

## CITY OF CARLSBAD

## COUNCIL POLICY STATEMENT

Policy No. 17  
 Date Issued 7/2/91  
 Effective Date 7/2/91  
 Cancellation Date \_\_\_\_\_  
 Supersedes No. 17 Issued  
7/28/87

General Subject: REQUIREMENTS NECESSARY TO  
 SATISFY THE PUBLIC FACILITIES  
 ELEMENT OF THE GENERAL PLAN

Specific Subject:

Copies to: City Council, City Manager, City Attorney, Department and Division Heads,  
 Employee Bulletin Boards, Press, File

BACKGROUND

In order to protect the public health, safety and general welfare of all the citizens of Carlsbad and to ensure a continued high quality of life within the City, the Public Facilities Element of the Carlsbad General Plan requires that an applicant or proponent of a development project present evidence satisfactory to the City Council that all necessary public services and facilities will be available concurrent with community needs before any zoning, subdivision, development, or redevelopment approval or permit may be given or issued.

It is the policy of the City to mitigate the public service and facilities impacts created by new development and ensure that all public services and facilities will be provided in the manner which will ensure the continued high quality of life in Carlsbad. Prior to July 3, 1979, the City Council relied on a report of availability of public facilities and services received from City staff. On July 3, 1979, the City Manager reported that in the future, those services and facilities cannot be made available to new development from the City's resources. As a result of that report, the City Council adopted City Council Policy No. 17 on August 29, 1979. Policy No. 17 has subsequently been amended at various times by the City Council. The most recent amendment to City Council Policy No. 17 was effective on April 10, 1984. The City Council has been provided with various reports and information by the City staff since the adoption of City Council Policy No. 17 and the City Council finds that the facts and circumstances which required the adoption of Policy No. 17 continue to exist. On January 21, 1986, the City Council adopted Urgency Ordinance No. 9791 after a finding on January 14, 1986 that establishment of the development management system and public facilities and improvement phasing plan for the City was required to eliminate public facility shortages and to protect the community character and quality of life in Carlsbad. This system and plan is required in addition to the requirements established by City Council Policy No. 17. On March 25, 1986, the City Manager reported to Council on the status of public facilities in Carlsbad and recommend an increase in the public facility fee. This report identified a list of facilities and services which would be funded by the public facilities fee. The list was approved by the City Council. In addition to the fee established pursuant to City Council Policy No. 17, the City requires developers to provide public improvements by a variety of different means. By utilization of all available methods, the City Council will be able to find that public facilities will be provided concurrent with need as required by the Public Facilities Element of the Carlsbad General Plan.

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On July 28, 1987, the City Council accepted a revised report on the availability of public facilities and adopted a revised public facilities fee of 3.5% which allows for interest costs associated with debt financing library and civic buildings.

On June 25, 1991, the City Council introduced and on July 2, 1991, adopted the necessary ordinances and resolutions to place into operation Community Facilities District No. 1, a Community Facilities District (CFD) established by the voters within its boundaries in order to provide a guaranteed source of funds for several critical public projects. This list of projects included the main Library facility and future Library expansions, a City administrative office, and a portion of Macario Canyon Park, all projects previously financed through the Public Facilities Fee program. With the implementation of the CFD, the City now had the ability to levy taxes on property within the boundaries of the CFD to finance these three projects. This ability to levy a tax in advance of development takes the place of the need to collect a public facility fee, or at least that portion of the fee applicable to these three projects.

On June 25, 1991, the City Council adopted this revised Council Policy allowing a credit against the 3.5% public facility fee for properties within the boundaries of and subject to taxation by the CFD. The amount of this credit is based on the proportion of PFF projects now funded through the CFD. The credit amount is 1.68%, thereby reducing the PFF for qualified properties to 1.82%.

Any property not within the CFD boundaries and subject to taxation by the CFD shall continue to be subject to the additional License Tax on New Construction as established by Chapter 5.09 of the Carlsbad Municipal Code.

**PURPOSE:**

1. To establish a policy regarding the requirements which must be met before the City Council will find that the Public Facilities Element has been satisfied.
2. To establish a policy that will allow development to proceed in an orderly manner while insuring that the requirements of the Public Facilities Element will be satisfied by establishing a fee to fund the cost of City-provided facilities, including but not limited to: parks, major streets, traffic signals, storm drains, bridges and public buildings such as fire stations, police facilities,

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maintenance yards, libraries and general offices, which will insure they will be available concurrent with need.

**POLICY:**

1. In determining whether or not service provided by another entity will be available concurrent with needs in connection with a project, the Council, in the absence of evidence to the contrary, shall be guided by a letter of availability from that entity, provided, however, developments which are required to dedicate land or pay fees for school facilities pursuant to Chapter 21.55 of the Carlsbad Municipal Code, shall be deemed to have satisfied the Public Facilities Element in regard to schools for that development without the necessity for an availability letter.
2. The City Council finds that the report entitled, "A Public Facilities Fee for the City of Carlsbad", dated July 3, 1979, accurately reflected the City's need for and lack of ability to provide public facilities, and services to new development and was therefore approved by the original Policy No. 17 adopted on August 29, 1979. The City Council also finds, based on the reports submitted in support of Ordinance No. 9791, and in support of an increase to the public facilities fee as presented to the City Council on July 28, 1987, that in addition to a public facilities fee, other means of providing needed facilities and services must be established. These other means include the adoption of a development management system and various impact fees.

