



TO: Mayor and Councilmembers

FROM: Charlie W. Ebeling, P.E., T.E. Public Works Director

SUBJECT: Development Impact Fee Ordinance

RECOMMENDATION:

Conduct second reading (by title only), and waive further reading of Ordinance No. 19-___, entitled "An Ordinance of the City Council of the City of Goleta, California, Repealing Goleta Municipal Code Sections 16.12, 16.15, 16.18, 16.19, 16.20, and 16.21 and Ordinance No. 14-10, and Amending the Inland Zoning Ordinance to Add Section 35-333 and Coastal Zoning Ordinance to Add Section 35-187 to Require the Payment of Development Impact Fees for Development Projects within the City, Pursuant to the Mitigation Fee Act"

BACKGROUND

Development impacts fees ("DIF") are fees imposed on development projects for the purpose of defraying all or a portion of the cost of public facilities related to development projects. Cities have the authority to charge DIFs by way of the Mitigation Fee Act (Government Code sections 66000-66025). Under the Mitigation fee Act, cities must ensure that there is a nexus between the development project's impacts and the imposed fee amounts. In addition, in order to have a DIF program, cities must have an ordinance in place to establish the types of fees and a nexus study to analyze the impacts of types of development (e.g.: residential, commercial, industrial) and their proportionate impacts on public facilities.

DISCUSSION

At a public workshop on February 6, 2019, the City Council conducted the first reading of the DIF Ordinance that would consolidate all of the City's existing DIF regulations ("DIF Ordinance") into one regulation in the Zoning Ordinance. The following types of DIFs would be collected:

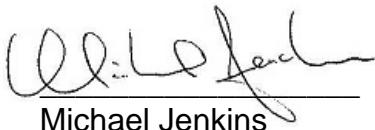
- A. Bicycle and Pedestrian Facilities Fee (new).
- B. Fire Facilities Fee (existing).
- C. Public Administration Facilities Fee (existing).
- D. Library Facilities Fee (existing).
- E. Parks and Recreation Facilities Fee (existing).
- F. Transportation Facilities Fee (existing).
- G. Storm Drain Facilities Fee (new).

Staff requests that the City Council conduct the second reading of the proposed DIF Ordinance. The ordinance would become effective on the 61st day after the second reading.

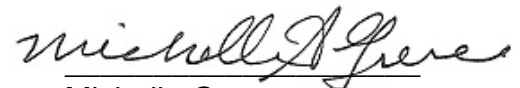
FISCAL IMPACTS:

Adoption of the DIF Ordinance will have no fiscal impact as it provides authority for the City to collect of certain types of DIFs. The actual amount of DIFs were previously approved by the Council at the public workshop on February 6, 2019.

Legal Review By:


Michael Jenkins
City Attorney

Approved By:


Michelle Greene
City Manager

ATTACHMENTS

1. Ordinance 19-___, entitled "An Ordinance of the City Council of the City of Goleta, California, Repealing Goleta Municipal Code Sections 16.12, 16.15, 16.18, 16.19, 16.20, and 16.21 and Ordinance No. 14-10, and Amending the Inland Zoning Ordinance to Add Section 35-333 and Coastal Zoning Ordinance to Add Section 35-187 to Require the Payment of Development Impact Fees for Development Projects within the City, Pursuant to the Mitigation Fee Act".

ATTACHMENT 1.

Ordinance 19-___, entitled “An Ordinance of the City Council of the City of Goleta, California, Repealing Goleta Municipal Code Sections 16.12, 16.15, 16.18, 16.19, 16.20, and 16.21 and Ordinance No. 14-10, and Amending the Inland Zoning Ordinance to Add Section 35-333 and Coastal Zoning Ordinance to Add Section 35-187 to Require the Payment of Development Impact Fees for Development Projects within the City, Pursuant to the Mitigation Fee Act”.

