

CHAPTER 7 : IMPLEMENTATION

This section addresses the actual mechanics of collecting the impact fee. The implementation measures to be discussed include the application of impact fees, timing of collection, the method of collection and the creation of an inflationary adjustment index.

I. APPLICATION OF IMPACT FEES

All new construction, residential and non-residential, will be subject to development impact fees. For additions and expansions, the key determination is intensification. For example, the remodel and expansion of a single family home that resulted in simply a larger single family home would not be subject to impact fees. A single family home that is torn down and replaced with two dwelling units would be required to pay impact fees for the intensification. Therefore, the impact fee would be required for one dwelling unit. For non-residential development, the concept of intensification is the same. For example, the expansion of a 6,000 square foot building to a 10,000 square foot building would intensify the use and increase the traffic generation rates for the site. In this instance, the development impact fee would apply to the additional 4,000 square feet.

II. TIMING OF FEE COLLECTION

The collection of the impact fee should occur at the time of building permit issuance. There are several reasons for collecting the impact fees at building permit issuance rather than at an earlier development stage or at a later occupancy stage. First, the collection of the fee at building permit issuance is timed more closely to when the actual impacts of the development to public facilities will occur. In most instances, when a building permit is acquired, construction usually occurs in a relatively short period of time. Collecting a fee earlier in the process (e.g. at the development approval stage) contains a greater risk that the development will not actually be constructed. In that event, the City is obligated to refund any fees collected after a certain period of time. This can create both financial and administrative problems for the City, especially if the money has already been spent on a new facility.

Second, collection of the fee at building permit issuance will be administratively easier since most other fees are collected at this time. The developer can pay and the City can collect the fees all at the same time. The necessary accounting of fees to ensure that the monies are spent on facilities actually being impacted by the particular development will be much easier if the money is collected at this stage.

Third, collection of the fee at a later stage of development (e.g. time of occupancy) creates another burden on the City to collect the fee after construction is complete. Many people may not be willing to pay the fee at that point making it necessary for the City to institute enforcement procedures. This typically adds another strain on City resources and does not lend itself to good public relations.

III. FEE COLLECTION METHOD

The method the City uses to collect fees is critical to ensure that fees are collected in a proper manner and accounted for in order to withstand any legal challenges. It is recommended that the fees for each facility be charged separately. Although this may sound cumbersome, it is the best way to guarantee an accurate accounting of all fees collected. The basic premise of collecting impact fees is that the fees will be used for specific facilities that are being impacted by the new development. The City is required to account for every penny collected and to set up separate accounts for holding and subsequently spending these fees. Money collected for parks cannot be spent on circulation. Monies collected to pay for a circulation facility cannot be spent somewhere else in the City.

Another reason fees should be collected separately is that if one fee is successfully challenged in the courts, the remaining fees will remain intact. In other words, successful challenge of one fee will not invalidate the entire fee program.

From the developer's point of view, it makes no difference if the fees are accounted for separately. The developer would receive a cost accounting of individual fees, but only one check for the total fee would be required.

IV. INFLATIONARY ADJUSTMENT INDEX

Development impact fees will be collected over a number of years, as development continues to occur. Therefore, the development impact fee ordinance will incorporate an index to automatically adjust the fees each year to factor in inflation. The inflationary factor will be based on an engineering construction index to reflect costs of development at that period in time.