

ORDINANCE NO. 928

AN ORDINANCE OF THE CITY OF BELL GARDENS, CALIFORNIA, ADDING CHAPTER 3.27 "DEVELOPMENT IMPACT FEES" TO TITLE 3 (REVENUE AND FINANCE) OF THE BELL GARDENS MUNICIPAL CODE ESTABLISHING FEE GUIDELINES APPLICABLE TO CERTAIN NEW ACTIVITIES AND DEVELOPMENTS WITHIN THE CITY

WHEREAS, the City of Bell Gardens ("City") is a general law city, incorporated under the laws of the State of California; and

WHEREAS, pursuant to its police power, the City may enact and enforce laws within its boundaries which promote the public health, morals, safety, or general welfare of the community, and are not in conflict with general laws; and

WHEREAS, the City recognizes that there will continue to be additional development and expansion within the City based on growth projections from the Southern California Association of Governments; and

WHEREAS, future development within the City boundaries will result in a demand for additional transportation facilities, parks and recreation facilities, general government facilities, law enforcement facilities and updates to the City's General Plan; and

WHEREAS, the City may collect public facilities fees under authority granted by the State of California Mitigation Fee Act ("Act"); and

WHEREAS, the General Plan requires such development impacts to be mitigated by requiring that new development mitigate its share of the impacts to the natural and built environment to be fiscally neutral and not result in a net economic loss for the City; and

WHEREAS, in accordance with the requirement that new development mitigate its share of the impacts, the City contracted with Willdan Financial Services for preparation of a Development Impact Fee Nexus Study ("Study") dated August 18, 2022, which recommends establishing development impact fees, and explains the nexus between the imposition of the fee and the estimated reasonable cost of providing the service for which the fee is charged; and

WHEREAS, the purpose of a development impact fee program is to ensure that new development pays the capital costs associated with growth; and

WHEREAS, the City is forecast to see moderate growth that would create an increase in demand for public services and the facilities required to deliver them; and

WHEREAS, the City shall allocate costs of planned facilities to accommodate growth in compliance with the Act; and

WHEREAS, the impact fee revenue shall be spent on new facilities or expansion of current facilities to serve new development; and

WHEREAS, the City finds it necessary to amend the Bell Gardens Municipal Code to establish administrative procedures and guidelines to facilitate the collection of fees for new developments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELL GARDENS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings. The Recitals above are true and correct and incorporated herein by reference.

SECTION 2. Fee Determination by Type of Use.

A. Residential Development.

Development impact fees for residential development shall be based upon the square footage of the dwelling unit constructed. The proposed development impact fee categories correspond to the City's land use designations in the Land Use Element of the City's General Plan.

B. Nonresidential Land Uses.

Development impact fees for nonresidential land uses shall be based upon the square footage of the building. The proposed development impact fee categories correspond to the City's land use designations in the Land Use Element of the City's General Plan.

C. Uses Not Specified.

If there are land uses unspecified, the development impact fee for such use shall be determined by the City's Community Development Director or his or her designee who shall determine such fee based on an analysis of the impacts of the proposed use on public facilities in relation to other uses in the City's Land Use Element designations.

SECTION 3. Chapter 3.27 (Development Impact Fees) of Title 3 (Revenue and Finance) of the Bell Gardens Municipal Code is hereby added to read as follows:

Chapter 3.27

DEVELOPMENT IMPACT FEES

Sections:

3.27.010 Purpose and Applicability.

- 3.27.020 Definitions.
- 3.27.030 Exemptions.
- 3.27.040 Development Impact Fees.
- 3.27.050 Transportation Facilities Fee.
- 3.27.060 Parks and Recreation Facilities Fee.
- 3.27.070 General Government Facilities Fee.
- 3.27.080 Law Enforcement Facilities Fee.
- 3.27.090 General Plan Update Fee.
- 3.27.100 Resolution Establishing Fee Amounts.
- 3.27.110 Determination of Fees.
- 3.27.120 Payment of Fees.
- 3.27.130 Administration of Development Impact Fees.
- 3.27.140 Consideration in Lieu of Fees – Credit.
- 3.27.150 Development Impact Fee Nonexclusive.
- 3.27.160 Accounting for Fees.
- 3.27.170 Use and Disbursement of Funds.
- 3.27.180 Appeals.

