

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA
IMPLEMENTING THE DEVELOPMENT IMPACT FEE
RELATED PROVISIONS OF SENATE BILL 13 (ACCESSORY
DWELLING UNITS)

WHEREAS, the City of Chula Vista (the “City”) requires the payment of various development impact fees to mitigate the impacts of new development on public facilities; and

WHEREAS, Senate Bill 13 (Accessory Dwelling Units) was signed into law on October 9, 2019; and

WHEREAS, Senate Bill 13 prohibits the collection of development impact fees from Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) smaller than 750 square feet in size; and

WHEREAS, Senate Bill 13 requires development impact fees collected from ADUs and JADUs of 750 square feet or larger be proportional to the primary residence on a square footage basis; and

WHEREAS, pursuant to Chula Vista Municipal Code (CVMC) Section 19.58.023(A), JADUs may not exceed 500 square feet in size; and

WHEREAS, the City Council did previously place an ordinance implementing the development impact fee related provisions of Senate Bill 13, with respect to the City’s Public Facilities Development Impact Fee Program, CVMC Chapter 3.50 on first reading; and

WHEREAS, the City Council desires to implement the development impact fee related provisions of Senate Bill 13, with respect to the City’s remaining development impact fee programs; and

WHEREAS, Chapter 3.54 of the CVMC establishes Transportation Development Impact Fees for the Eastern, Western, and Bayfront territories of the City; and

WHEREAS, on December 6, 1994, pursuant to Ordinance No. 2617, the City Council established the Salt Creek Sewer Basin Development Impact Fee; and

WHEREAS, on December 9, 1997, pursuant to Ordinance No. 2716, the City Council established the Poggi Canyon Sewer Basin Development Impact Fee; 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, on January 7, 2003, pursuant to Ordinance No. 2892, the City Council amended the Otay Ranch Village 1 and 5 Pedestrian Bridge Development Impact Fee to include Village 6; and

WHEREAS, on February 20, 2007, pursuant to Ordinance No. 3064, the City Council amended the Otay Ranch Village 1, 5, and 6 Pedestrian Bridge Development Impact Fee to include Village 2; and

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

WHEREAS, on August 13, 2013, pursuant to Ordinance No. 3273, the City Council established the Pedestrian Bridge Development Impact Fee Program for the Eastern Urban Center; and

WHEREAS, the proposed activity has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Notwithstanding the foregoing, it has also been determined that the activity qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines. Thus, no environmental review is required.

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

Section I.

Chapter 3.54 of the Chula Vista Municipal Code relating to transportation development impact fees is amended as follows:

3.54.020 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.

B. “Bayfront Area” generally means that area of the City of Chula Vista generally west of Interstate 5 and between E Street and Naples Street as shown on the map entitled “Exhibit 1” of the Council agenda statement for the ordinance codified in this chapter, on file in the office of the City Clerk.

- C. “BFDIF” means the Bayfront Transportation Development Impact Fee.
- D. “Building Permit” means a permit required by and issued pursuant to the Uniform Building Code, as adopted by reference by this City.
- E. “Developer” means the owner or Developer of a Development Project.
- F. “Development Permit” means any discretionary permit, entitlement or approval for a Development Project issued under any zoning or subdivision ordinance of the City.
- G. “Development Project” or “Development” means any activity described as the following:
1. Any new residential dwelling unit, including any Accessory Dwelling Unit, developed on vacant land;
 2. Any new residential dwelling unit, including any Accessory Dwelling Unit, developed on nonvacant land, if the result is a net increase in demand for service. 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, for which a Building Permit has been issued after September 25, 2018;
 4. Any new nonresidential Development constructed on vacant land;
 5. Any expansion or intensification of nonresidential Developments on nonvacant land, if the result is a net increase in demand for service. The fees shall be based solely on the net increase in service demand.
- H. “Eastern Area” generally means that area of the City of Chula Vista located between Interstate 805 on the west, the City sphere of influence boundary on the east and northeast, the City boundary on the north and the City’s southern boundary on the south as shown on the map entitled “Exhibit 1” of the Council agenda statement for the ordinance codified in this chapter, on file in the office of the City Clerk.
- I. “Engineer’s Reports” mean the “Interim Eastern Area Development Impact Fee for Streets” study prepared by George T. Simpson and Willdan Associates dated November 1987; the “Eastern Area Development Fee for Streets” study prepared by Willdan Associates dated November 19, 1990; the “Eastern Development Impact Fee for Streets – 1993 Revision” study prepared by City staff dated July 13, 1993; the study prepared by Project Design Consultants (“Eastern Area Development Impact Fees for Streets, 1999 Update”) dated October 25, 1999; the study prepared by Willdan (“Eastern Area Development Impact Fees for Streets” dated July 2002); the study prepared by City staff (“Eastern Area Transportation Development Impact Fees” dated March 2005); and the study prepared by City staff (“Eastern Area Development Impact Fees” dated September

