

ORDINANCE NO. ORD-07-0016

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AMENDING THE LONG BEACH  
MUNICIPAL CODE BY ADDING CHAPTER 18.22 TO  
ESTABLISH A POLICE FACILITIES IMPACT FEE

The City Council of the City of Long Beach ordains as follows:

Section 1. The Long Beach Municipal Code is amended by adding Chapter  
18.22 to read as follows:

Chapter 18.22

POLICE FACILITIES IMPACT FEE

18.22.010 Legislative findings.

A. The state of California, through the enactment of Government  
Code Sections 66001 through 66009 has authorized the City to enact  
development impact fees.

B. The imposition of development impact fees is one of the  
preferred methods of ensuring that development bears a proportionate  
share of the cost of capital facilities and related costs necessary to  
accommodate such development. This must be done in order to promote  
and protect the public health, safety and welfare.

C. That the continuing increase in the development of residential  
and non-residential construction in the City has created an urgency in that  
funds are needed for the increased demand for Police services and the  
facilities that support those services which are required to serve the  
increasing residential and workforce population of the City.

1           D. The fees established pursuant to this Chapter are derived from,  
2 are based upon, and do not exceed the costs of providing additional  
3 Police services attributable to new residential or non-residential  
4 construction, including: master planning to more specifically identify  
5 capital facilities to serve new development; the acquisition of additional  
6 property for Police facilities; the construction of buildings for Police  
7 services; the furnishing of buildings or facilities for Police services; and the  
8 purchasing of equipment and vehicles for Police services.

9           E. The fees collected pursuant to this Chapter shall be used to  
10 finance the Police facilities and equipment identified in Subsection D.

11           F. Detailed study of the impacts of future residential and non-  
12 residential construction in the City, along with an analysis of the need for  
13 new Police facilities and equipment has been prepared. This study is  
14 included in the "Public Safety Impact Fee Study" for the City of Long  
15 Beach dated August 18, 2006 which is incorporated herein by reference  
16 as though set forth in full, word for word.

17           G. There is a reasonable relationship between the need for the  
18 Police facilities and equipment set forth in Subsection D and the impacts  
19 of the types of development for which the corresponding fee is charged.

20           H. There is a reasonable relationship between the fee's use and  
21 the type of development for which the fee is charged.

22           I. There is a reasonable relationship between the amount of the  
23 fee and the cost of the facilities and equipment or portion thereof  
24 attributable to the development on which the fee is imposed.

25  
26 18.22.020 Purpose.

27           A Police Facilities Impact Fee is hereby imposed on residential and  
28 non-residential development for the purpose of assuring that the impacts

1 created by said development pay its fair share of the costs required to  
2 support needed Police facilities and related costs necessary to  
3 accommodate such development.

4  
5 18.22.030 Definitions.

6 A. "Accessory use" is as defined in Section 21.15.060 of this Code.

7 B. "Applicant" means the property owner, or duly designated agent  
8 of the property owner, for which a request for building permit or  
9 construction approval for a mobile home pad is received by the City.

10 C. "Building permit" means the City permit required for new  
11 building construction and/or additions which add square footage pursuant  
12 to Title 18 of this Code. Neither a grading permit nor a foundation permit  
13 shall be considered a building permit for purposes of this Chapter.

14 D. "Calculation" means the point in time at which the City  
15 calculates the Police Facilities Impact Fee to be paid by the applicant.  
16 Calculation will generally occur at the time of issuance of the applicable  
17 building permit or construction approval for a mobile home pad but may  
18 occur earlier in the development approval process.

19 E. "City Manager" means the City Manager of the City of Long  
20 Beach or other municipal officials he/she may designate to carry out the  
21 administration of this Chapter.