3.27.010 Purpose and Applicability.

- A. The purpose of this Chapter is to impose impact mitigation fees on new residential, commercial, industrial, and other developments in the city to offset the costs of upgrading and expanding public facilities and public services necessitated by such developments. This Chapter establishes the urban structure program for the adoption and administration of development impact fees by the City for the benefit of the citizens whereby as a condition to the issuance of a building permit by the City the property owner or land developer will be required to pay development impact fees or provide other consideration to the City for the purpose of defraying the costs of public expenditures for capital improvements and operational services which will benefit such new development.
- B. General Use Guidelines

In addition to any use identified in a specific section of this Chapter, revenues raised by payment of identified impact mitigation fees may be used within the category of facilities for which they were established for the following purposes:

1. To pay for the design, engineering, right of way acquisition and construction of designated facilities and improvements and reasonable costs of outside consultant studies related thereto; and
2. To reimburse the city for designated improvements constructed with city funds from other sources, together with accrued interest; and
3. To reimburse developers who have designed and constructed designated improvements which are oversized with supplemental size, length, or capacity; and
4. To pay for and/or reimburse costs of program development and ongoing administration of the involved impact mitigation fee program.

C. The City Treasurer shall maintain funds.

D. The development impact fees established herein shall be imposed in an amount based upon a unit of measurement, including but not limited to, the gross square footage, or some similarly fair and reasonable basis to finance such capital improvement and operational services, the demand for which is generated by new development in the City.

E. New development impact fees shall not exceed the cost of providing capital improvements and operational services for which the need is attributable to those development projects that pay the fees.

F. This Chapter regulates fees for certain new developments. It requires an application process, establishes an administrative petition process, and provides for procedures and guidelines for the implementation of this Chapter.

3.27.020 Definitions. For the purposes of this Chapter, unless the context requires otherwise, the following definitions shall apply:

A. **“Building permit”** means the permit required for new construction and additions pursuant to this title. The term “building permit,” as used herein, shall not be deemed to include permits required for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided there is no increase in gross floor area of commercial or

industrial development or in the number of dwelling units in residential developments resulting therefrom.

- B. **“Development Impact Fee”** are fees compiled via extensive study towards certain new residential, commercial, and industrial developments.
- C. **“Capital Improvement”** means any acquisition or improvement of public infrastructure (including park or open space land), purchase of vehicles or equipment.
- D. **“Capital improvements program”** means the City’s annually updated program indicating the approximate location, size, time schedule and estimates of cost for public facilities and improvements.
- E. **“City”** means the City of Bell Gardens.
- F. **“Code”** means the City of Bell Gardens Municipal Code.
- G. **“Commercial development”** means any development designated or intended to be occupied or used for retail commercial, nonretail commercial, general business, or other commercial purposes, including sleeping rooms in hotels and motels with or without kitchens or kitchen facilities. It does not mean repair or replacement of a commercial building which has been accidentally damaged or destroyed by natural causes or human activity provided there is no increase in the floor area of the building.
- H. **“Council”** means the City Council of the City.
- I. **“Department”** means the Community Development Department of the City of Bell Gardens, or other Department designated by the City Council to administer the provisions of this Chapter.
- J. **“Development”** or **“development project”** means any man-made change to improved or unimproved real property, the use of any principal structure or land, or any other activity that requires the issuance of a building permit.
- K. **“Development impact fees”** means any monetary exaction, other than a tax or special assessment, which is charged to an applicant in connection with approval

of a development project for the purpose of defraying all or a portion of the cost of capital improvements and operational services resulting from the development project, subject to the exceptions set forth in California Government Code Section 66000 *et seq.*