2014), which are on file in the office of the City Clerk. “Engineer’s Reports” also mean the Engineer’s Report for the Western Transportation Development Impact Fee prepared by City staff, dated February 2008; and the “Western Transportation Development Impact Fee Nexus Study Update” dated October 2014, and the “Bayfront Transportation Development Impact Fee Nexus Study” dated October 2014, both prepared by City staff and on file in the office of the City Clerk.

J. “ETDIF” means the Eastern Transportation Development Impact Fee.

K. “Fees” means the Transportation Development Impact Fees established pursuant to CVMC 3.54.050 and assessed in accordance with the Mitigation Fee Act (Government Code Sections 66000 through 66025), as described in relevant Engineer’s Reports on all Development Projects located within the Eastern Area, the Western Area, and the Bayfront Area.

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

M. “Junior Accessory Dwelling Unit” means a Junior Accessory Dwelling Unit as defined in CVMC 19.58.023.

N. “Nonprofit Community Purpose Facility” means a facility that is not operated for profit and that 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.

O. “Published traffic generation rates” means rates used to calculate traffic generation that are prepared and disseminated by local agencies, regional entities (such as Metropolitan Planning Organizations), and professional societies with expertise in the development of traffic generation rates.

P. “TDIF” means Transportation Development Impact Fee.

Q. “Transportation Facility” means the project or portion of a project which involves the specified improvements authorized by CVMC 3.54.030.

R. “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 “Exhibit 1” of the Council agenda statement for the ordinance codified in this chapter, on file in the office of the City Clerk.

S. “WTDIF” means Western Transportation Development Impact Fee. (Ord. 3440 § 1, 2018).

3.54.060 Determination of fees by land use category.

The Fees shall be determined based on the average daily traffic generation of the Development Project. The City Manager or designee shall calculate the traffic generation of the Development Project using published traffic generation rates, traffic generation studies, traffic count data, traffic impact studies, other relevant data and analysis, and/or engineering judgment.

For purposes of the 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. 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. The traffic generation for all other residential land uses shall be calculated based on the number of dwelling units proposed in the Development Project.

The traffic generation for nonresidential land uses shall be calculated using various measures of Development intensity as described in published traffic generation rates. For these uses, rates based on the square footage of the Development Project will in most cases be selected over rates based on gross acreage, as determined by the City Manager or designee. As it applies to nonresidential land uses, gross acreage 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.

In the ETDIF, the traffic generation rates for commercial retail land uses shall be reduced by 72 percent to recognize the capture of locally generated residential traffic as documented in “Eastern Area Transportation Development Impact Fees” Engineer’s Report, dated March 2005. (Ord. 3440 § 1, 2018).

3.54.100 Development projects exempt from the fees.

A. Development Projects by public agencies shall be exempt from the provisions of the Fees if those projects are designed to provide the public service for which the agency is charged (“Public Purpose”).

B. 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 Fees. 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 Fees. 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 that are additions or expansions to existing dwelling units or additions, expansions, or changes of use to businesses shall be exempt if the addition, expansion or change of use does not result in a net increase in dwelling units or nonresidential intensity. The Fees 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 retains credit based on the former number of dwelling units or nonresidential intensity.

D. Junior Accessory Dwelling Units and 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).

Section II.