ORDINANCE NO. 19-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA, REPEALING GOLETA MUNICIPAL CODE SECTIONS 16.12, 16.15, 16.18, 16.19, 16.20, AND 16.21 AND ORDINANCE NO. 14-10, AND AMENDING THE INLAND ZONING ORDINANCE TO ADD SECTION 35-333 AND COASTAL ZONING ORDINANCE TO ADD SECTION 35-187 TO REQUIRE THE PAYMENT OF DEVELOPMENT IMPACT FEES FOR DEVELOPMENT PROJECTS WITHIN THE CITY, PURSUANT TO THE MITIGATION FEE ACT

WHEREAS, the State of California, through the enactment of Government Code sections 66001 through 66025 (also known as the “Mitigation Fee Act”) has, among other things, authorized the legislative body of a city to, by ordinance, impose impact fees on development projects for the purpose of defraying all or a portion of the cost of public facilities related to the development project, provided that a nexus is established in the enactment of development impact fees between the development project’s impacts and the imposed fee amounts.

WHEREAS, the imposition of development impact fees is one of the preferred methods of ensuring that new development bears a proportionate share of the estimated reasonable cost of providing public facilities and service improvements necessary to accommodate such development.

WHEREAS, the amendments to the Inland Zoning Ordinance and Coastal Zoning Ordinance added pursuant to this Ordinance recognize that new Development or Development Projects (as such terms are defined in this Ordinance) within the City will result in additional growth and that such growth will place additional burdens on various City facilities, infrastructure, and services. These amendments further recognize the types of land Development that will generate impacts necessitating the acquisition of land and construction of public facilities and expansion of services and infrastructure in order to meet and accommodate the respective developments.

WHEREAS, all Development Projects within the City should bear a proportionate financial burden in the construction and improvement of Public Facilities Projects (as such term is defined in this Ordinance) and services necessary to serve the respective Development Projects.

WHEREAS, by separate resolutions on file in the Office of the City Clerk, the City Council has adopted the Development Impact Fee study update and Capital Improvement Plan in support of the Development Impact Fees (as such term is defined in this Ordinance) enacted herein.

WHEREAS, the Mitigation Fee Act provides that prior to the adoption of an impact fee ordinance, the local government agency must: (a) identify the purpose of the fee; (b) identify the use to which the fee will be put; (c) make specific findings to determine that there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed; (d) make specific findings to determine that there is a reasonable relationship between the need for the public facility and the type of the development project on which the fee is imposed; (e) make specific findings to determine that there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development project on which the fee is imposed, including that the fee shall not exceed the estimated reasonable cost of providing the service or facility; and (f) hold at least one noticed, public hearing as part of a regularly scheduled meeting.

WHEREAS, in accordance with the above-referenced requirements of the Mitigation Fee Act, the City Council finds the following with respect to the Development Impact Fees:

(1) Purpose of the Fee. The purpose of the Development Impact Fees established herein is to provide funding to achieve the City's goal of maintaining adequate service levels and to provide acceptable and safe facilities and improvements, including capital acquisition and improvements as needed, as established by the goals and objectives of City's General Plan, by imposing fees on new Development in the City to offset the growth related thereto. In particular, the City's Land Use, Open Space, Safety, Transportation, Public Facilities, and Noise Elements of the General Plan each detail specific standards related to the City's public improvements, public services, and community amenities that are or will be impacted by the City's increased growth, including without limitation those goals, policies, and standards set forth in General Plan LU 2.2, LU 11.1, SE 5.2, SE 5.4, SE 7, PF 1.6(a), PF 3.3 and 3.4, PF 3.8 and 3.9, PF 8.2, PF 9, PF 10.2, OS 9, TE 1.3, TE 10.4, TE 11.4, TE 11.5, TE 13, TE 14.1, which are incorporated herein by this reference. Accordingly, to comply with the requirements and policies of the General Plan, the City will need to provide additional or rehabilitated facilities and improvements as growth increases within the City as a result of Development Projects in order to alleviate compacted services and congested and overused facilities. Without assessing the proposed Development Impact Fees, there will be insufficient revenue from the Development Projects to remain consistent with the General Plan's goals, policies, and standards.