- L. **“Director”** means the Director of Community Development of the City of Bell Gardens, or their designee.
- M. **“Fee”** means a monetary exaction, other than a tax or special assessment, which is charged by City to an applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in Section 66477 of the California Government Code, fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements adopted pursuant to Article 2.5 (commencing with Section 65864) of Chapter 4, Division 1, Title 7 of the California Government Code.
- N. **“Master Fee Schedule”** means the fees adopted by City Council resolution.
- O. **“New Development”** means the following:
 - 1. Construction or relocation of a structure.
 - 2. The addition, extension, or enlargement of an existing structure used or intended for nonresidential use.
 - 3. The conversion of a residential use structure to a nonresidential use structure.
 - 4. The development of any new residential, commercial, or industrial structure.
- P. **“Industrial development”** means any development designed or intended for manufacturing, processing, research, warehousing, or similar uses. It does not mean repair or replacement of an industrial building which has been accidentally damaged or destroyed by natural causes or human activity provided there is no increase in the floor area of the building.
- Q. **“Operational services”** means public services and maintenance which are to be financed in whole or in part by the imposition of development impact fees.
- R. **“Report”** means the Development Impact Fee Study prepared by Willdan Financial Services dated August 18, 2022, pursuant to the provisions of California Government Code Section 66000 *et seq.*, which is on file with the City Clerk of the City.

S. **“Residential development”** means any development consisting of new residential dwelling units as defined in Title 9. It does not mean:

1. Any addition to an existing single-family home; or
2. Repair or replacement of a residential building which has been accidentally damaged or destroyed by natural causes or human activity provided there is no increase in the number of dwelling units; or

T. **“Public facilities”** includes public improvements, public services, and community amenities.

3.27.030 Exemptions. The following new developments are exempted from payment of the fees required by this Chapter:

- A. The reconstruction of any building destroyed or damaged by fire, explosion, natural catastrophe, or Act of God to the extent that the reconstruction does not add to the floor area of the structure which existed prior to its being damaged or destroyed, or where such additional floor area is less than one thousand (1,000) square feet.
- B. Any development for which a building permit issued prior to the effective date of the ordinance establishing this Chapter which is still valid.
- C. Exemptions are not automatic but shall be granted by the Department upon application.

3.27.040 Development Impact Fees. To implement the goals, objectives, policies and specific actions of the City’s General Plan, the capital improvement program and the City’s annually adopted budget; to protect the health, safety and general welfare of the City’s population; to mitigate impacts of new development on the level of service capacity in existing facilities; and to ensure that the burdens of financing capital improvements and operational services are borne by the development projects benefited thereby, and except as otherwise expressly set forth elsewhere in this municipal code, every person constructing any new residential, commercial or industrial development shall pay to the City prior to issuance by the City of a building permit the development impact fee categories set forth herein below and such other development impact fees as the City Council may adopt by resolution or ordinance as necessary and appropriate from time to time.

3.27.050 Transportation Facilities Fee. To mitigate the impacts of new development on traffic and transportation facilities, a transportation facilities fee shall be imposed on all new development. The traffic facilities fees shall be used to finance transportation improvements, including intersection improvements, sidewalks, roadways, and other modes of transportation.

3.27.060 Parks and Recreation Facilities Fee. To mitigate the impacts of new residential development on the availability of open space land and park and recreational facilities, a parks and recreation facilities fee and/or a Quimby fee shall be imposed to all new residential development in lieu of parkland dedication and a Quimby fee shall only apply to development occurring in subdivisions pursuant to California Government Code Section 66477.

3.27.070 General Government Facilities Fee. To provide adequate public services and to support the well-being and general welfare of the City's growing population, a general government facilities fee shall be imposed on all new development to include, public and institutional buildings, residential and all commercial, office, and industrial development projects in the City. The general government facilities fee shall be used to finance land acquisition, design, construction, equipping and related capital costs for general government facilities.

3.27.080 Law Enforcement Facilities Fee. To mitigate the impacts of new development on the availability of law enforcement facilities, a law enforcement facilities fee shall be imposed on all new development in the City.