The Council also finds that the continued development of the City, with the consequent increase in population and in the use of public facilities, will impose increased requirements for such facilities, including, but not limited to, parks, major streets, traffic signals, storm drains, bridges and public buildings, such as fire stations, police facilities, maintenance facilities, libraries and general offices. The necessity for such facilities results directly from new construction and the need cannot be met from ordinary City revenues. The most practical and equitable method of paying for such facilities is to impose a fee upon a new development in the City. Payment of such a fee will enable the City to fund a construction program to provide public facilities. If a project developer agrees to pay the public facilities fee established by this

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policy and other impact fees as may be adopted by City Council ordinance or resolution, and complies with any applicable facilities plan, the City Council will be able to find that public facilities and services will be available concurrent with need and that the requirements of the public facilities have been met. In addition, the Council finds that the creation of Community Facilities District No. 1 has provided an alternative source of funding for three projects previously funded entirely from the public facilities fee. These projects are the construction of the new main Library and remodel of the existing Library facility, construction of new City administration facilities, and the construction of a portion of the park improvements within the Macario Canyon area. Those properties within the boundaries of and subject to taxation by CFD No. 1 have therefore met a portion of their public facilities obligation and should receive a credit against the public facilities fees due at the time of development.

3. Before any zoning, subdivision, development or redevelopment approval or permit may be given, the applicant shall pay or agree to pay (on the forms attached hereto) a public facilities fee in the amount of 3.5% of the building permit valuation of the buildings or structures, or a fee of \$1,150 for each mobilehome space to be constructed pursuant to such approval. If the property applying for the above actions is within the boundaries of the Community Facilities District No. 1 and is subject to taxation by the District, the amount of the public facilities fee due shall be 1.82% of building permit valuation as defined above or a fee of \$598 for each mobile home space to be constructed pursuant to such approval shall be required. The fee shall be paid prior to issuance of building or other permits, and shall be based on the valuation at that time.
4. All proceeds from the fee collected pursuant to this policy shall be paid into a special capital outlay fund of the City entitled, "Public Facilities Fund." The fund shall be used only for the purpose of acquiring, building, improving, expanding and equipping public property, and public improvements and facilities including, but not limited to, the following types of capital projects: Public buildings (such as fire stations, police facilities, maintenance and yard facilities, libraries and general city offices) parks, major streets, traffic signals, storm drains, bridges and other similar projects as the Council may deem

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necessary and appropriate. Designation of expenditures of funds available from the fund shall be made by the City Council in the context of approval of the City's annual operating and capital improvements budget or at such other time as the Council may direct.

5. The following exceptions from payment of the fee shall apply:
- (a) The construction of a building or structure or mobilehome space which is a replacement for a building or space being removed from the same lot or parcel of land. The exception shall equal but not exceed the fee which would be payable hereunder if the building being replaced were being newly constructed. If the fee imposed on the new building exceeds the amount of this exception, such excess shall be paid.
  - (b) Accessory building or structures in mobilehome parks, such as a club house, swimming pool, or laundry facilities.
  - (c) Buildings or structures which are clearly accessory to an existing use such as fences, pools, patios and automobile garages.
  - (d) Additions to existing single-family or two-family residential structures, provided the addition does not create a new dwelling unit or economy dwelling unit as defined by the Uniform Building Code.
  - (e) The City Council may grant an exception for a low cost housing project where the City Council finds such project consistent with the Housing Element of the General Plan and that such exception is necessary. In approving an exception for low cost housing, the City Council may attach conditions, including limitations on rent or income levels of tenants. If the City Council finds a project is not being operated as a low cost housing project in accordance with all applicable conditions, the fee, which would otherwise be imposed by this chapter, shall immediately become due and payable.
  - (f) The City may not waive or otherwise adjust the amount of the tax due or imposed by Community Facilities District No. 1 under this policy.

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- 6. There is excluded from the fee imposed by this policy:
  - (a) Any person when imposition of such fee upon that person would be in violation of the Constitution and laws of the United States or the State of California.
  - (b) The construction of any building by a nonprofit corporation exclusively for religious, educational, hospital or charitable purposes.
  - (c) The construction of any building by the City of Carlsbad, the United States or any department or agency thereof or by the State of California or any department, agency or political subdivision thereof.
- 7. The City Manager shall be responsible for the administration and enforcement of this policy. His decisions may be appealed to the City Council whose decision shall be final.
- 8. On August 29, 1979, the City Council adopted Policy No. 17. In so doing, the Council found that public facilities were adequate for existing structures but not for any new development. Policy No. 17 shall apply to projects involving the conversion of an existing building or mobilehome park to a condominium, planned unit development, stock cooperative or other similar form of ownership as follows:

If the building or park being converted was constructed before August 29, 1979, the fee to be paid shall be limited to 3.5% of the building permit valuation of any new construction done as a part of the conversion. If the building or park being converted was constructed after August 29, 1979, a fee of 3.5% of building permit valuation at the time of construction shall be paid plus a fee of 3.5% of the building permit valuation of any new construction done as a part of the conversion. These fees are subject to adjustment as described in Section 3 above for property within the boundaries and subject to taxation by CFD No. 1.

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- 9. Pursuant to City of Carlsbad Ordinance No. 6082, the public facility fee shall apply to all project for which building permits were or will be issued after July 28, 1987.