building permits. This period may be extended once for twelve (12) months at the discretion of the City Manager. Any additional extensions shall be at the discretion of the City Council.
- (g) All fees subject to the Development Impact Fee Payment Plan Program shall be paid in full the earlier of: (1) the City's approval and signature on the final inspection card by the Director of Planning and Building, or designee, for an Approved Residential Development Project; or (2) the issuance of the certificate of occupancy for an Approved Development Project; or (3) the end of the maximum period described in subsection (f) of this Section 5.

Section 6. Agreement Shall Constitute a Lien

The Applicant and the owner of the property, if different, shall execute a Development Impact Fee Payment Plan Program Agreement with the City. The Agreement shall be recorded by the City and shall constitute a lien against the property for the payment of the fees. The City Manager shall execute the Agreement on behalf of the City.

Once the obligation is paid in full, the City shall record a Release of the Lien.

Section 7. Determination of the Amount of Development Impact Fees

The amount of development impact fees owed by the Applicant shall be determined by the City pursuant to the provisions outlined in the Municipal Code or in the ordinances establishing the fees. These amounts shall be fixed as of the date of the execution of the Development Impact Fee Payment Plan Agreement by the City. The amounts of these fees shall not change as long as the Applicant is in full compliance with all provisions and requirements of this Ordinance and the Development Impact Fee Payment Plan Program Agreement. If, however, the Applicant fails to comply with all the provisions and requirements of this Ordinance or the Agreement, the City may adjust the development impact fees to reflect the current rates for the fees.

Section 8. Not Transferable

The City's approval of a Development Impact Fee Payment Plan is not transferable to any other project, even if the Applicant is the same and the other project would qualify for the Development Impact Fee Payment Plan Program.

Section 9. Recordation Costs

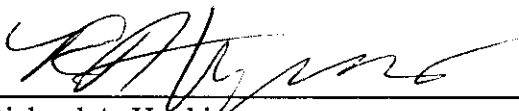
The Applicant shall pay all costs of recordation of documents required pursuant to this Ordinance and the Development Impact Fee Payment Plan Program Agreement at the execution of the Development Impact Fee Payment Plan Program Agreement by the City.

Section 10. Expiration of this Ordinance

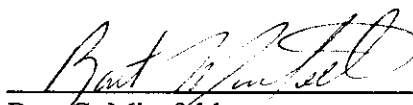
This Ordinance shall take effect thirty days after final passage and shall expire on December 31, 2010, and as of that date, is repealed.

Presented by

Approved as to form by



Richard A. Hopkins
Engineering Director



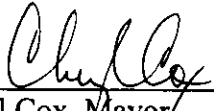
Bart C. Miesfeld
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 6th day of January 2009, by the following vote:

AYES: Councilmembers: Bensoussan Castaneda, McCann, Ramirez, and Cox

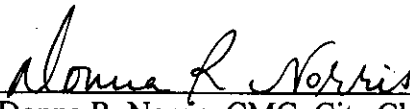
NAYS: Councilmembers: None

ABSENT: Councilmembers: None



Cheryl Cox, Mayor

ATTEST:

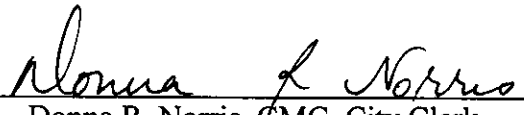


Donna R. Norris, CMC, City Clerk

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. 3120 had its first reading at a regular meeting held on the 16th day of December 2008 and its second reading and adoption at a regular meeting of said City Council held on the 6th day of January 2009; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

Executed this 6th day of January 2009.



Donna R. Norris, CMC, City Clerk