

## ADMINISTRATIVE POLICIES AND PROCEDURES

**SUBJECT:** PUBLIC FACILITIES IMPACT FEES AND ADMINISTRATIVE POLICY

**EFFECTIVE:** ~~November 19, 2012~~ October 18, 2021 (Replaces policy dated ~~October 1, 2005~~ November 19, 2012)

**PURPOSE:**

The purpose of this Administrative Policy is to establish a procedure for the Public Facilities Financing Plan and Fee Program.

**POLICY:**

The City Manager was granted authority by the Merced City Council on July 21, 2003 to establish this policy and procedure. This Policy supersedes and replaces the previous Policy with an effective date of ~~October 1, 2005~~ November 19, 2012.

**PROCEDURES:**

### PAYMENT OF PUBLIC FACILITIES FEES

Public facilities fees shall be charged and paid at the time of issuance of the certificate of occupancy, except for non-residential which shall be paid at time of building permit issuance. The fee shall be determined by the fee schedule in effect on the date of building permit issuance. If a Mello-Roos, assessment district, or other arrangement of such a nature has been made, only the portion of the fee not covered by the district shall be assessed. If a specific use is not addressed in the fee schedule or definitions contained in this document, the fee will be determined by the Development Services Department as described in Merced Municipal Code Section 17.62.100.

Fees not paid at building permit issuance shall require an agreement as specified in Government Code Section 66007, Subsection (C). Should any interpretation or disagreement arise which is not addressed by this administrative

policy, the City Manager or his designee shall have the authority to render a decision. Such decisions shall be in writing.

## DEFINITIONS

### 1. Commercial

"Commercial" includes a wide range of retail and service uses, both freestanding and in shopping centers including, but not limited to, supermarkets, drugstores, department stores, general merchandise, specialty retail stores, discount stores, hardware/paint stores, garden centers or nurseries, wholesale markets, apparel stores, furniture stores, video arcades and car sales. This category includes banks/savings and loans, restaurants of all types, and auto-oriented uses.

### 2. Commercial/Less Than 50,000 Square Feet

Includes "commercial" uses defined above in a freestanding building or shopping center with less than 50,000 square feet of floor area.

### 3. Commercial/Greater Than 50,000 Square Feet

Includes "commercial" uses defined above in a freestanding building or shopping center with greater than 50,000 square feet of floor area.

### 4. Industrial

Facilities in which the primary activity is the production of finished items through manufacture, fabrication, processing, packaging, or treatment of raw materials or parts, except heavy industrial uses. Uses, which are considered to be in this category, include uses such as those listed below:

- A) Electronics assembly, paper products
- B) Metal fabricator
- C) Bottling plant
- D) Cabinet shop
- E) Machine shop
- F) Sheet metal shop

- G) Welding shop
- H) Wholesale business
- I) Printing plant
- J) Material testing labs manufacturer
- K) Warehouse
- L) Corporation yard, freight yard
- M) Equipment rental yard
- N) Moving and storage service
- O) Bulk feed storage
- P) Lumber yard
- Q) Cannery/Food Processing

5. Mixed Uses

When a development proposal contains more than an incidental mixture of uses, the general types of uses should be segregated and treated separately for the purpose of calculating development fees.

6. Office

Includes professional offices, business parks, business or administrative offices, insurance sales, research centers, and medical or dental services, and other health-related services (excluding hospitals).

7. Residential Single Family

Typically single family detached homes on individual lots, such as in residential subdivisions , but could also be in planned developments. Density of development may vary, but is typically six dwellings per acre or less .

8. Public Facilities Impact Fee, But Not Including Sewer and Water Charges

The term "Public Facilities Impact Fee" shall mean the fee charged new construction, including, in some cases, the expansion of and/or the addition to an existing structure to mitigate an unfunded portion of the determined impact of the development. For the purpose of this policy, Public Facilities

Impact Fees shall not include sewer and water charges as defined in Chapter 15 of the Merced Municipal Code.

9. Residential Multiple Family

Includes two- and multiple-family dwelling units of several types, including high and low rise apartments, high and low rise condominiums, and multi-family residential planned unit developments. This category also applies to mobile homes in mobile home parks.

10. Institutional

Includes nonprofit or quasi-public uses, such as a religious institution, library, public or private school or college, nonprofit cultural or community centers, hospitals, charitable organizations, or government-owned or government-operated structures used for public purposes. Note that federal, state, and county owned facilities are exempt from the City's impact fees.

EXEMPTIONS

Fees shall not be imposed on any of the following:

1. Any alteration or addition to a *residential* structure except to the extent that additional units or guestrooms are created.
2. Any alteration or addition to a *non-residential* structure if the square footage of the structure is increased less than 10 percent, unless the alteration or addition changes the use of the structure to a higher intensity category, or results in the generation of additional peak hour trips (PHT).
3. Any replacement or reconstruction of an *existing residential* structure that has become destroyed or demolished, provided that the building permit for reconstruction is obtained within ~~five~~fifteen years after the building was demolished, except to the extent that additional units or guest rooms are created.