Ordinance 2617 (Salt Creek Sewer Basin Development Impact Fee) is amended as follows:

Section 8 (Determination of Equivalent Dwelling Units)

Each single family detached dwelling or single family attached dwelling shall be considered one EDU for purposes of this Fee. Each unit within a multifamily dwelling shall be considered 0.75 EDU. Pursuant to California Government Code Section 65852.2(f)(3)(A), Junior Accessory Dwelling Units and Accessory Dwelling Units of less than 750 square feet shall be exempt. Accessory Dwelling Units 750 square feet or larger shall be charged proportionately to the primary residence on a square footage basis. Every other commercial, industrial, non-profit, public or quasi-public, or other usage shall be charged at a rate calculated in accordance with the method for estimating EDUs set forth in Exhibit “B”, EDU Conversion Factors for Financial Analysis, and is included as Table 6 in the Report.

Section 23 (Other Not Previously Defined Terms)

For the purposes of this ordinance, 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 Chula Vista Municipal Code Section 19.58.022.
- (b) “Building Permit” means a permit required by and issued pursuant to the Uniform Building Code as adopted by reference by this City.
- (c) “Developer” means the owner or developer of a development.
- (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 activity described in Section 65927 and 65928 of the State Government Code.
- (f) “Junior Accessory Dwelling Unit” means a Junior Accessory Dwelling Unit as defined in Chula Vista Municipal Code Section 19.58.023.
- (g) “Single Family Attached Dwelling” means a single family dwelling attached to another single family dwelling, with each dwelling on its own lot.

Section III.

Ordinance 2716 (Poggi Canyon Sewer Basin Development Impact Fee) is amended as follows:

Section 8 (Determination of Equivalent Dwelling Units)

Each single family detached dwelling or single family attached dwelling shall be considered one EDU for purposes of this Impact Fee. Each unit within a multi-family dwelling shall be considered 0.75 EDU. Pursuant to California Government Code Section 65852.2(f)(3)(A), Junior Accessory Dwelling Units and Accessory Dwelling Units of less than 750 square feet shall be exempt. Accessory Dwelling Units 750 square feet or larger shall be charged proportionately to the primary residence on a square footage basis. Every other commercial, industrial, non-profit, public or quasi-public, or other usage shall be charged at a rate calculated in accordance with the method for estimating EDUs set forth in Exhibit "B", Sewer Benefit Area Fees Based on Land Use Categories.

Section 23 (Other Not Previously Defined Terms).

For the purposes of this ordinance, 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 Chula Vista Municipal Code Section 19.58.022.
- (b) “Building Permit” means a permit required by and issued pursuant to the Uniform Building Code as adopted by reference by this City.
- (c) “Developer” means the owner or developer of a development.
- (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 activity described in Section 66000 of the State Government Code.
- (f) “Junior Accessory Dwelling Unit” means a Junior Accessory Dwelling Unit as defined in Chula Vista Municipal Code Section 19.58.023.
- (g) “Single Family Attached Dwelling” means a single family dwelling attached to another single family dwelling, with each dwelling on its own lot.

Section IV.

Ordinance 3064 (Pedestrian Bridge Development Impact Fee for Otay Ranch Villages 1, 5, 6, and 2) is amended as follows:

Section 8 (Determination of Equivalent Dwelling Units)

Residential land uses shall be converted to Equivalent Dwelling Units for the purpose of this fee based on the following table:

Fee by Land Use		
Land Use	People per Household	EDUs
Single Family (“SFD”)	3.52	1
Multi-Family (“MF”)	2.61	0.74

“Single Family” shall mean a residential unit within a subdivision, planning area or neighborhood with a net density of 8 units per acre or less as shown on the approved tentative map for said subdivision, planning area or neighborhood.

“Multi-Family” shall mean a residential unit within a subdivision, planning area or neighborhood with a net density of greater than 8 units per acre or any residential unit within a mixed-use project as shown on the approved tentative map for said subdivision, planning area or neighborhood.

Pursuant to California Government Code Section 65852.2(f)(3)(A), Junior Accessory Dwelling Units and Accessory Dwelling Units of less than 750 square feet shall be exempt. Accessory Dwelling Units 750 square feet or larger shall be charged proportionately to the primary residence on a square footage basis.