3.27.090 General Plan Update Fee. A General Plan update fee shall be imposed to all new development to ensure that new development funds its fair share of a future General Plan update that will serve both residents and businesses and assess the demand for services and associated facilities based on the City's service population including residents and workers.

3.27.100 Resolution Establishing the Amount of Development Impact Fees.

- A. The City Council shall by resolution establish and periodically adjust the amount of the development impact fees specified in this Chapter, consistent with the requirements of Assembly Bill 1600 (Chapter 927 Statutes 1989) as set forth in California Government Code Section 66000, *et seq.* and shall identify the following:
 1. The purpose of the fee;

2. The use to which the fee will be put;
3. A reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
4. A reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed; and
5. A reasonable relationship between the specific amount of the fee imposed on a development project and the cost of the needed public facilities attributable to that development project.

3.27.110 Determination of Fees. Upon the receipt by the Department of an informal request or of an application by a property owner or land developer for any development action, the Department shall determine and give written notice to the property owner or land developer of the applicability of this Chapter to said development, the amount, if any, of developable land to which such approval relates and the amount of the fee(s) payable pursuant to the resolution(s) adopted pursuant to Section 3.27.100, which may be expressed in terms of a formula. The Department need not give written notice to the property owner or land developer for informal requests or if it determines that no fee relating to such development is payable pursuant to this Chapter and the resolution(s).

3.27.120 Payment of Fees. After the adoption by the City Council of a resolution establishing the amounts of the development impact fees, no building permit shall be issued and no development shall be permitted on any land within the City unless and until the development impact fees relating to such development and established by the resolution(s) adopted pursuant to Section 3.27.100 have been paid unless a determination has been made by the Department that no fee is payable pursuant to this Chapter. Development impact fees payable in connection with mobile home park development shall be paid by the property owner or land developer prior to issuance by the City of off-site improvement permits. With respect to residential developments, the requirement that a property owner or land developer pay the development impact fees prior to the issuance of a building permit is imposed pursuant to Government Code Section 66007(b).

3.27.130 Administration of Development Impact Fees. The fees collected pursuant to this Chapter shall be deposited into separate specific amounts for capital improvements and operational services of the City. These funds and any interest earnings thereon shall be used solely for the purposes specified for funds of such account and solely for the financing of capital improvements and operational services

or to reimburse the City for capital improvements and operational services funded or constructed in whole or in part by the City.

3.27.140 Consideration In-Lieu of Fees - Credits.

- A. Notwithstanding the provision of Sections 3.27.040 and 3.27.110, upon application by a property owner or land developer, the City Council may accept consideration in-lieu of the development impact fees required pursuant to this Chapter, provided:
 - 1. The City Council, upon recommendation of the City staff, finds that the substitute consideration proposed has a value equal to or greater than such fee; and,
 - 2. The substitute consideration is in a form acceptable to the City Council.

- B. A property owner or land developer may elect to construct capital improvement(s). If the property owner or land developer elects to construct such improvement(s), the property owner or land developer must enter into an agreement with the City prior to issuance of any building permit by the City. The agreement must establish the estimated cost of the improvement(s), the schedule for initiation and completion of the improvement(s), a requirement that the improvement(s) be completed to City standards, and such other terms and conditions as deemed necessary by the City.

- C. A property owner, land developer, commercial or industrial enterprise may be entitled to a waiver, reduction, or deferral in the transportation facilities fee established in Section 3.27.050, , the general government fee established in Section 3.27.070, the law enforcement fee established in Section 3.27.080, and the General Plan update fee established in Section 3.27.090 if the City manager determines that a development will contribute a significant amount of sales tax to the City, will create a substantial number of jobs, or will enhance the City's quality of life or produce other desirable benefits to the community, commercial or industrial enterprise.

3.27.150 Development Impact Fee Nonexclusive.

- A. The development impact fees established herein are additional and supplemental to, and not in substitution of, any other requirements imposed by the City on the development of land or the issuance of building permits.