22 F. "Collect" or "collection" means the point in time at which the  
23 Police Facilities Impact Fees are paid by the applicant. Collection will  
24 occur on the date of final inspection or the date a certificate of occupancy  
25 or temporary certificate of occupancy, whichever occurs first, or in the  
26 case of a mobile home pad or pads, collection will occur at or on the date  
27 of construction approval is issued.

28 G. "Development" means the addition of new dwelling units and/or

1 new nonresidential square footage to an undeveloped, partially developed  
2 or redeveloped site and involving the issuance of a building permit and  
3 certificate of occupancy for such construction, reconstruction or use.  
4 Development also includes the approval and construction of new mobile  
5 home pads in existing or new mobile home parks or sites, but not  
6 including the following so long as no additional dwelling units or gross  
7 floor area is added:

- 8 1. a permit to operate,
- 9 2. a permit for the internal alteration, remodeling,  
10 rehabilitation, or other improvements or modifications to an existing  
11 structure,
- 12 3. the rebuilding of a structure destroyed by an act of God  
13 or the rehabilitation or replacement of a building in order to comply with  
14 the City's seismic safety requirements,
- 15 4. parking facilities, or
- 16 5. the rehabilitation or replacement of a building destroyed  
17 by imminent public hazard, acts of terrorism, sabotage, vandalism,  
18 warfare or civil disturbance except where said destruction was caused or  
19 in any manner accomplished, instigated, motivated, prompted, incited,  
20 induced, influenced, or participated in by any persons or their agents  
21 having any interest in the real or personal property at the location.

22 H. "Dwelling unit" or "DU" is as defined in Section 21.15.910 of  
23 this Code.

24 I. "Fee setting resolution" means and refers to the City resolution  
25 specifying the Police Facilities Impact Fee per dwelling unit or mobile  
26 home pad for residential development and per gross square foot of floor  
27 area for nonresidential development, by type and by location. The Police  
28 Facilities Impact Fee set forth in the fee-setting resolution may be revised

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pursuant to Section 18.22.140 and applicable state law.

J. "Gross square feet" or "gsf" means the area of a nonresidential development measured from the exterior building lines of each floor with respect to enclosed spaces but excluding parking spaces whether or not enclosed. For purposes of this ordinance, the term "enclosed spaces" specifically includes, but is not limited to, an area available to and customarily used by the general public and all areas of business establishments generally accessible to the public such as fenced, or partially fenced in areas of garden centers attached to and serving the primary structure.

K. "Mixed use" is as defined in Section 21.15.1760 of this Code.

L. "Mobile home" is as defined in Section 21.15.1770 of this Code.

M. "Nonresidential development" means a development undertaken for the purpose of creating gross floor area, excluding dwelling units, but which includes, and is not limited to, commercial, industrial, retail, office, hotel/motel, and warehouse uses involving the issuance of a building permit for such construction, reconstruction or use.

N. "Police Department" means the Police Department of the City of Long Beach.

O. "Principal use" is as defined in Section 21.15. 2170 of this Code.

P. "Residential development" means a development undertaken for the purpose of creating a new dwelling unit or units and involving the issuance of a building permit and certificate of occupancy for such construction, reconstruction or use, or the construction approval for a mobile home pad or pads.

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18.22.040 Fund established.

A Police Facilities Impact Fee fund is established. The Police Facilities Impact Fee fund is a fund to be utilized for payment of the actual or estimated costs of police facilities and equipment related to new residential and non-residential construction as described in this Chapter.

18.22.050 Police Facilities Impact Fee.

There is imposed a Police Facilities Impact Fee on all new residential and non-residential development as those terms are defined in this Chapter.

18.22.060 Fee imposed.

A. Any person who, after the effective date of this ordinance, seeks to engage in residential or non-residential development including mobile home development as defined in this Chapter by obtaining a building permit or construction approval for a mobile home pad or pads is required to pay a Police Facilities Impact Fee in the manner and amount as set forth in the then current fee-setting resolution. The Police Facilities Impact Fee imposed pursuant to this Chapter shall not apply to those projects for which a Planning Department application for Conceptual or Site Plan Review has been filed and deemed complete by the Department of Planning and Building by April 3, 2007.