(2) Use of the Fee. The proceeds from the respective Development Impact Fees will be used for the purpose of acquiring and developing new or rehabilitating existing Public Facilities and services, to the extent a Development Project results in impacts for which the respective fee reasonably relates. The Ordinance proposes to collect a proportionate fee

from Development Projects, to the extent such projects result in impacts requiring the imposition of such fee.

New Development Projects will result in increased demands on the City's bicycle, pedestrian, transportation, fire, police, library, parks and recreation (to the extent not covered by Quimby Fees), public administration, and storm drain facilities. The need to plan and provide for population increases, and the attendant impacts on the City's facilities, is demonstrated through the City's General Plan, which anticipates that increased growth will place resource, facilities, and service constraints on the City. (See, e.g., General Plan LU 11.1, OS 3.2(2), OS 9.1 and 9.2, SE 7.1, TE 10.4, TE 11.4, TE 14.1, PF 8.2(9), PF 3.3 and 3.4, PF 3.9, PF 4.1, which are incorporated herein by this reference.) Any Development Impact Fee shall not include the costs attributable to existing deficiencies in Public Facilities, but may include the costs for increased demand for additional facilities and services reasonably related to the proposed Development Project. Revenues from the proposed Development Impact Fees are anticipated to be used to, among other things, offset costs associated with the increased facility and service uses from new Development, as set forth in the General Plan.

(3) *Relationship Between the Fee's Use and the Type of Development Project on Which the Fee is Imposed.* The Development Impact Fees may be applied to Development Projects within the City, but only to the extent that such Development Project creates impacts that require mitigation that may be offset by the respective type of Development Impact Fee, as set forth in this Ordinance. New Development will place additional burdens on all or some of the Citywide bicycle, pedestrian, transportation, fire, police, library, parks and recreation (to the extent not covered by Quimby Fees), public administration, and storm drain facilities.

Accordingly, the imposed fees will be used to acquire and construct new facilities and equipment needed to offset the impacts resulting from the associated Development. The Public Facilities and services acquired and/or rehabilitated with the proceeds of the fees, to the extent a Development Project results in impacts for which the respective imposed fee reasonably relates, will address and mitigate the additional impacts and demands created by these Development Projects.

(4) *Relationship Between the Need for the Facilities and the Type of Project.* The Public Facilities and anticipated future Development herein referenced are based upon an analysis of existing Land Use and zoning. Each new Development Project will generate demands on facilities through the resulting increase in population and/or usage in the City, and the associated new or rehabilitated bicycle, pedestrian, transportation, fire, police, library, parks and recreation (to the extent not covered by Quimby Fees), public administration, and storm drain facilities, to the extent impacted by the new Development, are needed to provide services and

facilities consistent with the goals and objectives of City's General Plan (as previously identified) and are designed to mitigate the impacts caused by new Development throughout the City. Current facilities and services are only adequate for the existing development and population in the City. The City will need to acquire and/or rehabilitate facilities and services within the City to meet increased demands resulting from new Development, and the Public Facilities and/or services developed and or increased through the Development Impact Fees will address and mitigate the additional impacts and demands created by the new Development Projects.

(5) Relationship Between the Amount of the Fee and the Cost of the Facility or Portion of the Facilities Attributed to the Project. The amounts of the proposed Development Impact Fees, as set forth in the fee setting resolution, have been established in accordance with the Development Impact Fee study update, previously adopted by the City Council and incorporated herein by this reference, and do not exceed the estimated reasonable cost of providing Public Facilities occasioned by Development Projects within the City. The amounts of the proposed Development Impact Fees established by the fee setting resolution relate rationally to the estimated reasonable cost of providing Public Facilities occasioned by Development Projects within the City.

WHEREAS, it is necessary through the provisions of this Ordinance to impose fees on new Development in order to protect the public health, safety and welfare through the provision of adequate public facilities, to afford developers certainty with regard to their financial obligations, and to ensure that such development will not create a burden on the interrelated public facilities and services networks of the City.

