



# CITY COUNCIL AGENDA STATEMENT



October 22, 2019

File ID: 19-0370

## **TITLE**

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHAPTER 3.50 OF THE CHULA VISTA MUNICIPAL CODE (DEVELOPMENT IMPACT FEES TO PAY FOR VARIOUS PUBLIC FACILITIES) (FIRST READING)

## **RECOMMENDED ACTION**

Council conduct the public hearing and place the ordinance on first reading.

## **SUMMARY**

The City of Chula Vista collects a Public Facilities Development Impact Fee (PFDIF) from new development to fund the construction and acquisition of general government buildings and equipment, including, but not limited to, fire stations, libraries, and recreation facilities. The PFDIF is codified in Chapter 3.50 of the Chula Vista Municipal Code (CVMC). The proposed ordinance amends Chapter 3.50 for consistency with other City development impact fee programs, improves readability, removes outdated provisions, and provides additional fee deferral authority. Additional modifications to eliminate and/or reduce fees for Accessory Dwelling Units (ADUs) are also recommended, in accordance with Senate Bill 13.

## **ENVIRONMENTAL REVIEW**

The City's Development Services Director 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.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

Not applicable.

## **DISCUSSION**

In August of 1989, the City Council adopted an ordinance establishing a series of "supplemental" impact fees. After a more comprehensive review of the City's capital needs over the next year, the Public Facilities Development Impact Fee (PFDIF) program was established in 1991, via Ordinance No. 2432. The PFDIF was subsequently updated in 2000, 2002, and 2006 and codified in Chapter 3.50 of the Chula Vista Municipal Code (Development Impact Fees to Pay for Various Public Facilities) (the "PFDIF Ordinance"). The PFDIF provides a mechanism for development projects to mitigate the cumulative burdens they place on public facilities.

The public facilities financed by the PFDIF include the following seven (7) components:

1. Civic Center Expansion
2. Police Facilities and Equipment
3. Corporation Yard Relocation
4. Libraries
5. Fire Suppression System
6. PFDIF Program Administration
7. Major Recreation Facilities

#### Proposed Revisions

Revisions to the PFDIF Ordinance are proposed to provide consistency with other City development impact fee (DIF) programs, improve readability, remove outdated provisions, provide additional fee waiver authority, and implement Senate Bill 13. To follow is a brief discussion of the recommended edits. A redline strikeout of CVMC Chapter 3.50 is provided as Attachment 1.

#### *Definitions (CVMC 3.50.020)*

Updates to the definitions section of the ordinance are recommended for consistency with the City's Transportation Development Impact Fee (TDIF) programs (CVMC Chapter 3.54), standard practices, and to reflect terms currently defined in the body of the ordinance.

#### *Eliminated Program Components (CVMC 3.50.030)*

Four program components were eliminated in conjunction with the last comprehensive update of the PFDIF program, approved via Ordinance 2006-3050 in October 2006. All projects planned for these components have been completed and all funds have been expended. The eliminated components include:

1. Geographic Information System (GIS);
2. Computer Systems;
3. Telecommunication Systems; and
4. Records Management System.

Updates to remove reference to the four eliminated program components are recommended.

#### *Other Outdated Provisions*

Staff recommends replacing references throughout to the Olympic Training Center with references to the Elite Athlete Training Center. Other outdated provisions recommended for update and/or deletion apply to limited time offerings of fee prepayments and deferrals.

#### *Fee Credits & Reimbursements (CVMC 3.50.150 & 3.50.155)*

Recommended updates include referencing the City's newly adopted procurement guidelines for developer performed public works (CVMC 2.56.160(H)) and establishing a standard credit award process based on the provisions of the City's TDIF programs. Additional edits consistent with the TDIF programs are also recommended related to developer transfer of credits (CVMC 3.50.155).