4. Any replacement or reconstruction of an *existing non-residential* structure that has been destroyed or demolished, provided that the building permit for reconstruction is obtained within ~~five~~-fifteen years after the building was demolished, unless the replacement or reconstruction increases the square footage of the structure 10 percent or more or changes the use of the structure to a higher intensity category or results in the generation of additional peak hour trips (PHT). Whenever the alteration, addition, replacement, or reconstruction is not exempt, the fee shall be imposed only on the additional units of guest rooms, square footage, change in use to a higher intensity category, or additional peak hour trips (PHT) generated.

#### DEFERRED PAYMENT ~~—NON-RESIDENTIAL~~

If the total amount of public facilities fees due and payable at the time of issuance of a building permit for a non-residential or multi-family project exceeds \$50,000, the property owner may enter into a Deferred Payment Agreement with the City to pay twenty-five percent (25%) of those fees at the time the building permit is issued with the remaining seventy-five percent (75%) to be paid in equal installments over the next five (5) years (or less at the developer's option).

#### REPAYMENT TERMS

- 1) **INTEREST:** The unpaid balance of the fees shall be subject to interest and collection charges. The annual interest rate will be equal to the 11th District Cost of Funds plus two percent (2%) [200 basis points] adjusted every July.
- 2) **DUE ON TRANSFER:** The unpaid balance, together with accrued interest, shall be due and payable in full upon the sale or any other transfer of the property.
- 3) **RECORDING AND PROCESSING FEES:** All such fees shall be paid by the owner or applicant.

## SECURITY

The developer shall, as security for repayment, execute a promissory note or bond evidencing the obligation and terms of repayment. In addition to the promissory note or bond, the developer may be required, at the discretion of the City, to provide additional security of a type and amount determined by the City.

## PROCESSING DEFERRED FEE REQUESTS

A developer who requests the deferral of public facilities fees shall make application to the Development Services Department, for review, processing, and determination of eligibility. Such requests shall have a processing fee of Eight Hundred Seventy-One Dollars (\$871.00).

## CREDIT OR REIMBURSEMENT

If the developer constructs improvements that are part of the public facility fee program and required by the City, the following shall apply:

1. If the actual cost of the improvement is equal to or less than the total amount of fees to be paid, the developer will receive a credit in an amount equal to the actual cost of the improvements (but in no event in excess of the City Engineer's estimate). No credit shall be given until and unless the improvement is constructed and accepted by City or until developer provides security for the improvement in the same manner as security for subdivision improvements.
2. If the actual cost of the improvements is greater than the total amount of fees to be paid, a reimbursement agreement with the City shall be established. No credit shall be given until and unless the improvement is constructed and accepted by City or until developer provides security for the improvement in the same manner as security for subdivision improvements.
3. Developers shall be reimbursed on a first in time basis and based on the availability of public facility fee program funds. First in time shall be determined by when the public improvement is secured or by when the

public improvement is completed and accepted by City, whichever first occurs.

4. Of the fees collected for projects, one-half shall be dedicated to repayment for developer installed improvements and one-half shall be earmarked for improvements to be installed by the City. In its discretion, the City may use any or all of the fees to reimburse developers.
5. City shall be under no obligation to reimburse developers except from the one-half of the fees collected, and no reimbursement shall be owed until fees for said purpose have been collected and until the installing developer has filed a written request for reimbursement with the City Clerk. In no event shall reimbursement be made to the installing developer after the tenth anniversary of the date the public improvement was accepted by the City.
6. Reimbursements, if any, shall not bear interest.

#### RIGHT-OF-WAY DEDICATION AND REIMBURSEMENT

Unless provided otherwise by development agreement, by use permit, or by city standards, the developer will be eligible for credit/reimbursement for the cost of any additional right-of-way required for street improvements in excess of the first 37 feet (or other collector standard) required for a one-half street section measured from the ultimate right-of-way line. In calculating the value of the right-of-way, the value will be determined by the City based upon a written report prepared annually by the Development Services Department in conjunction with an appraiser acceptable to the City. The report shall be based upon sales activity of all properties zoned for Residential, Commercial, and/or Industrial uses within each park service area (as described in Section 18.40.080 of the Merced Municipal Code) and will establish an average fair market value for that area. These average figures will be applied to all projects within each zone until the fee is next reviewed. If the developer objects to the determined fair market value, he/she may appeal to the City Council. The burden of proof shall lie with the developer. Any right-of-way required to accommodate access to a given parcel such as "deceleration lanes" will be dedicated at the developer's expense and is not subject to credit/reimbursement.

## STREET CONSTRUCTION PAYING REIMBURSEMENT

The first 24 feet of paving adjacent to the curb line plus all paving required to accommodate deceleration lanes and driveways are a developer responsibility and are not subject to credit/reimbursement. The developer will be eligible for credit/reimbursement for the remainder of the street section outside of the first 24 feet of paving on either side of the street.

## TRAFIC SIGNAL REIMBURSEMENT

Unless provided otherwise by development agreement or by use permit, the developer will be eligible for 100 percent credit/reimbursement for installation of traffic signals at the intersection of two arterial streets, and for 50 percent reimbursement at an intersection of an arterial and collector street.

## ARTERIAL BRIDGE REIMBURSEMENT

Unless provided otherwise by development agreement or by use permit, the developer will be eligible for 100 percent credit/reimbursement for construction of arterial bridges.

**APPROVED:**

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**John M. Bramble**  
**Stephanie R. Dietz**  
**City Manager**