B. No certificate of occupancy, temporary certificate of occupancy, final inspection approval or construction approval for a mobile home pad or pads, as applicable, for the activities listed in Subsection A of this Section shall be issued unless and until the Police Facilities Impact Fee required by this Chapter has been paid to the City.

1 18.22.070 Calculation of Police Facilities Impact Fee.

2 A. The Director of Planning and Building shall calculate the  
3 amount of the applicable Police Facilities Impact Fee due as specified in  
4 the then current fee-setting resolution.

5 B. The Director of Planning and Building shall calculate the  
6 amount of the applicable Police Facilities Impact Fee due by:

7 1. Determining the number and type of dwelling units in a  
8 residential development or mobile home pads in a mobile home park or  
9 site, and multiplying the same by the Police Facilities Impact Fee amount  
10 per dwelling unit or pad as established by the then current fee setting  
11 resolution;

12 2. Determining the gross square feet of floor area, type of  
13 use and location in a nonresidential development, and multiplying the  
14 same by the Police Facilities Impact Fee amount as established by the  
15 then current fee-setting resolution;

16 3. Determining the number and type of dwelling units and  
17 the nonresidential number of gross square feet of floor area, type of use  
18 and location, in a structure containing mixed uses which include a  
19 residential use, and multiplying the same by the Police Facilities Impact  
20 Fee amount for each use as established by the then current fee-setting  
21 resolution;

22 4. Determining the gross square feet of floor area, type of  
23 use and location in a structure containing mixed uses which include two or  
24 more nonresidential principal uses, and multiplying the same by the Police  
25 Facilities Impact Fee amount as established by the then current fee-  
26 setting resolution. The gross square feet of floor area of any accessory  
27 use will be charged at the same rate as the predominant principal use  
28 unless the Director of Planning and Building finds that the accessory use is

1 related to another principal use.

2  
3 18.22.080 Payment of fee.

4 A. The City shall collect from the applicant the Police Facilities  
5 Impact Fee prior to the issuance of a certificate of occupancy, temporary  
6 certificate of occupancy, final inspection or construction approval for  
7 mobile home pad or pads, whichever occurs first.

8 B. Except for an administrative charge that shall be allocated to the  
9 Department of Planning and Building, all funds collected shall be properly  
10 identified and promptly transferred for deposit in the Police Facilities  
11 Impact Fee fund and used solely for the purposes specified in this  
12 Chapter.

13  
14 18.22.090 Use of funds.

15 A. Funds collected from the Police Facilities Impact Fee shall be  
16 used to fund the costs of providing additional Police services attributable  
17 to new residential and non-residential construction and shall include:

- 18 1. The acquisition of additional property for law enforcement  
19 facilities;
- 20 2. The construction of new buildings for law enforcement  
21 services;
- 22 3. The furnishing of new buildings or facilities for law  
23 enforcement services;
- 24 4. The purchasing of equipment and vehicles for law  
25 enforcement services;
- 26 5. The funding of a master plan to identify capital facilities to  
27 serve new Police Department development.
- 28 6. The cost of financing (e.g., interest payments) related to



1 Items 1-5, inclusive.

2 B. Funds shall not be used for periodic or routine maintenance.

3 C. In the event that bonds or similar debt instruments are issued for  
4 advanced provision of capital facilities for which Police Facilities Impact  
5 Fees may be expended, impact fees may be used to pay debt service on  
6 such bonds or similar debt instruments to the extent that the facilities  
7 provided are of the type described in Subsection A of this Section.

8 D. Funds may be used to provide refunds as described in Section  
9 18.22.100.

10  
11 18.22.100 Refund.