WHEREAS, pursuant to Government Code sections 66016, 66017, and 66018, the City has: (a) mailed notice as least fourteen (14) days prior to this meeting to all interested parties that have requested notice of new or increased fees or service charges; (b) published notice pursuant to the requirements of Government Code section 6062a; and (c) held a duly noticed, regularly scheduled public hearing at which oral and written testimony was received.

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

SECTION 1. Recitals

The City Council hereby finds and determines that the foregoing recitals, which are incorporated herein by reference, are true and correct.

SECTION 2. Required Findings for an Ordinance Amendment

Pursuant to Inland Zoning Ordinance section 35-180.6 and Coastal Zoning Ordinance section 35-325.5, the City Council makes the following findings:

- A. This Ordinance is in the interest of the general community welfare since it ensures that new development fully offsets the cost and burden of such new development on public services and infrastructure and thus ensures the general community will not face undue burdens of new development; and
- B. This Ordinance is consistent with the Goleta General Plan/Coastal Land Use Plan. Specifically, this Ordinance supports the following policies that identify the need for various development impact fees as part of the General Plan/Coastal Land Use Plan: Open Space Element Policy OS 9.2 (Mitigation of Impacts of New Development on Parks and Recreation Facilities), which requires new development to pay a proportionate share for cost of acquisition and improvement of parks, recreation facilities, and open space; Transportation Element Policy TE 14.1 (Traffic Impact Fees), which requires new development to pay its proportionate share for transportation improvements to mitigate traffic impacts of new development; Public Facilities Element Policy PF 3.3 (Impact Fees for Fire Protection Facilities/Equipment), which requires fees to be imposed on all new development within the City for a new fire station in western Goleta and new fire apparatus; Public Facilities Element Policy PF 3.8 (Impact Fee for Police Facilities), which requires the continued development impact fee to assist with funding capital facilities for police services; Public Facilities Element Policy PF 10.2 (Development Impact Fees), which requires the adoption of an impact fee program that requires new development to pay a proportionate share of cost for new and upgraded capital facilities attributable to new development; and Public Facilities Element Policy PF 1.6(a), which specifically calls out the use of administrative and law enforcement development impact fees as a potential funding source for a new civic center. In addition, this Ordinance is one component of the City's compliance with General Plan/Coastal Land Use Plan Implementation Action PF-IA-1 (Preparation of AB 1600 Study and Impact Fee Program), which, in part, requires a AB 1600 fee ordinance to be developed by the City to address transportation, fire protection, parks and recreation, library, public administration, and police services; and
- C. The Ordinance is consistent with good zoning and planning practices since the Ordinance provides that new development address the demand for public services and infrastructure generated by the new development and cover the cost of such services. The Ordinance does not change what uses, buildings, or structures are allowable under the adopted General Plan and zoning.

SECTION 3. Environmental Assessment

The adoption of a new development impact fee ordinance is exempt from the California Environmental Quality Act. (Public Resources Code, §§ 21000, et seq., "CEQA.") The adoption of the proposed ordinance is not a "project" pursuant to the regulations promulgated under CEQA (14 Cal.

Code of Regulations, §§ 15000, et seq., “CEQA Guidelines”) as it (i) does not have the “potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment” as it merely establishes regulations for development that will be separately evaluated under CEQA (CEQA Guidelines §15378(a)), and (ii) creates a government funding mechanism which does not involve commitment to any specific project which may result in a potentially significant physical impact on the environment (CEQA Guidelines, § 15378(b)(4)). Even assuming for the sake of argument that the Ordinance was a “project,” it is statutorily exempt because the Ordinance only provides a method of “obtaining of funds for capital projects, necessary to maintain service within existing service areas,” as further detailed in this Ordinance. (CEQA Guidelines, § 15273(a)(4).)