Section 23 (Other Not Previously Defined Terms)

For the purposes of this ordinance, 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 Chula Vista Municipal Code Section 19.58.022.
- (b) “Building Permit” means a permit required by and issued pursuant to the Uniform Building Code as adopted by reference by this City.
- (c) “Developer” means the owner or developer of a development.
- (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 activity described in Section 66000 of the State Government Code.
- (f) “Junior Accessory Dwelling Unit” means a Junior Accessory Dwelling Unit as defined in Chula Vista Municipal Code Section 19.58.023.
- (g) “Single Family Attached Dwelling” means a single family dwelling attached to another single family dwelling, with each dwelling on its own lot.

Section V.

Ordinance 2898 (Pedestrian Bridge Development Impact Fee for Otay Ranch Village 11) is amended as follows:

Section 8 (Determination of Equivalent Dwelling Units)

Residential land uses shall be converted to Equivalent Dwelling Units for the purpose of this fee based on the following table:

Land Use	People per Household	EDUs
Single Family (“SFD”)	3.52	1
Multi-Family (“MF”)	2.61	0.74

“Single Family” shall mean a residential unit within a subdivision, planning area or neighborhood with a net density of 8 units per acre or less as shown on the approved tentative map for said subdivision, planning area or neighborhood.

“Multi-Family” shall mean a residential unit within a subdivision, planning area or neighborhood with a net density of greater than 8 units per acre as shown on the approved tentative map for said subdivision, planning area or neighborhood.

Pursuant to California Government Code Section 65852.2(f)(3)(A), Junior Accessory Dwelling Units and Accessory Dwelling Units of less than 750 square feet shall be exempt. Accessory Dwelling Units 750 square feet or larger shall be charged proportionately to the primary residence on a square footage basis.

Section 23 (Other Not Previously Defined Terms)

For the purposes of this ordinance, 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 Chula Vista Municipal Code Section 19.58.022.
- (b) “Building Permit” means a permit required by and issued pursuant to the Uniform Building Code as adopted by reference by this City.
- (c) “Developer” means the owner or developer of a development.
- (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 activity described in Section 66000 of the State Government Code.
- (f) “Junior Accessory Dwelling Unit” means a Junior Accessory Dwelling Unit as defined in Chula Vista Municipal Code Section 19.58.023.

- (g) “Single Family Attached Dwelling” means a single family dwelling attached to another single family dwelling, with each dwelling on its own lot.

Section VI.

Ordinance 3273 (Pedestrian Bridge Development Impact Fee for the Eastern Urban Center) is amended as follows:

Section 8 (Determination of Equivalent Dwelling Units)

Residential land uses shall be converted to Equivalent Dwelling Units for the purpose of this fee based on the following table:

Land Use	People per Household	Equivalent Dwelling Units (EDUs)
Single Family (“SFD”) *	3.52	1
Multi-Family (“MF”) **	2.61	0.74

*“Single-Family Dwelling” shall mean a residential unit within a subdivision, planning area, or neighborhood with a net density of 8 units per acre or less as shown on the approved tentative map for said subdivision.

**“Multi-Family Dwelling” shall mean a residential unit within a subdivision, planning area or neighborhood with a net density of 8 units per acre as shown on the approved tentative map for said subdivision.

Pursuant to California Government Code Section 65852.2(f)(3)(A), Junior Accessory Dwelling Units and Accessory Dwelling Units of less than 750 square feet shall be exempt. ADUs of 750 square feet or larger shall be charged proportionately to the primary residence on a square footage basis.

Section 23 (Other Not Previously Defined Terms)

For the purposes of this ordinance, 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 Chula Vista Municipal Code Section 19.58.022.
- (b) “Building Permit” means a permit required by and issued pursuant to the Uniform Building Code as adopted by reference by this City.

- (c) “Developer” or “Owner” means the owner of Property, which is the subject of this Agreement, anyone authorized to act on behalf of the owner of the Property, and any and all of owner’s successors in interest, whether individual, partnership, corporation, or other entity such as a Home Owners’ Association, regardless of the manner of transfer, including purchase, devise, or gift.
- (d) “Development Project” or “Development” means any activity described in Section 66000 of the State Government Code.
- (e) “Junior Accessory Dwelling Unit” means a Junior Accessory Dwelling Unit as defined in Chula Vista Municipal Code Section 19.58.023.

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 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.

Presented by

Approved as to form by

Kelly G. Broughton, FASLA
Director of Development Services

Glen R. Googins
City Attorney