12 A. Any applicant who has paid a Police Facilities Impact Fee  
13 pursuant to this Chapter may apply for a full or partial refund of same, if,  
14 within one (1) year after collection of the Police Facilities Impact Fee the  
15 development project has been modified, pursuant to appropriate City  
16 ordinances and regulations, resulting in a reduction in the number of  
17 dwelling units, a change in the type of dwelling units, a reduction in square  
18 footage, or the applicability of an exemption pursuant to Section  
19 18.22.110 of this Chapter. The City shall retain a sum equaling twenty  
20 percent (20%) of the impact fee paid by the applicant to offset the  
21 administrative costs of refund. The applicant must submit an application  
22 for such a refund in accordance with Chapter 3.48 of this Code. In no  
23 event shall a refund exceed the amount of the Police Facilities Impact Fee  
24 actually paid.

25 B. Any funds not expended, encumbered or obligated by issued  
26 indebtedness by the end of the calendar quarter immediately following five  
27 (5) years from the date the Police Facilities Impact Fee was paid shall,  
28 upon application of the then current landowner, be returned to such

1 landowner with interest at a rate equal to the rate of interest earned by the  
2 City from the time the fee was paid, provided that the landowner submits  
3 an application for a refund within one hundred eighty (180) calendar days  
4 from the expiration of the five-year period.

5  
6 18.22.110 Exemptions and credits.

7 A. Exemptions. Any claim of exemption must be made no later  
8 than the time of application for a building permit or mobile home  
9 construction approval. The following shall be exempted from payment of  
10 the Police Facilities Impact Fee:

11 1. Alterations or expansion of an existing residential building  
12 where no additional dwelling units are created and where the use is not  
13 changed;

14 2. The replacement of a building or structure destroyed by  
15 fire, flood, earthquake or other act of God, with a new building or structure  
16 of the same size and use;

17 3. The installation of a replacement mobile home on a lot or  
18 other such site when a Police Facilities Impact Fee for such mobile home  
19 site has previously been paid pursuant to this Chapter, or where a mobile  
20 home legally existed on such site on or prior to the effective date of the  
21 ordinance codified in this Chapter;

22 4. Nonresidential Development: Construction or occupancy  
23 of a new nonresidential building or structure or an addition to or expansion  
24 of an existing nonresidential building or structure of three thousand  
25 (3,000) gross square feet or less;

26 5. Residential Development: Construction, replacement or  
27 rebuilding of a single-family dwelling (one unit per lot) on an existing lot of  
28 record, or the replacement of one mobile home with another on the same

1 pad, or the moving and relocation of a single-family home from one lot  
2 within the City to another lot within the City, or the legalization of an illegal  
3 dwelling unit existing prior to January 1, 1964, for which an Administrative  
4 Use Permit is approved in accordance with Section 21.25.403D. This  
5 exemption shall not apply to tract development, to the development of  
6 more than one unit per lot nor to the replacement of a single-family  
7 dwelling with more than one dwelling unit;

8 6. Affordable Housing for Lower Income Households.

9 Property rented, leased, sold, conveyed or otherwise transferred, at a  
10 rental price or purchase price which does not exceed the "affordable  
11 housing cost" as defined in Section 50052.5 of the California Health and  
12 Safety Code when provided to a "lower income household" as defined in  
13 Section 50079.5 of the California Health and Safety Code or "very low  
14 income household" as defined in Section 50105 of the California Health  
15 and Safety Code. This exemption shall require the applicant to execute an  
16 agreement to guarantee that the units shall be maintained for lower and  
17 very low income households whether as units for rent or for sale or  
18 transfer, for the lesser of a period of thirty years or the actual life or  
19 existence of the structure, including any addition, renovation or  
20 remodeling thereto. The agreement shall be in the form of a deed  
21 restriction or other legally binding and enforceable document acceptable  
22 to the City Attorney and shall bind the owner and any successor-in-  
23 interest to the real property being developed. The agreement shall  
24 subordinate, if required, to any state or federal program providing  
25 affordable housing to lower and very low income households. The  
26 agreement shall be recorded with the Los Angeles County Recorder prior  
27 to the issuance of a Certificate of Occupancy. The City's Housing  
28 Services Bureau shall be notified of pending transfers or purchases and

