

**ORDINANCE NO. 2024-514**

**AN ORDINANCE OF THE CITY OF GUADALUPE, CALIFORNIA, AMENDING TITLE 13 OF THE GUADALUPE MUNICIPAL CODE TO ESTABLISH A PUBLIC SAFETY FACILITIES DEVELOPMENT IMPACT FEE**

**WHEREAS**, the City of Guadalupe (“City”) has authority, based on the Mitigation Fee Act (Government Code §§66000 and following) to establish and implement impact fees to assure that new development pays capital facilities costs associated with growth; and

**WHEREAS**, the City after duly noticed public hearing has adopted a resolution approving the “CITY OF GUADALUPE PUBLIC SAFETY FACILITIES DEVELOPMENT IMPACT FEE NEXUS STUDY DATED OCTOBER 6, 2023;” and

**WHEREAS**, on January 23, 2024, the City held a duly noticed public hearing regarding proposed establishment of a public safety facilities development impact fee; following receipt of all staff reports, public testimony and other evidence, the public hearing was closed; and

**WHEREAS**, City staff has evaluated the potential environmental impacts of adoption of this Ordinance, and staff has determined that pursuant to Section 15273(a)(4) of the California Environmental Quality Act (“CEQA”) Guidelines, there is no requirement to review the ordinance under CEQA because it would merely approve charges to obtain funds for capital projects needed to maintain levels of public safety service in existing service areas; and

**WHEREAS**, the City hereby makes the following findings, in compliance with the Mitigation Fee Act:

(1) The purpose of the fee is to accommodate the public safety facility needs of new growth by requiring developers to pay for those facilities.

(2) Funds collected will be used to finance and equip public safety facilities made necessary by projected new growth in Guadalupe. The initial facilities to be financed are identified in the City’s capital improvement plan as specified in Government Code Section 66002; the City adopted that plan as part of approving the “CITY OF GUADALUPE PUBLIC SAFETY FACILITIES DEVELOPMENT IMPACT FEE NEXUS STUDY DATED OCTOBER 6, 2023.” New facilities will be located in Guadalupe.

(3) There is a reasonable relationship between the fee’s use and the type of development project on which the fee is imposed because the fee all new development requires service by public safety personnel, who operate from public safety facilities. The proposed fees are intended to fund only acquisition of land, construction of facilities and buildings, and purchase of related equipment, furnishings, vehicles, apparatus, and services used to serve new development in the City of Guadalupe at the existing level of service.

(4) There is a reasonable relationship between the need for the identified public facilities and the types of development project on which the fee is imposed because the amount of fees collected pursuant to this ordinance are limited to the cost of public safety facilities necessary to mitigate impacts attributable to new development. Need is calculated based on weighted, per-capita standards that represent the demand for new facilities generated by new development, using projected number of residents and workers. The standards can be applied across land-use types to yield a fee that relates the facilities reasonably to the development.

(5) There is a reasonable relationship between the amount of the fees and the cost of facilities attributable to specific developments because each fee is based on the estimated new development growth the project will accommodate in size or increased population. Larger projects receive higher fees because they can result in a higher increase service population relative to smaller projects.

**NOW, THEREFORE,** the City Council of the City of Guadalupe does hereby ordain as follows:

**SECTION 1.** Chapter 28 is hereby added to Title 13 of the Guadalupe Municipal Code to read as follows:

**13.28.010 Purpose and Intent.**

- A.** New residential and non-residential development in the City has attracted and will continue to attract employees and residents to the City, and there is a causal connection between such development projects and the increased need for public safety facilities.
- B.** Failure to enhance the ability of the City’s public safety facilities system to accommodate additional service calls will make it more difficult for residents, employers, and employees to obtain the public safety services they need.
- C.** Sources of city revenue other than public safety facilities development impact fees, including tax revenues that will be paid by new residential and non-residential development, will be needed for many public purposes and therefore will not be sufficient to offset the burdens on public safety facilities created by new development.
- D.** It is the intent of the City to require persons or organizations that develop land to mitigate the impacts of that development on the City’s police facilities system. The City may therefore require developers to mitigate public safety facilities impacts caused by their development and to pay a public safety facilities development impact fee that will be used to mitigate those impacts by constructing public safety facilities pursuant to the most current capital improvement plan, or the annual budget process, as applicable.
- E.** The amount of public safety facilities development impact fees collected pursuant to this chapter shall be limited to the cost of public safety facilities necessary to mitigate the impact attributable to new development. The amount of public safety facilities development impact fees

collected shall not include the cost of public safety facilities necessary to address the impacts of existing development.

