

CHAPTER 17.44 DEVELOPMENT ~~SERVICES~~USER FEES AND PUBLIC FACILITIES EXACTIONS, FEES AND/OR COSTS

17.44.010 Purpose.

(a) Public Facilities Fees or Development Impact Fees

The ~~ongoing/continued~~ development of real property ~~located~~ within the City's jurisdictional boundaries with ~~various uses including that include~~, but are not limited to, single-family ~~dwelling units, and~~ multi-family dwelling units, ~~and~~ agricultural ~~uses~~, commercial ~~uses~~, industrial ~~uses~~, manufacturing ~~uses~~, office ~~and~~ professional ~~uses~~, recreational ~~uses~~, religious ~~uses~~ and storage uses, has resulted in:

- (i) ~~(i)~~ an increased demand on existing public services, facilities, and infrastructure;
- (ii) ~~(ii)~~ the need for expansion of public services, facilities and infrastructure; ~~and/or~~
- (iii) ~~(iii)~~ the need for the installation of new public services, facilities and infrastructure.

To meet ~~such~~ health and safety needs, and in accordance with Government Code Section 66000 et seq., it is the intent of the City Council that each applicant for a grading, construction, building and/or development permit or entitlement shall, ~~prior to the issuance of such permit or entitlement~~, pay the Public Facilities fees described hereafter. The funds generated by the payment of fees described herein shall be deposited by the City into separate funds or accounts that have been established for such purposes.

(b) Development User Fees

The City Council assesses Development User Fees to recover in whole or in part the costs of delivering exclusive-use services that benefit a limited number of users, such as the review, permitting, and inspection of Development Entitlements. Development User Fees may be assessed in accordance with Government Code 66014 and were adopted pursuant to Resolution 2024-9385.

17.44.020 Definitions.

For the purposes of this Chapter 17.44, the following words or phrases shall be construed as defined below, unless from the context it appears that a different meaning is intended:

- (a) **Building** shall mean any structure or tenant improvement built for the support, shelter and/or enclosure of persons, goods, chattels, animals and/or property of any kind.
- (b) **Building Permit** shall mean a permit required by and issued pursuant to the Uniform Building Code as adopted by the City.
- (c) **Development Entitlement** shall mean a permit, approval, license or other evidence of permission processed, issued and/or granted by the City for any planning, grading, construction, building and/or other development or pre-development entitlement activity.
- (d) **Development Services** shall mean the departments and functional divisions Development Services Department of the City of San Marcos involved in the review, processing, issuance and/or inspection of Development Entitlements and its various Divisions, including Building, Planning, and Engineering as well as such related services as may be provided by other City Departments such as Administration,

~~Engineering~~Housing, Parks and Recreation, Finance, Public Works, the Fire Protection District, and the Sheriff's Department.

- (e) **Development ~~Services~~User Fees** shall mean the fees charged by the City to recover ~~in whole or in part the costs, including~~ administration ~~and~~ overhead ~~and costs~~ associated with the processing of ~~grading, construction, building and/or development entitlements by the Development Services Department of the City of San Marcos and its various Divisions, including Building, Engineering, Planning, and Landscape Maintenance, as well as the administrative overhead and costs associated with such related services as may be provided by Administration, Parks and Recreation, Finance, Public Works, the Fire Protection District, and the Sheriffs Department~~Development Entitlements by Development Services, including the ~~CPI~~ annual adjustment factor for such fees adopted pursuant to Resolution 200124-57779389.
- (f) **Dwelling Unit** shall mean each single-family residential dwelling, ~~second unit (granny flat)~~accessory dwelling unit, each pad for a mobilehome or trailer, and each unit of an apartment, duplex or multiple dwelling structure, designed as a separate habitation for one or more persons.
- (g) **~~Applicant~~Person** shall mean every individual, partnership, firm or corporation that is to construct, reconstruct, develop, or redevelop, or is to be responsible for the construction, reconstruction, development, or redevelopment of a dwelling, greenhouse, commercial, office, or industrial structure, as well as those who~~ch~~ may do so through the services of an employee, agent, and/or independent contractor.
- (h) **Public Facilities or Facilities** shall mean facilities, infrastructure, improvements, equipment, improved and/or unimproved real property and/or interests therein that are used, operated and/or otherwise held for general municipal purposes or on behalf of the citizens of the City. Such facilities, infrastructure, equipment and real property interests shall include, but shall not be limited to, ~~streets, highways, curbs, gutters, sidewalks, traffic controls, bridges, over-crossings, street interchanges, flood control and other storm water facilities, lighting facilities, active or passive open space and/or park~~transportation facilities, parks, recreation and trails, fire and EMS facilities, habitat conservation, and storm drainage facilities, and/or ~~advance planning for and~~ appurtenances of the same.
- (i) **Public Facilities Fees** shall mean the ~~exactions and~~Development Impact ~~f~~fees charged by the City ~~in accordance with Government Code 66000(b) and pursuant to Resolution 2024-9385-Ordinance 90-856, as amended by Resolution 91-3889 and Resolution 99-5197,~~ and as may be further amended in future.