### *Fee Waiver, Reduction, and Deferral Provisions (CVMC 3.50.160)*

Updates to the fee waiver, reduction, and deferral provisions of the PFDIF Ordinance in order to simplify the subject process, broaden the City Manager's deferral authority, and provide consistency with the City's TDIF programs are recommended. Under the existing PFDIF Ordinance, if a developer contends that the fee assessed to their project is unconstitutional or unrelated to mitigation of the impacts of their project, they must apply to the City Council for a modification or a reduction of the fee. In addition, the PFDIF Ordinance lacks provisions for temporary facilities or deferrals.

Staff recommends the following provisions be added to the PFDIF Ordinance (CVMC 3.50.160):

- If a developer contends that the fee assessed to their project is unconstitutional or unrelated to mitigation of the impacts of their project, they may apply to the City Manager for a modification or reduction of the fee. The City Manager shall make a determination within ten (10) business days of the developer's application for modification or reduction. The developer may appeal the City Manager's decision to the City Council.
- Developments designated and intended as a temporary use (10 years or less) may be granted a fee waiver, as determined by the City Manager, or designee. The developer may appeal the City Manager's decision to the City Council.
- Appeals shall be filed with the City Clerk within ten (10) business days of the City Manager's decision. The City Council should consider the appeal within 60 days after its filing and the decision of the City Council will be final.
- Deferrals may be granted by the City Manager or designee based on economic hardship, funding sequencing challenge, or if the project offers a public benefit. Market rate interest must be charged, and the deferred amount must be adequately secured by agreement with the applicant.
- Creation of a new provision that would apply only to hotels/motels that do not receive any other form of economic subsidy from the City. These projects would be allowed to apply for a deferral and/or reduction in their PFDIF. If approved, a deferral could be granted for a period of up to four (4) years from the Certificate of Occupancy for the project. The deferral would require an agreement between the City and the developer, to include an acceptable security instrument.
- All deferrals with an outstanding balance would become due and payable if the developer transfers the property to any other party without the reasonable advance approval of the City and the acceptance of the other party of the obligation, including provision of acceptable replacement security.

### *Accessory Dwelling Units*

Pursuant to Senate Bill 13, as signed into law by the Governor on October 9, 2019, ADUs and Junior Accessory Dwelling Units (JADUs) smaller than 750 square feet are exempt from all development impact fees. For ADUs and JADUs 750 square feet or larger, the fees charged must be proportional to the fees for the primary residence on a square footage basis. The proposed ordinance implements this new law. A separate report will be made to the City Council on November 5, 2019, which will include an omnibus ordinance implementing this change in all other City development impact fee programs.

*Other*

Additional recommended updates include referencing the City's Interfund Loan Policy (City Council Policy 220-06) and allowing for interfund loans outside the annual budget adoption process (see CVMC 3.50.170(A)).

The previously authorized annual inflationary updates to the PFDIF are preserved (see CVMC 3.50.090). The next such increase will be effective October 1, 2020.

**DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

**CURRENT-YEAR FISCAL IMPACT**

All costs associated with the preparation of this report are borne by the Public Facilities Development Impact Fee program, resulting in no net impact to the General Fund or the Development Services Fund.

**ONGOING FISCAL IMPACT**

The proposed ordinance modifications provide consistency with other City DIF programs; improve readability; remove outdated provisions; streamline and simplify the fee reduction, waiver, and deferral process; and create a new process for deferral of fees for uses that generate a public benefit, including hotels/motels, supporting development of economically desirable uses while ensuring the City continues to collect appropriate fees to mitigate the impacts of these facilities. If adopted, these new provisions are anticipated to incentivize the development of projects that generate positive fiscal impacts to the City's General Fund.

Reduced impact fee revenues are projected to result from eliminating and reducing impact fees to be collected from ADUs and JADUs. No impact to capital project timing is anticipated to result from this reduction in revenues.

**ATTACHMENTS**

1. Redline strikeout of CVMC Chapter 3.50 (Development Impact Fees to Pay for Various Public Facilities).

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