1 give its approval of the purchaser's qualifying income status and purchase  
2 price, prior to the close of escrow. The City's Housing Services Bureau  
3 shall be notified of pending rentals and give its approval of proposed  
4 tenant's qualifying income status and rental rate, prior to the tenant's  
5 occupancy. Applicant or any successor-in-interest shall be required to  
6 provide annually, or as requested, the names of all tenants or purchasers,  
7 current rents, and income certification to insure compliance. Voluntary  
8 removal of the housing restriction or violation of the restriction shall be  
9 enforced by the City's Housing Services Bureau and shall require the  
10 applicant or any successor-in-interest to pay the then applicable Police  
11 Facilities Impact Fee at the time of voluntary conversion or as imposed at  
12 the time of violation on the unit in violation, plus any attorneys' fees and  
13 costs of enforcement, if applicable;

14 7. Hospitals as that term is defined in Section 21.15.1370 of  
15 this Code.

16 B. Credits. Any applicant whose development is located within a  
17 Community Facilities District (CFD), and is subject to the assessments  
18 thereof, shall receive an offset credit towards the fees established by this  
19 Chapter to the extent that the assessments fund improvements within the  
20 CFD which would otherwise be funded by the development impact fees  
21 established by this Chapter.

22  
23 18.22.120 Appeals.

24 A. An applicant may appeal, by protest, any imposition of the  
25 Police Facilities Impact Fee by filing a notice of appeal with the City Clerk  
26 within ninety (90) days after the applicant pays the required fee.

27 B. A valid appeal by protest of the imposition of the Police  
28 Facilities Impact Fee shall meet all of the following requirements:

1                   1. Tendering in advance of the appeal any required  
2 payment in full or providing assurance of payment satisfactory to the City  
3 Attorney;

4                   2. Serving written notice on the City including:

5                   a. A statement that the required payment has been  
6 tendered under protest or that required conditions have been satisfied;

7                   b. A statement informing the City of the factual  
8 elements of the dispute and the legal theory forming the basis of the  
9 protest;

10                  c. The name and address of the applicant;

11                  d. The name and address of the property owner;

12                  e. A description and location of the property;

13                  f. The number of residential units or nonresidential  
14 gross square footage proposed, by land use or dwelling unit type, as  
15 appropriate; and

16                  g. The date of issuance of the building permit.

17                  C. The City Council shall schedule a hearing and render a final  
18 decision on the applicant's appeal within sixty (60) days after the date the  
19 applicant files a valid appeal.

20                  D. The City Council hearing shall be administrative. Evidence shall  
21 be submitted by the City and by the applicant and testimony shall be  
22 taken under oath.

23                  E. The burden of proof shall be on the applicant to establish that  
24 the applicant is not subject to the imposition of the Police Facilities Impact  
25 Fee pursuant to the express terms of this Chapter and applicable state  
26 law.

27                  F. If the Police Facilities Impact Fee has been paid in full or if the  
28 notice of appeal is accompanied by a cash deposit, letter of credit, bond

1 or other surety acceptable to the City Attorney in an amount equal to the  
2 Police Facilities Impact Fee calculated to be due, the application for the  
3 building permit or mobile home construction approval shall be processed.  
4 The filing of a notice of appeal shall not stay the imposition or the  
5 collection of the Police Facilities Impact Fee calculated by the City to be  
6 due unless sufficient and acceptable surety has been provided.

7 G. Any petition for judicial review of the City Council's final  
8 decision shall be made in accordance with applicable state law and  
9 pursuant to Section 18.22.130.

10  
11 18.22.130 Judicial review.

12 A. Any judicial action or proceeding to attack, review, set aside,  
13 void or annul the ordinance codified in this Chapter, or any provision  
14 thereof, or resolution, or amendment thereto, shall be commenced within  
15 ninety (90) days of the effective date of the ordinance codified in this  
16 Chapter, resolution, or any amendment thereto.

17 B. Any judicial action or proceeding to attack, review, set aside or  
18 annul the imposition or collection of a Police Facilities Impact Fee on a  
19 development shall be preceded by a valid appeal by protest pursuant to  
20 Section 18.22.120 hereof and a final decision of the City Council pursuant  
21 thereto and shall be filed and service of process effected within ninety (90)  
22 days after the hearing on appeal regarding the imposition of a Police  
23 Facilities Impact Fee upon the development.

24  
25 18.22.140 Annual report and amendment procedures.

26 A. Within 180 days after the last day of each fiscal year, the Police  
27 Chief of the City of Long Beach shall evaluate progress in implementation  
28 of the Police Facilities Impact Fee Program and shall prepare a report

1 thereon to the City Council in accordance with Government Code Section  
2 66006 incorporating among other things:

- 3 1. The police facilities and equipment commenced,  
4 purchased or completed utilizing monies from the Police Facilities Impact  
5 Fee fund;
- 6 2. The amount of the fees collected and the interest earned;
- 7 3. The amount of Police Facilities Impact Fees in the fund; and
- 8 4. Recommended changes to the Police Facilities Impact  
9 Fee, including but not necessarily limited to, changes in the Police  
10 Facilities Impact Fee Chapter or fee-setting resolution.

11 B. Based upon the report and such other factors as the City  
12 Council deems relevant and applicable, the City Council may amend the  
13 ordinance codified in this Chapter or the fee-setting resolution  
14 implementing this Chapter. Changes to the Police Facilities Impact Fee  
15 rates or schedules may be made by amending the fee-setting resolution.  
16 Any change which increases the amount of the Police Facilities Impact  
17 Fee shall be adopted by the City Council only after a noticed public  
18 hearing. Nothing herein precludes the City Council or limits its discretion  
19 to amend the ordinance codified in this Chapter or the fee-setting  
20 resolution establishing Police Facilities Impact Fee rates or schedules at  
21 such other times as may be deemed necessary.

22  
23 18.22.150 Effect of Police Facilities Impact Fee on zoning and subdivision  
24 regulations.

25 This Chapter shall not affect, in any manner, the permissible use of  
26 property, density/intensity of development, design and improvement  
27 standards and public improvement requirements or any other aspect of  
28 the development of land or construction of buildings, which may be

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imposed by the City pursuant to the City's zoning regulations, subdivision regulations or other ordinances or regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all residential and nonresidential development.

18.22.160 Violation--Penalty.

A violation of this Chapter shall be prosecuted in the same manner as misdemeanors are prosecuted; and upon conviction, the violator shall be punishable according to law. However, in addition to or in lieu of any criminal prosecution, the City shall have the power to sue in civil court to enforce the provisions of this Chapter.

18.22.170 Severability.

If any section, phrase, sentence, or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct, and independent provision; and such holding shall not affect the validity of the remaining portions thereof.

Sec. 2. The City Clerk shall certify to the passage of this ordinance by the City Council and cause it to be posted in three conspicuous places in the City of Long Beach, and it shall take effect on the 31st day after it is approved by the Mayor.

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of April 10, 2007, by the

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//



Robert E. Shannon  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
Telephone (562) 570-2200

1 following vote:


2 Ayes: Councilmembers: B. Lowenthal, S. Lowenthal,  
3 O'Donnell, Schipske, Reyes Uranga,  
4 Gabelich, Lerch.

6 Noes: Councilmembers: None.

8 Absent: Councilmembers: DeLong.

10   
11 City Clerk

13 Approved:   
14

13   
14 Mayor