SECTION 4. Repeals

The following are hereby deleted in their entirety:

- A. Goleta Municipal Code Section 16.12 Flood Control Fees for Development of Land Not a Subdivision.
- B. Goleta Municipal Code Section 16.15 Development Mitigation Fees for Parks in Connection with Residential Development Projects Which Do Not Involve the Subdivision of Land.
- C. Goleta Municipal Code Section 16.18 Development Impact Fees, Commercial and Industrial Development.
- D. Goleta Municipal Code Section 16.19 Library Facility Development Impact Fees.
- E. Goleta Municipal Code Section 16.20 Public Administration Facility Development Impact Fees.
- F. Goleta Municipal Code Section 16.21 Police Facility Development Impact Fees.
- G. Ordinance No. 14-10 An Ordinance Adopting Development Impact Fees for Fire Facilities In Accordance with the Mitigation Fee Act (Government Code §§ 66000-66025).

SECTION 5. Development Impact Fees.

Sections 35-333 (Inland) and 35-187 (Coastal), “Development Impact Fees,” is hereby added to both the Inland Zoning Ordinance and Coastal Zoning Ordinance, respectively (hereinafter collectively referred to as “Section”), to read in its entirety as follows:

- A. *Purpose.* This Section establishes the categories of Development Impact Fees to be imposed on Development in order to defray the cost of new or rehabilitated Public Facilities required, incrementally, by new Development within the City, which are needed to accommodate the attendant growth in the City and to maintain an acceptable level of facilities and services for all areas within the City. The imposition of the respective Development Impact Fees ensures that new Development bear a proportionate share of the cost of Public Facilities and service improvements necessary to accommodate such Development, to the extent that such Development creates impacts that require mitigation that may be offset by the respective type of Development Impact Fee. The imposition of Development Impact Fees through this Section is necessary to protect the public health, safety and welfare by ensuring the provision of adequate Public Facilities.
- B. *Applicability.* The standards in this Section shall apply to all Development and Development Projects as defined in this Section. This Section is adopted to implement the provisions of sections 66000 *et seq.* of the Government Code (the "Mitigation Fee Act"), which authorize a city to impose impact fees as a condition of approval on a Development Project for the purpose of defraying all or a portion of the cost of Public Facilities related to such project.

Development Impact Fees are hereby established to be imposed on new Development and Development Projects within the City of Goleta to pay a proportionate share of the reasonably estimated costs of Public Facilities related to bicycle, pedestrian, transportation, fire, police, library, parks and recreation (to the extent not covered by Quimby Fees), public administration, and storm drain facilities, to the extent impacted by a Development Project. The Development Impact Fees authorized by this Section will be used only for defraying costs associated with developing new or rehabilitating existing bicycle, pedestrian, transportation, fire, police, library, parks and recreation (to the extent not covered by Quimby Fees), public administration, and storm drain facilities, to the extent applicable, resulting from new Development Projects, and shall not exceed the estimated cost associated with providing those facilities.

- C. *Definitions.* For purposes of this Section, the following terms, phrases, words and their derivation shall have the meanings respectively ascribed to them by this Section:
1. *Bicycle/Pedestrian Facilities.* Public improvements that facilitate walking and bicycling in the City, including but not limited to sidewalks, multi-use trails, bike lanes, bike paths and related planning, engineering, construction and administrative activity.

2. Coastal Development Permit (CDP). A zoning approval as defined in Section 35-169 of the City's Coastal Zoning Ordinance, as may be amended.
3. Development or Development Project. A Development or Development Project means any project undertaken for the purpose of development. Development or Development Project shall include all projects involving any use or work requiring a Land Use Permit or the issuance of a permit for construction or reconstruction, for erection of manufactured housing or structures, or for structures moved into the City, but shall not include a permit to operate.
4. Development Area. The Floor Area of the use plus any other area, including, but not limited to, outdoor areas devoted to patrons of the use.
5. Development Impact Fee (sometimes also referred to herein as "Fee(s)" or "DIF(s)"). 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 Government Code section 66477, fees for processing applications for governmental regulatory actions or approvals, or fees collected under Development Agreements adopted pursuant Government Code sections 65864 *et seq.* The types of Development Impact Fees authorized to be imposed pursuant to this Section are specified in Subsection D, below.
6. Discretionary Approval. An approval by the City for a project which requires the exercise of judgement or deliberation when the City decides to approve or disapprove a particular activity, as distinguished from situations where the City merely has to determine there has been conformity with applicable statutes, ordinances, or regulations.
7. Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Includes accessory Dwelling Units.
8. Fire Facilities. Public improvements and facilities for fire suppression and protection, emergency medical response and transport, and rescue and hazardous materials response purposes and related planning, engineering, construction and administrative activity.
9. Floor Area. The area included within the surrounding exterior walls of all floors or levels of a structure or portion thereof as measured to the interior surface of exterior walls, or from the centerline of a common or party wall separating two structures.