### **13.28.020 Definitions.**

As used in this Chapter:

- A. "Certificate of occupancy" means a document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure, building or development conforms to all the applicable provisions of this Code, ordinances, and conditions of approval.
- B. "Fee" means a monetary exaction other than a tax or special assessment, charged by the City to the applicant of a development project in connection with its approval, for the purpose of defraying all or a portion of the cost of public facilities related to the development project.
- C. "Final building inspection" means the physical inspection of the building by the Planning Department of the City for compliance with all applicable building codes and the issuance by all applicable city, county, regional, state, and federal agencies of their respective clearances for occupancy.
- D. "Nonresidential" means commercial, office, or industrial.
- E. "Public facilities" includes public improvements, public services, and community amenities.

### **13.28.030. Fees Required.**

#### **A. Residential Public Facilities Fee.**

1. Timing. The applicant of a residential development project shall pay a lump-sum fee for public facilities on the date the first dwelling in the development or development phase receives its final building inspection, or certificate of occupancy, whichever occurs first.

2. Amount. The amount of the fee is:

i. \$2.92 per square foot for residential dwelling units that are not accessory dwelling units; and

ii. For accessory dwelling units less than 750 square feet, no fee;

iii. For accessory dwelling units greater than 750 square feet, a fee determined

by the following formula:

$$\frac{\text{accessory dwelling unit square feet}}{\text{primary residence square feet}} \times \text{residential impact fee} = \text{accessory dwelling unit fee}$$

#### **B. Nonresidential Public Facilities Fee.**

1. Timing. The applicant of a nonresidential development project shall pay a lump-sum fee for public facilities on the date a building permit is issued for the project.

2. Amount. The amount of the fee is:
  - i. \$3.80 per square foot for commercial projects
  - ii. \$5.82 per square foot for office projects
  - iii. \$2.07 per square foot for industrial project

3. Adjustment of Amount Based on California Construction Cost Index. Annually, on the anniversary of the effective date of this Ordinance, the Planning Director, or his or her designee, shall adjust the amount of the fee for each category of development in accordance with the change in the California Construction Cost Index. Adjusted fee amounts take effect 60 days after the Planning Director, or his or her designee, make the adjustments.

4. Calculation and Notice of Fee.

i. The Planning Director, or his or her designee, shall be responsible for calculating the amount of the required fee for each project based on the applicable land use category and specified fee rate. In making the calculation, the Planning Director shall use the fee rate that is assigned to the land-use category most applicable to the development project.

ii. Should the City Council amend the amount of the fee owing during the time a project is pending, the applicant must pay the amount in effect when the fee becomes due.

iii. At the time when a fee is imposed, the Planning Director, or his or her designee, shall provide written notice to the applicant of the amount of fees and identify the public improvement that the fee will be used to finance.

**D. Exemption.** The following may be exempted from payment of the fee:

1. Any residential development that does not increase the number of permanent housing units on the parcel;
2. Accessory dwelling units as described above;
3. Remodeling or rebuilding of an existing nonresidential structure, provided none of the following occur:
  - i. Increase the structure's square footage more than 50 percent above that of the previously existing structure;
  - ii. Change the use to which the property or structure is to be put; or
  - iii. Increase the average daily vehicle trips generated from the property above the amount generated by a prior use of the property.
4. Publicly owned facilities;
5. Facilities serving the public health and safety.

**E. Fee reduction.** The Planning Director may approve a partial or complete reduction of the fee when:

1. The applicant enters into a development agreement which obligates the developer to provide payments or install improvements for public safety facilities as identified in the most current capital facilities plan or City budget; or
2. The applicant constructs public safety facilities improvements as identified in the most current capital facilities plan or City budget; or
3. The development is located in an assessment district that has been formed to construct public safety facilities pursuant to the most current capital facilities plan or City budget.

In the case of any subsequent change or intensification of use of the property, or any expansion of structures, the Planning Director shall calculate, and the applicant shall pay, the fee in effect at the time of the change, less any amount previously paid.

**13.28.040. Appeal.**

A. Upon receiving a fee calculation, the applicant may apply in writing to the Planning Director or his/her designee to appeal imposition of the fee. The appeal procedure is separate from the fee protest procedure in Section 66020 of the Mitigation Fee Act. The appeal application shall:

1. Be in writing; and
2. Be filed prior to the issuance of a building permit for the project; and
3. Contain a factual showing, based on substantial evidence:
  - i. That the project will have a lesser impact on public safety facilities level of service; or
  - ii. That another land-use category is more appropriate as the basis of the fee for the particular development.

B. The Planning Director, or his or her designee, shall make a decision on the appeal application within 30 calendar days after filing of the application. Notice of the decision shall be mailed to the applicant.

**C. Appeal to City Council.**

1. The applicant may appeal in writing to the City Council within 15 days after mailing of the Planning Director/designee's decision on the applicant's appeal. The appeal shall be filed with the City Clerk. At a minimum, the appeal to City Council shall contain all of the information required in subsection A.3, above.

2. The City Council shall consider the appeal at a public hearing within 60 calendar days after the appeal application has been filed. The decision of the City Council shall be final.

3. The City Clerk shall mail notice of the City Council's decision to the applicant.

4. If a fee exemption, reduction, or land-use category adjustment is granted pursuant to this section, any subsequent change or intensification of use of the property, or any expansion of structures, will invalidate the grant, and the applicant will be subject to the fee in effect at the time of the change, less any amount previously paid.

5. If a fee exemption, reduction, or land-use category adjustment is not granted pursuant to this section, then upon payment of the required fee, the City shall provide the applicant a written notice of the amount of fee owing and shall also provide notification that a 90-day protest period has begun, pursuant to Government Code Section 66020.

**13.28.050. Accounting and Use of Fee Proceeds**

Pursuant to Government Code Section 66006, all public safety impact fees paid and collected under this chapter shall be placed into one or more separate accounts established for the fee. The City shall invest, account for, and expend the fees according to Section 66006. Fees collected shall be used solely for the purpose of constructing public safety facilities improvements as shown in the most current capital improvement plan or annual budget.

**13.28.060. Reporting.**

**A. Annual Review Required.** For each fee account established, the City shall, within 180 days after the last day of each fiscal year, make available to the public the information required by Government Code 66006(b)(1).

**B. Annual Public Meeting Required.** At the next regularly scheduled public meeting 15 days or more after the City makes the information required by Government Code §66006 available to the public, the City shall review the information. The City shall provide mailed notice of the time and place of the meeting and the address where information may be reviewed as required by Section 66006.

**C. Findings Required Every Five Fiscal Years Following First Deposit.** The City shall make the findings required by Section 66001(d) every five years following receipt of the first deposit of fees. The City's findings shall be made in connection with the required annual review.

**D. Identification of Completion Date and Other Actions Required.** Upon collection of sufficient funds to complete financing on incomplete public safety improvements for which fees have been charged, as determined under Government Code Section 66006(1)(b)(F), the City shall take the actions required by Government Code Section 66001(e) and (f).

**SECTION 2.** This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), and the CEQA guidelines, and has been found to be exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15273 (a)(4) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because the ordinance would create charges for capital projects to maintain service levels within existing service areas, to which CEQA does not apply.

**SECTION 3.** The City Council hereby directs City staff to prepare and file a Notice of Exemption with the County Clerk pursuant to CEQA Guidelines Section 15062 within five (5) days of the date that this Ordinance is adopted.

**SECTION 4.** The City Council declares that each section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this Ordinance is severable and independent of every other section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this Ordinance. If any section, subsection, paragraph, subparagraph, sentence, clause, or phrase of this Ordinance is held invalid, the City Council declares it would have adopted the remaining provisions of this Ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this Ordinance should remain in effect after the invalid portion has been eliminated.

**SECTION 5.** The City Clerk is hereby authorized to make minor changes herein to address clerical errors, so long as substantial conformance of the intent of this document is maintained. In doing so, the City Clerk shall consult with the City Administrator and City Attorney concerning any changes deemed necessary.

**SECTION 6.** Within 15 days of its passage and adoption, the City Clerk is hereby directed to post a copy of this ordinance in three public places in the City.

**SECTION 7.** This ordinance will become effective sixty days after its approval on second reading.

**INTRODUCED** at a regular meeting of the City Council on the 23<sup>rd</sup> day of January 2024, by the following roll call vote:

**MOTION: CHRISTINA HERNANDEZ / GILBERT ROBLES**


**AYES: 4 Councilmembers: Costa Jr., Hernandez, Julian, Robles**  
**NOES: 0**  
**ABSENT: 1 Councilmembers: Lizalde**  
**ABSTAINED: 0**

**PASSED AND ADOPTED** at a regular meeting of the City Council on the 13<sup>th</sup> day of February 2024, by the following roll call vote:

**MOTION: CHRISTINA HERNANDEZ / GILBERT ROBLES**

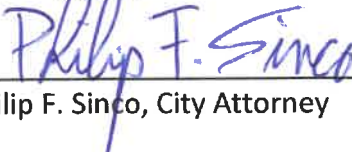
**AYES: 4 Councilmembers: Costa Jr., Hernandez, Julian, Robles**  
**NOES: 0**  
**ABSENT: 0**  
**ABSTAINED: 0**

**ATTEST:**

  
\_\_\_\_\_  
Amelia M. Villegas, City Clerk

  
\_\_\_\_\_  
Ariston Julian, Mayor

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Philip F. Sinco, City Attorney