(Ord. No. 2014-1389, 3-11-2014; Ord. No. 2017-1452, § 3(Exh. B), 10-10-2017)

17.44.030 Development ~~Services~~User Fees.

In addition to the conditions and improvement requirements that are imposed upon ~~grading, construction, building and/or d~~Development ~~e~~Entitlements, Development ~~Services~~User Fees, or applicable components thereof, shall be paid with respect to each such application that is submitted to the City. A schedule of Development ~~Services~~User Fees, including the CPI annual adjustment factor for such fees, has been adopted pursuant to Resolution No. 200124-57779389. The amount of the Development ~~Services~~User Fees, and each component thereof, shall be set from time to time by Resolution of the City Council ~~and set forth in the adopted fee schedule.~~

~~To ascertain the applicable Development Services Fees and the amount of the same, the applicant shall obtain the then current schedule from the Development Services Department and consult said schedule each time an application for a grading, construction, building and/or development entitlement application is submitted to the City.~~The City Manager is authorized to review Development ~~Services~~User Fees and to make adjustments to and exemptions from the imposition of Development ~~Services~~User ~~f~~fees, or any portion thereof, by reason of economic hardship and/or benefit to the City. Appeal to the City Council from the determination of the City

Manager with respect to adjustments to and/or waivers of Development [ServicesUser](#) Fees shall be made in writing and submitted to the City Clerk within ten days of the issuance of the City Manager's written determination. Development [ServicesUser](#) Fee protests shall comply with the provisions Government Code Section 66014 and 6602220, and any amendments thereto.

(Ord. No. 2017-1452, § 3(Exh. B), 10-10-2017)

17.44.040 Time of Payment of Development [ServicesUser](#) Fees; [Deposits](#).

The applicable components of the Development [ServicesUser](#) Fees shall be due and payable upon submission to the City of any application for a [grading, construction, building and/or development permit or entitlement](#) by any [personApplicant](#), or at the time of permit issuance, as specified by the City. With respect to the payment of hourly rates and/or consultant services associated with certain components of Development Services Fees, the City may require a reasonable amount to be deposited at the initial submission of the application, with additional amounts to be submitted to the City ~~as it may direct the direction of the Development Services Department~~ as the deposit amount is drawn down.

17.44.050 Use of Development [ServicesUser](#) Fees.

Development [servicesUser](#) fFees shall be deposited and used to reimburse the City for administrative overhead and costs associated with the processing of ~~grading, construction, building and/or development entitlements by the Development Services Department of the City of San Marcos and its various Divisions, including Building and Planning, as well as the administrative overhead and costs associated with such related services as may be provided by Engineering, Administration, Parks and Recreation, Finance, Public Works, the Fire Protection District, and the Sheriffs Department~~ [Development Entitlements by Development Services](#).

(Ord. No. 2014-1389, 3-11-2014; Ord. No. 2017-1452, § 3(Exh. B), 10-10-2017)

17.44.060 Public Facilities Fees.

~~In addition to the conditions and improvement requirements that are imposed upon grading, construction, building and/or development entitlements, and in addition to the payment of Development Services Fees as provided in this Chapter 17.44, Public Facilities fund the planning, design, construction, and expansion of public infrastructure and ensure that new development projects contribute their fair share towards the costs of necessary public facilities, offsetting the indirect impacts of development.~~ Public Facilities Fees and the appropriate components thereof shall be paid with respect to each such application that is submitted to the City. Public Facilities Fees [are determined](#) ~~consistent with Government Code 66000 et seq. and set forth of those components set forth in Ordinance 90-856, as amended and/or supplemented by Resolution 91-3889 and Resolution 99-51972024-9385,~~ as such ~~Ordinance and Resolutions~~ may be further amended in future by the City Council. The components of the Public Facilities Fees shall include, but shall not be limited to, the following: [Circulation Element Streets; Flood Control and Habitat Replacement; Parks; State Route 78 and Interchange Improvements; Geographic Information System Transportation Facilities, Parks, Recreation, and Trails, Fire and EMS Facilities, Advanced Planning, Habitat Conservation, Storm Drainage Facilities, and appurtenances thereto.](#) The amount of such Public Facilities Fees, and each component thereof, shall be set from time to time by Resolution of the City Council in accordance with Government Code Section 66000 et seq.

The City Manager's authority to make adjustments to and/or exemptions from the imposition of Public Facilities Fees, or any portion thereof, shall be limited to those situations and circumstances set forth in [OrdinanceResolution 200324-12039386, Section 14](#). Appeal to the City Council from the determination of the City Manager with respect to adjustments to and/or waivers of Public Facilities Fees shall be made in writing and

submitted to the City Clerk within ten days of the issuance of the City Manager's written determination. Public Facilities Fee protests shall comply with the provisions [of](#) Government Code Section 66020, and any amendments thereto.

(Ord. No. 20~~2403-1203~~[9385](#), ~~101-286-0324~~; Ord. No. 2017-1452, § 3(Exh. B), 10-10-2017)

17.44.070 Time of Payment of Public Facilities Fees.

The applicable Public Facilities Fees components shall be due and payable [as required pursuant to Government Code Section 66007 and in accordance with Resolution 2024-9386](#)~~upon the issuance by the City of a building permit~~ for the construction of any dwelling unit, greenhouse or other structure for agricultural use, commercial structure, industrial structure, manufacturing structure, office or professional structure, recreational structure, religious structure or storage structure. With regard to subdivisions, the date of issuance of the building permits, rather than the date of [final subdivision map approval or the date of](#) filing of the tentative map, shall be used in the calculation to determine the amount of Public Facilities Fees.

17.44.080 Fee Deferral Program for Public Facilities Fees.

The payment of Public Facilities Fees for construction of new ~~residential~~, commercial or industrial unit(s) may be deferred, and collection thereof ~~by the responsible City agency, department, official or employee~~ delayed, until immediately prior to the release of electrical services. ~~for residential, commercial, industrial units. A written application for the deferral of pPublic fFacilities fFees, as specified in Section 17.44.060 of this chapter,~~ must be filed ~~in writing,~~ on forms prescribed from time to time by the City Manager or ~~his/her~~[their](#) designee and must be filed with the ~~City Building Department~~ by or before the issuance of the first building permit for the construction project in question. This application will also include a deferral agreement as explained in Section 17.44.0~~76~~[90](#).

- A. An application will be approved by the ~~Building Division Director~~[City Manager](#) or ~~his/her~~[their](#) designee, within 15 days of its submittal, unless it is found and determined that one or more of the following factors exist:
1. The application is deemed incomplete.
 2. The applicant and the owner of the property have not properly executed the deferral agreement.
 3. The applicant has not provided security for the payment of the fees to be deferred as provided in Section 17.44.090.

(Ord. No. 2014-1389, 3-11-14)

17.44.090 Deferral Agreements.

As a condition of the deferment of payment of any Public Facilities Fees pursuant to this chapter, and prior to and as a condition of issuance of the building permit, the property owner, and, if applicable, the lessee if the lessee's interest appears of record, must execute a contract to pay the entirety of the deferred Public Facilities Fees prior to release of the electrical services by the City. As part of the City's approval of an application, the owner of the affected real property must enter into a deferral agreement with the City in a form satisfactory to the City Attorney and approved by the City Manager or ~~his/her~~[their](#) designee. Such agreement shall, at a minimum, be site specific and provide for the enforcement of the provisions of this chapter. Only one agreement shall be entered into with respect to each project in its entirety, whether or not the applicant for the Public Facilities Fee deferral is the same for multiple projects. Authority to execute such agreements on behalf of the City is hereby delegated to the ~~Building Division Director~~[City Manager or their designee](#).

The obligation to pay the Public Facilities Fees shall inure to the benefit of and be enforceable by the City. The agreement must contain a legal description of the affected property, must be executed in recordable form and [must be](#) recorded in the Office of the County Recorder of San Diego. From the date of recordation, said fee deferral agreement shall constitute a lien for the payment of the deferred Public Facilities Fees, which lien shall be enforceable against the affected property. The agreement shall be recorded in the grantor-grantee index in the name of the City of San Marcos as grantee and in the name of the property owner or lessee as grantor.

The Public Facilities Fees shall be calculated based on the Fee Schedule in effect at the time of payment. In the event that any or all of the above-mentioned Public Facilities Fees are reviewed and increased by an action of the City Council, if the applicant has executed an agreement deferring their respective Public Facilities Fee payments to the City, the applicant is required to and must pay the increased amount of the Public Facilities Fee(s) in question. The applicant may at any time during the deferral period choose to pay their Public Facilities Fees, and must do so prior to the release of electrical services for the property.

(Ord. No. 2014-1389, 3-11-14)

17.44.100 Time of Payment for Deferred Fees and Release.

No electrical services release will be issued to a project with an approved deferral agreement unless the full amount of any deferred Public Facilities Fees has been paid in full in accordance with Sections [17.44.080](#) and [17.44.090](#).

Upon receipt and clearance of full payment of the deferral obligation, the City will record a release of the obligation in the Office of the County Recorder of San Diego County, which release will include a legal description of the property. A certificate of occupancy will be issued for affected projects and properties only after the City's lien is released and recorded.

(Ord. No. 2014-1389, 3-11-14)

17.44.110 Use of Public Facilities Fees.

The Public Facilities Fees shall be utilized to [plan, design, engineer, develop and construct Public Facilities infrastructure, improvements, equipment, improved and/or unimproved real property and/or interests therein that are used, operated and/or otherwise held for general municipal purposes or on behalf of the citizens of the City.](#)

(Ord. No. 2014-1389, 3-11-14)

17.44.120 Other Exactions and Fees (CFDs, ADs, etc.).

In addition to the exactions, fees and costs set forth in this Chapter 17.44, the City may condition the issuance of a ~~grading, construction, building and/or development~~ [e](#)Entitlement, or its agreement to provide public services, upon the participation of the real property in question in a community facilities, assessment or service district organized and adopted by the City in accordance with local, State and/or federal regulations, statutes and/or case law, or, if such district has not yet been organized and adopted but the need for [such district](#) ~~which~~ has been identified, upon the execution of an irrevocable offer to annex into such district upon formation of the same. Such districts may include, but are not limited to, those organized pursuant to the Improvement Act of 1911, the Municipal Improvement Act of 1913, the Improvement Bond Act of 1915, the Landscaping and Lighting Act of 1972, the Benefit Assessment Act of 1982, the Parking and Business Improvement Area Law of 1989, the Mello-Roos Community Facilities District Act, and other districts formed pursuant to the City's authority as a Charter City or otherwise provided for by applicable statutes or regulations.

(Ord. No. 2014-1389, 3-11-14)

17.44.130 Insufficiency of Funds.

If payment of an exaction, fee and/or cost referenced in this Chapter 17.44 is made by means of a check or checks that are rejected by the applicable financial institutions for insufficiency of funds, all processing of the application or submittal in question shall cease, and shall not be recommenced unless and until such exaction, fee and/or cost, plus any applicable late fee or processing charge imposed by the Finance Department, is paid in full in cash or by cashier's check. [This section also applies to deferred fees pursuant to Section 17.44.080 that are not paid prior to release of electrical service.](#) Any payments shall be applied first toward reduction or elimination of the late fees or processing charges and then to the exaction, fee and/or cost in question.

(Ord. No. 2014-1389, 3-11-14)