10. Land Use Permit (LUP). A zoning approval as defined in the Goleta Municipal Code or ordinance of the City, as the same presently exist or as may be amended.
11. Library Facilities. Public improvements and facilities for public libraries; related equipment, buildings, and books; related planning, engineering, construction and administrative activity; and any other capital Library Facility projects identified in the City's Five-Year Capital Improvement Plan.
12. Parks and Recreation Facilities. Public Park Facilities for Recreation, open space, riding and hiking trails, ancillary facilities, related planning, engineering, construction and administrative activity and any other capital Park and Recreation Facility projects identified in the five-year Capital Improvement Plan.
13. Peak Hour Trips (PHT). The maximum one hour quantity of vehicle trips accessing a particular Land Use during the PM peak period (4:00 PM – 6:00 PM).
14. Police Facilities. Public improvements and facilities for police, jail, juvenile and probation facilities; patrol cars; equipment; related planning, engineering, construction and administrative activity; and any other capital Police Facility projects identified in the City's Five-Year Capital Improvement Plan.
15. Public Administration Facilities. Public improvements and facilities for governmental buildings and facilities; community and civic centers; portions of community buildings devoted to Public Administration in Goleta; related planning, engineering, construction and Administrative activity; and any other capital Public Administration Facility projects identified in the City's Five-Year Capital Improvement Plan.
16. Public Facilities. Includes, but is not limited to, those facilities defined in this Section, public improvements, public services, community amenities, and related planning, engineering, construction and administrative activity.
17. Storm Drain Facilities. Public improvements and facilities for storm drainage, including but not limited to inlets and outlets, Storm Drain pipes, box culverts, and pump stations and related planning, engineering, construction and administrative activity.
18. Transportation Facilities. Public improvements and facilities for transportation purposes, including but not limited to, roads, road rights of way, striping, curbs, gutters, sidewalks, bridges, traffic control devices, street lighting, bike lanes built in conjunction with standard roadway design and related planning, engineering, construction and administrative activity.

D. List of Types of Development Impact Fees.

1. Unless otherwise indicated, the following types of Development Impact Fees will be imposed at the time of approval for Development within the City to finance the cost of the related Public Facilities:
 - a. Bicycle and Pedestrian Facilities.
 - b. Fire Facilities.
 - c. Library Facilities.
 - d. Parks and Recreation Facilities (not applicable to residential subdivisions for which Quimby Fees are imposed).
 - e. Police Facilities
 - f. Public Administration Facilities.
 - g. Storm Drain Facilities.
 - h. Transportation Facilities.

E. Amount of Fee, Automatic Adjustment and Special Fund

1. The City Council may, after noticed public hearing and in compliance with Government Code Section 66000 *et seq.*, adopt a resolution (i) setting forth the amount of each specific type of Development Impact Fee identified in Section D(1), above, or (ii) revising any such previously adopted fee amounts, with the ordinance codified in this Section being considered as enabling and directive in this regard. Any resolution adopted under this Section shall establish how each Development Impact Fee amount is calculated and shall be in accordance with the provisions of Chapter 5 of Division 1 of Title 7 of the California Government Code, commencing with section 66000 (the Mitigation Fee Act), including by making, without limitation, the following findings:
 - a. Identifying the purpose of the Fee;
 - b. Identifying the use to which the Fee is to be put;
 - c. Determining how there is a reasonable relationship between the Fee's use and the type of Development Project on which the Fee is imposed;
 - d. Determining how there is a reasonable relationship between the need for the Public Facility and the type of Development Project on which the Fee is imposed;
 - e. Determining how there is a reasonable relationship between the amount of the Fee and the cost of the Public Facility or portion of the Public Facility attributable to the Development on which the Fee is imposed; and
 - f. Establishing a schedule of Fees.
2. An adopted fee resolution, as referenced in Subsection E(1) of this Section, may allow for automatic adjustments of fees on July 1st of each fiscal year, by a percentage equal to the appropriate Engineering Cost Index ("ECI") as published by Engineering News Record, or its