- B. The development impact fee(s) are intended to be consistent with and to further the goals, objectives, policies, and specific actions of the City's General Plan; the Study; and other City policies, ordinances, and resolutions by which the City seeks to ensure the provision of public facilities and services in conjunction with the development of land.
- C. In no event shall a property owner or land developer be obligated to pay for capital improvements and operational services in an amount in excess of the amount calculated pursuant to this Chapter and the resolution(s) adopted pursuant to Section 3.27.100; provided, however, a property owner or land developer may be required to pay, pursuant to City ordinances, regulations, or policies for other public facilities and services, including, without limitation, subdivision improvements and other fees associated with development.

3.27.160 Accounting for Fees.

- A. For the purposes of accounting, the City shall establish separate funds for each impact fee facility category.
- B. Interest earned on each fund shall be part of that fund and shall only be spent on the purpose for which the fee revenue was collected; provided, however, that monies in the funds may be commingled for investment purposes with other City assets with a pro rata share of resulting interest earnings credited to each fund.

3.27.170 Use and Disbursement of Funds. Fees from new developments shall be appropriated and disbursed towards new capital improvements or expansions of facilities or services.

3.27.180 Appeals.

- A. Determinations made by the Department pursuant to the provisions of this section may be appealed to the Planning Commission by filing a written request with the Director, together with a fee established by resolution of the Council, within ten (10) calendar days of the determination of the Department.
- C. If the Planning Commission finds and determines that the amount of the development impact fee(s) deposited exceeds the amount of the development impact fee(s) required by the development project, the difference shall be reimbursed to the property owner or the land developer.

D. If the notice of appeal is accompanied by a cash deposit in an amount equal to the development impact fee(s) due as calculated by the Department, the chief building official shall issue the building permit. The filing of an appeal shall not stay the collection of the development impact fee(s).

SECTION 4. Inconsistent Provisions. Any provision of the Bell Gardens Municipal Code or appendices thereto that conflicts with the provisions of this Ordinance, to the extent of such conflict and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Ordinance.

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause, or phrase would be subsequently declared invalid or unconstitutional.


SECTION 6. Compliance with California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act pursuant to Section 15060(c)(2), constituting an activity that will not result in a direct or reasonably foreseeable indirect physical change in the environment, and pursuant to Section 15060(c)(3) constituting an activity that is not a project as defined in Section 15378. The adoption of the Study and the establishment of development impact fees is not subject to the California Environmental Quality Act in that pursuant to CEQA Guidelines, section 15378(b)(4), the creation of government funding mechanisms which do not involve any commitment to any specific project which may cause a significant effect on the environment, is not defined as a "project" under CEQA.

SECTION 7. The City Clerk shall certify to the passage and adoption of this Ordinance causing it to be posted as required by law, and it shall be effective thirty (30) days after its adoption.

PASSED, APPROVED, AND ADOPTED this 24th day of October 2022.


[Signatures on the following page]

THE CITY OF BELL GARDENS



Maria Pulido, Mayor

APPROVED AS TO FORM:



on behalf of
Ricardo Olivarez
City Attorney

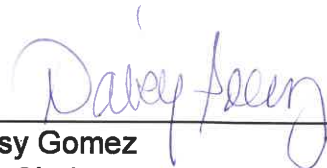
ATTEST:



Daisy Gomez
City Clerk

I, DAISY GOMEZ, City Clerk of the City of Bell Gardens, hereby CERTIFY that Ordinance No. 928 was introduced and placed upon its first reading at a regular meeting of the Bell Gardens City Council held on **Monday, October 10, 2022** and that thereafter said ordinance was duly adopted at a regular meeting of the Bell Gardens City Council held on **Monday, October 24, 2022** and was approved and passed by the following vote:

- AYES: Council Members Barcena, Cortez, Flores-Franco; Mayor Pro Tem Chavez; Mayor Pulido
- NOES: None
- ABSTAIN: None
- ABSENT: None



Daisy Gomez
City Clerk