successor publication, for the preceding 12 months for which the ECI is available and such ECI shall be specific to California or the nearest region; provided, however, that the adopted fee resolution shall identify the specific types of fees subject to such automatic adjustments and shall apply only to the types of fees for which the Mitigation Fee Act authorizes automatic adjustments.

3. All revenues derived from and all moneys collected for each type of Development Impact Fee, as identified in Subsection D(1) of this Section, including accrued interest thereon, shall be deposited in a separate, special fund created to hold the revenue generated for each respective type of Development Impact Fee. Each such fund is hereby established and shall be administered in accordance with Government Code sections 66000, *et seq.*, including specifically Sections 66001(c)-(e) and 66006. Moneys within each such fund may be expended only for the identified purpose or purposes for which the respective fee was collected.

F. Imposition of Development Impact Fee.

1. Any person who seeks to develop land within the City shall be subject to the imposition of Development Impact Fees under the following conditions:

TABLE 1 – Trigger for Imposition of DIFs

Type of Development		
	Transportation Facilities Fees	All Other Fees
Residential	Approval of any Development that generates a Peak Peak Hour Trip (PHT) or fraction thereof	Permitting of 1 (one) or more Dwelling Unit(s)
Non-Residential	Approval of any Development that generates a Peak Hour Trip (PHT) or fraction thereof	Permitting of 500 or more square feet of Development Area

- G. *Beneficial Projects and Fee Reduction.* The City may establish by resolution categories of “beneficial projects” which are eligible for fee reductions or waivers. The City will establish administrative procedures for granting these fee reductions or waivers.

H. Protests and Fee Adjustments.

1. A developer of any Development Project subject to the fees described in this Section may apply to the City Council for a reduction, adjustment or waiver of any one or more of the Fees. The application for such protest must be made in writing and filed with the City Clerk, state in detail the factual basis for the claim of waiver, reduction or adjustment, and meet all requirements of Government Code 66020, as may be amended.
2. The City Council shall consider the protest application, referenced in Subsection H(1), at a public hearing. The decision of the City Council shall be final. If a reduction, adjustment or waiver is granted, any change in use within the Development Project shall invalidate the waiver, adjustment or reduction of the Fee if such change in use would render the same inappropriate. The hearing shall be noticed and conducted in the same fashion and manner as prescribed by the laws of the City for a hearing on Development Projects requiring Discretionary Approval.
3. The City Council may, from time to time, and as the need may arise, set forth by resolution specific limitations which will apply to reductions, adjustments or waivers of Development Impact Fees which may be made pursuant to this Subsection H. In this regard, this Section shall be considered enabling and directory.

I. Payment of Fee.

1. The Fees established pursuant to this Section shall be paid by the developer for the property on which a Development Project is proposed at the time of final inspection or the date on which the certificate of occupancy is issued, whichever occurs first, except as otherwise provided below. Fees imposed on residential Development, however, shall be collected in accordance with the provisions of Government Code section 66007. Where a Development Project does not require a building permit, Fees will be collected at permit issuance.
2. Unless otherwise specified by the City, the amount of Development Impact Fees shall be based on those Development Impact Fees and amounts in effect at the time payment is made or due.

J. Use of Funds.

1. Funds collected from Development Impact Fees shall be used for the purpose of paying the actual or estimated costs of designing, constructing and/or improving the Public Facilities within the City to which the specific Fee or Fees relate, including any required acquisition of land or rights-of-way therefor. No Development Impact Fee funds shall be used for costs attributable to existing deficiencies in Public Facilities, but may be used for the costs for increased demand for

additional facilities and services reasonably related to the proposed Development Project.

2. In the event that bonds or similar debt instruments are issued for advanced provision of Public Facilities for which Development Impact Fees may be expended, Development Impact Fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type to which the fees involved relate.
- K. *Refund of Fees Paid.* If a permit for a Development Project for which Development Impact Fees have been imposed expires without commencement of Development and the required Development Impact Fees under such permit have already been paid, then the feepayer shall be entitled to a refund, without interest, of the Development Impact Fee(s) paid. The feepayer must submit an application for such a refund to the City Manager within thirty (30) calendar days of the expiration of the permit. Failure to timely submit the required application for refund shall constitute a waiver of any right to the refund.
- L. *Exemptions.* Any claim of exemption with respect to any one or more of the Development Impact Fees must be made no later than the time for application for fee adjustment pursuant to this Section. The following shall be exempted from payment of the Development Impact Fees:
1. Alterations, renovations or expansion of an existing residential building or structure that do not meet the conditions of imposition of fees as described in this Section, where no additional Dwelling Units are created and the use is not changed; provided, however, that the expansion of or change of use of an existing commercial or industrial building or structure shall not be exempt from the fees established in this Section. For purposes of this section, "expansion" shall be defined as any increase in the gross Floor Area of the existing building or structure and "change of use" shall be defined as the initiation of a use which requires approval of a conditional use permit, Development plan, zone change, or local Coastal plan amendment.
 2. The replacement of a destroyed or partially destroyed or damaged building or structure with a new building or structure of the same size and use.
- M. *Credits.*
1. New Development that, through demolition or conversion, will eliminate existing Development is entitled to a Fee credit if the demolished or converted Development was a lawful use and was in use within two years of the new Development under the City zoning regulations.
 2. New Development that will replace Development that was partially or totally destroyed by fire, flood, earthquake, mudslide, or other casualty or act of God, is entitled to a Fee credit if the Development that was

partially or totally destroyed was a lawful use and such destruction occurred within five years of the new Development under the City zoning regulations.

3. If an existing Development undergoes a change of use, only costs proportional to the amount of the improvement or facility that mitigates the need therefor attributable to and reasonably related to the given Development shall be eligible for an in-lieu credit within 10 years, and then only against the specific relevant Fee(s) involved to which the facility or improvement relates.
 4. The City may allow for Fees collected for Transportation Facilities to be satisfied or partially satisfied if the obligor of the Transportation Facilities Fees donates real property which is needed by the City for local transportation purposes pursuant to Government Code section 66006.5.
 5. Credit shall not be given for site-related improvements, including, but not limited to, traffic signals, right-of-way dedications, or providing paved access to the property, which are specifically required by the Development Project in order to serve it and which do not constitute facilities or improvements associated with a specific category of Development Impact Fee.
- N. *Superseding Provisions.* The provisions of this Section and any resolution adopted pursuant hereto supersede any previous ordinance or resolution to the extent the same is in conflict herewith.

SECTION 6. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions might subsequently be declared invalid or unconstitutional.

SECTION 7. Compliance with Notice and Public Hearing Requirements.

This Ordinance was reviewed at a noticed public hearing, for which the Ordinance and the associated Staff Report were available to the general public for a period of not less than fourteen (14) days prior to the public hearing.

SECTION 8. Effective Date.

In accordance with California Government Code section 66017(a), this Ordinance shall be in full force and effect sixty (60) days after its adoption.

SECTION 9. Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published within fifteen (15) days after passage in accordance with law, and shall cause this Ordinance and its certification, together with proof of publication, to be entered into the Book of Ordinances of the City of Goleta.

INTRODUCED ON the ____ day of _____, 2019.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2019.

PAULA PEROTTE
MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MICHAEL JENKINS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, Deborah S. Lopez, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 18-__ was introduced on _____, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the _____, by the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK