

## TABLE OF CONTENTS

### TITLE 18 BUILDING STANDARDS CODE

CHAPTER 18.17	TRANSPORTATION IMPROVEMENT FEE
CHAPTER 18.18	PARK AND RECREATION FACILITIES FEE
CHAPTER 18.20	UNSAFE BUILDINGS OR STRUCTURES
CHAPTER 18.21	MAINTENANCE OF LONG-TERM BOARDED AND VACATED BUILDINGS
CHAPTER 18.22	POLICE FACILITIES IMPACT FEE
CHAPTER 18.23	FIRE FACILITIES IMPACT FEE
CHAPTER 18.24	REGISTRY FOR FORECLOSURE
CHAPTER 18.25	TENANT RELOCATION AND CODE ENFORCEMENT

## **CHAPTER 18.17 TRANSPORTATION IMPROVEMENT FEE**

- 18.17.010 – Short title.
- 18.17.020 – Purpose.
- 18.17.030 – Affected area—Designation of subareas.
- 18.17.040 – Definitions.
- 18.17.050 – Transportation Improvement Fee requirements—Imposition—Collection.
- 18.17.055 – Transportation Demand Management Measure requirements.
- 18.17.060 – Amount of Transportation Improvement Fee.
- 18.17.070 – Calculation of Transportation Improvement Fee.
- 18.17.080 – Collection of Transportation Improvement Fee.
- 18.17.090 – Establishment of Transportation Improvement Fee account.
- 18.17.100 – Limitation on use of funds derived from Transportation Improvement Fees.
- 18.17.110 – Credits.
- 18.17.120 – Refunds.
- 18.17.130 – Exemptions.
- 18.17.140 – Accounting and audits.
- 18.17.150 – Appeals.
- 18.17.160 – Judicial review.
- 18.17.170 – Annual report and amendment procedures.
- 18.17.180 – Effect of Transportation Improvement Fee on zoning and subdivision regulations.
- 18.17.190 – Transportation Improvement Fee as additional and supplemental requirement.

## CHAPTER 18.17 TRANSPORTATION IMPROVEMENT FEE

### 18.17.010 – Short title.

This chapter shall be known and cited as the Long Beach Transportation Improvement Fee Ordinance or as the Transportation Fee Ordinance. The fees imposed pursuant to this chapter shall be known as "Transportation Improvement Fees."

### 18.17.020 – Purpose.

A Transportation Improvement Fee is imposed on new development in the City for the purpose of assuring that the transportation level of service goals of the City as set forth in the traffic mitigation program are met with respect to the additional demands placed on the transportation system by traffic generated from such development.

### 18.17.030 – Affected area—Designation of subareas.

- A. This chapter shall be applicable to all new development in the City including the planned development central business district (CBD) area of the City, except as otherwise provided herein.
- B. In the CBD area of the City, Transportation Improvement Fees shall be imposed on all commercial development, including, but not limited to, office, retail, hotel and movie theaters, as set forth in the fee setting resolution adopted by the City Council pursuant to this chapter.
- C. Citywide, Transportation Improvement Fees shall be imposed on all residential development and on all industrial development as set forth in the fee setting resolution adopted by the City Council pursuant to this chapter.
- D. Citywide, but excluding the CBD area of the City, Transportation Improvement Fees shall be imposed on all commercial development including, but not limited to, office, retail, hotel and movie theaters, as set forth in the fee setting resolution adopted by the City Council pursuant to this chapter.

### 18.17.040 – Definitions.

For purposes of this chapter, the words and terms defined herein shall have the meanings stated, unless another meaning is plainly intended. To the extent that terms utilized in this chapter are not defined herein, but are defined in Title 21 of this code, such terms shall have the meanings stated therein.

- A. "Accessory use" is as defined in Section 21.15.060 of this code.
- B. "Applicant" means the owner of property, or owner's authorized agent for which a request for development approval is received by the City.
- C. "Building permit" means the City permit required for new building construction and/or additions which add square footage pursuant to this title. Neither a grading permit nor a foundation permit shall be considered a building permit for purposes of this chapter.
- D. "Calculation" means the point in time at which the City calculates the Transportation Improvement Fee to be paid by the applicant. Calculation will generally occur at the time of issuance of a Certificate of Occupancy, but may occur earlier in the development approval process.
- E. "Central business district" area or planned development central business district (CBD) area means the area of the City as delineated on Exhibit 1, attached to the ordinance codified in this

chapter and incorporated herein by reference, and which is coterminous with the planned development CBD area as defined in the City of Long Beach general plan land use element.

- F. "Certificate of Occupancy" means the official City certification, issued pursuant to Section 18.08.020 et seq. of this code, that all or a portion of the building, structure or addition is suitable for use or occupancy. For purposes of this chapter, Certificate of Occupancy shall refer to the earlier of, issuance of a Certificate of Occupancy for the building shell or issuance of a Certificate of Occupancy for use or occupancy of all or a portion of the building by a tenant, owner or occupant.
- G. "City-wide" means the entire area of the City including the CBD area, as delineated on Exhibit 1, attached to the ordinance codified in this chapter and incorporated herein by reference.
- H. "Collection" means the point in time at which the Transportation Improvement Fees are paid by the applicant. Collection will generally occur at and as a condition precedent to issuance of the Certificate of Occupancy.
- I. "Commitment" means the earmarking of Transportation Improvement Fees collected to fund or partially fund or to retire debt issued for the funding of transportation improvements serving new residential and nonresidential development.
- J. "Demand" means the portion of transportation capacity that new development will consume measured in PM peak hour trips.
- K. "Development" means the addition of new dwelling units and/or new nonresidential square footage to an undeveloped, partially developed or redeveloped site and involving the issuance of a building permit or Certificate of Occupancy for such construction, reconstruction or use, but not including the following so long as no additional dwelling units or gross floor area is added: (i) a permit to operate, (ii) a permit for the internal alteration, remodeling, rehabilitation, or other improvements or modifications to an existing structure, (iii) the rebuilding of a structure destroyed by an act of God or the rehabilitation or replacement of a building in order to comply with the City seismic safety requirements, (iv) parking facilities, or (v) the rehabilitation or replacement of a building destroyed by imminent public hazard, acts of terrorism, sabotage, vandalism, warfare or civil disturbance except where said destruction was caused or in any manner accomplished, instigated, motivated, prompted, incited, induced, influenced, or participated in by any persons or their agents having any interest in the real or personal property at the location.
- L. "Development approval" means tentative map approval, parcel map approval, or site plan approval if the imposition of the Transportation Improvement Fee could lawfully have been imposed at such time or, building permit issuance if the Transportation Improvement Fee could not be lawfully imposed at tentative map, parcel map or site plan approval or Certificate of Occupancy issuance if the Transportation Improvement Fee could not be lawfully imposed at building permit issuance.
- M. "Dwelling unit" or "DU" is as defined in Section 21.15.910 of this code.
- N. "Fee-setting resolution" means and refers to the City resolution specifying the Transportation Improvement Fee per dwelling unit for residential development and per gross square foot of floor area for nonresidential development, by type and by location.  
  
The Transportation Improvement Fees set forth in the fee-setting resolution may be revised pursuant to Section 18.17.060 and applicable State law.
- O. "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.

- P. "Highway capacity manual" means and refers to the report entitled Highway Capacity Manual, Special Report 209 (Transportation Research Board, 1985) or as thereafter amended.
- Q. "Imposition" means the determination that the Transportation Improvement Fee is applicable to the development and the attachment of the Transportation Improvement Fee as a specific condition of development approval.
- R. "ITE trip generation manual" means and refers to the informational report entitled "Trip Generation" by the Institute of Transportation Engineers, Fourth Edition, 1987, or as thereafter amended.
- S. "Level of service" (LOS) means an indicator of the extent or degree of service provided by, or proposed to be provided by, a transportation improvement based upon the relationship of traffic volume to road capacity and related to the operational characteristics of the road as measured by standards set forth in the highway capacity manual.
- T. "Long Beach transportation study (1989)" means the study performed for the City by Barton-Aschman Associates, Inc., and including Volume I-Traffic, Volume II-Parking, Volume III-Transit, and the Report on the Allocation of Transportation Improvement Costs, which collectively form the basis for travel demand forecasts and transportation improvement plans and recommendations.
- U. "Mixed use" is as defined in Section 21.15.1760 of this code.
- V. "Nonresidential development" means a development undertaken for the purpose of creating gross floor area, excluding dwelling units, but which includes but is not limited to commercial, industrial, retail, office, hotel/motel, and warehouse uses involving the issuance of a building permit or Certificate of Occupancy for such construction, reconstruction or use.
- W. "Parking facility" means the construction of an improvement, whether enclosed or unenclosed, providing parking spaces for vehicles and which may include but is not limited to the installation of ancillary facilities such as sidewalks, drainage improvement, lighting, landscaping, striping, exits and entrances, signage, waiting areas and other project-related improvements.
- X. "PM peak hour" means a one-hour period of time between 4:00 p.m. and 6:00 p.m., when the development generates the maximum number of trips.
- Y. "PM peak hour trips" means the total number of trips generated by a development during the p.m. peak hour.
- Z. "Principal use" is as defined in Section 21.15.2170 of this code.
- AA. "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 or Certificate of Occupancy for such construction, reconstruction or use.
- BB. "Road facility" means the construction of a road link or intersection which expands capacity to accommodate additional traffic, and which may include but is not limited to the installation of ancillary facilities such as sidewalks, curbs, gutters, traffic signals, traffic signs, lighting, landscaping, striping, medians, turn lanes and other project-related improvements.
- CC. "Traffic mitigation program of Long Beach" or "traffic mitigation program" means and refers to the City's long range strategic and financing plan for transportation improvements as adopted by resolution of the City Council.
- DD. "Transit facility" means the purchase of buses and/or the construction of an improvement ancillary to the operation of the Long Beach bus system and, which may include but is not limited to, the

installation of facilities such as bus shelters, bus turn lanes, lighting, landscaping, signage, and other project-related improvements.

- EE. "Transportation improvement" means and refers to a project identified in the transportation improvement plan and involving the construction of a road facility or portion thereof, the construction of parking facilities, the construction of transit improvements, including the purchase of buses, the construction of other project-related improvements, including, but not limited to, right-of-way and land acquisition, utility relocation, project planning, administrative, legal, engineering, and design services and project contingencies.
- FF. "Transportation Improvement Fee" means a monetary exaction imposed as a condition of development approval in order to assure the provision of transportation improvements needed to serve new development within a reasonable period of time at City level of service goals as set forth in the traffic mitigation program.
- GG. "Transportation improvement plan" means the identification, listing, cost and prioritization of transportation improvements necessary to meet travel demand forecasts through the year 2010 while maintaining the City's level of service for transportation, as set forth in the traffic mitigation program.
- HH. "Transportation services" means and refers to nonphysical, programmatic efforts to reduce traffic including, but not limited to, transportation demand management.
- II. "Accessory use, residential" is as defined in Section 21.15.063. An accessory residential unit which exceeds two hundred twenty (220) square feet of residential dwelling space shall be classified as a single-family dwelling unit for purposes of application of the Transportation Improvement Fee.
- JJ. "Secondary housing unit" is as defined and regulated in Sections 21.15.2400 and 21.51.275. A secondary housing unit which exceeds six hundred forty (640) square feet of residential dwelling space shall be classified as a standard dwelling unit for purposes of application of the Transportation Improvement Fee.
- KK. "Senior citizen housing" is as defined in Section 21.15.2430 of this code. The applicant shall be required to guarantee the units shall be maintained for senior citizen housing whether rented, leased, sold, conveyed or otherwise transferred, for the lesser of a period of thirty (30) years or the actual life or existence of the structure, including any addition, renovation or remodeling thereto. The guarantee shall be in the form of a deed restriction or other legally binding and enforceable document acceptable to the City. The document shall be recorded with the Los Angeles County Recorder prior to the issuance of a Certificate of Occupancy. The applicant shall comply with the maintenance of the units for senior citizen housing according to the City's Housing and Community Improvement Bureau procedures. The Housing and Community Improvement Bureau shall establish a process for monitoring any applicant for any successor-in-interest shall be required to provide annually, or as requested, proof of compliance.
- LL. "Transportation demand management measures" means a program designed to reduce p.m. peak hour existing work trips from a proposed development site by a minimum of twenty percent (20%).

18.17.050 – Transportation Improvement Fee requirements—Imposition—Collection.

- A. All development shall be required to pay a Transportation Improvement Fee at the time of issuance of a Certificate of Occupancy, except as otherwise provided in Subsection 18.17.050.G or Section 18.17.130. The City may, prior to the issuance of a building permit for a development subject to the Transportation Improvement Fee, require that the applicant, or lessee if the lessee's interest appears of record, as a condition of issuance of the building permit, execute a

contract with the City to pay the applicable Transportation Improvement Fee at the time of issuance of the Certificate of Occupancy.

- B. Transportation Improvement Fees shall be imposed at the time of tentative map approval, parcel map approval, site plan approval, building permit issuance or Certificate of Occupancy issuance. The City shall impose the condition of payment of Transportation Improvement Fees at the earliest point in time as such fees could have been lawfully imposed.
- C. Transportation Improvement Fees shall be collected no later than at the time of issuance of a Certificate of Occupancy, except as otherwise provided in Subsection 18.17.050.G.
- D. Whenever a development contains more than one (1) building, the Transportation Improvement Fee shall be paid in a lump sum for all dwelling units or gross floor area in each building of the development for which a Certificate of Occupancy is sought.
- E. Imposition of the Transportation Improvement Fee requirement shall be a condition of development approval, and no tentative map, parcel map or site plan shall be approved nor shall a building permit or Certificate of Occupancy be issued without compliance with the provisions of this chapter.
- F. The Transportation Improvement Fee requirement shall not apply to applicants who have a valid Certificate of Occupancy on the effective date of the ordinance codified in this chapter.
- G. For developments exceeding one hundred thousand (100,000) gross square feet which have not received a Certificate of Occupancy prior to October 1, 1996, the applicant shall pay the Transportation Improvement Fee either (1) in full at issuance of the Certificate of Occupancy or (2) in four installments as set forth herein.

The first payment shall equal twenty-five percent (25%) of the total transportation fee owed and shall be payable at the time of the issuance of the Certificate of Occupancy. The balance of the Transportation Improvement Fee shall accrue interest at a rate equal to that earned on the City's pooled investment funds (which rate shall be published annually by the City Treasurer), and shall be paid in three (3) annual installments, commencing upon the first anniversary of the issuance of the Certificate of Occupancy for the development. The balance of the transportation fee may be prepaid by the applicant at any time. In the event that the applicant (or applicant's successor-in-interest) fails to pay any installment when due, the Certificate of Occupancy issued for the development may be revoked at the option of the City.

Payments pursuant to the installment option and the rights and obligations of the applicant and the City shall be set forth in a contract which shall be executed at and as a condition precedent to issuance of a Certificate of Occupancy. Applicant shall post a bond, certificate of deposit, letter of credit or other instrument acceptable to the City Attorney in an amount equal to the Transportation Improvement Fee calculated to be due and payable by installment at the time of execution of the contract. The City Council authorizes the City Manager to execute such contracts on behalf of the City.

#### 18.17.055 – Transportation Demand Management Measure Requirements.

Transportation demand management measure requirements, where applicable, in addition to Transportation Improvement Fees shall be implemented in conjunction with Chapter 21.64.

#### 18.17.060 – Amount of Transportation Improvement Fee.

- A. The Transportation Improvement Fee per p.m. peak hour trip by land use type and, where relevant, by location shall be established by fee-setting resolution of the City Council and may be amended from time to time as set forth in Section 18.17.170.

- B. The Transportation Improvement Fee imposed pursuant to this chapter shall not apply to applicants who have a valid building permit on the effective date of the ordinance codified in this section. Applicants who have a valid building permit on the effective date of the ordinance codified in this section and who are not otherwise exempted, shall continue to be subject to the Transportation Improvement Fee imposed pursuant to Ordinance C-6836.

18.17.070 – Calculation of Transportation Improvement Fee.

- A. The Director shall calculate the amount of the applicable Transportation Improvement Fee due at the time of and as a condition precedent to issuance of the Certificate of Occupancy based upon the applicable impact fee rate as specified in the then current fee-setting resolution.
- B. The Director shall calculate the amount of the applicable Transportation Improvement Fee due by:
  - 1. Determining the number and type of dwelling units in a residential development, and multiplying the same by the Transportation Improvement Fee amount per dwelling unit;
  - 2. Determining the gross square feet of floor area, type of use and location in a nonresidential development, and multiplying the same by the Transportation Improvement Fee amount as established by the fee-setting resolution;
  - 3. Determining the number and type of dwelling units and the nonresidential number of gross square feet of floor area, type of use and location in a structure containing mixed uses which include a residential use, and multiplying the same by the Transportation Improvement Fee amount for each use as established by the fee-setting resolution;
  - 4. Determining the gross square feet of floor area, type of use and location in a structure containing mixed uses which include two (2) or more nonresidential principal uses, and multiplying the same by the Transportation Improvement Fee amount as established by the fee-setting resolution. The gross square feet of floor area of any accessory use will be charged at the same rate as the predominant principal use unless the Director finds that the accessory use is related to another principal use.
- C. The Director shall be responsible for determining the use type of the proposed development. If the Director determines that the proposed development is not in one of the use classifications included in the fee-setting resolution or, if the applicant submits relevant information and documentation acceptable to the Director demonstrating that the proposed development is not in one of the use classifications included in the fee-setting resolution or is a mixed use, the Director of Public Works shall:
  - 1. Determine whether the proposed development has trip generation characteristics similar to a listed use classification;
  - 2. If so, that use classification shall be used in calculating the appropriate Transportation Improvement Fee;
  - 3. If not, identify the trip generation characteristics of the proposed development and, utilizing the ITE trip generation manual, assign the proposed use to the most similar land use type listed in the manual;
  - 4. If there are no similar land use types listed in the ITE trip generation manual, the applicant may be requested to perform, at his or her own expense, a trip generation study or may utilize other statistically valid trip generation data applicable to the proposed use.

18.17.080 – Collection of Transportation Improvement Fee.

The Director shall be responsible for the collection of the Transportation Improvement Fee at and as a condition precedent to the issuance of a Certificate of Occupancy unless:

- A. The applicant is entitled to a full credit pursuant to Section 18.17.110; or
- B. The applicant is exempt pursuant to Section 18.17.130; or
- C. The applicant has taken an appeal pursuant to Section 18.17.150 and a cash deposit, letter of credit, bond or other surety in the amount of the Transportation Improvement Fee, as calculated by the Director, has been posted with the City;
- D. The applicant satisfies the conditions for Transportation Improvement Fee payment by installments pursuant to Subsection 18.17.050.G.

18.17.090 – Establishment of Transportation Improvement Fee account.

The City establishes a segregated Transportation Improvement Fee subfund (hereinafter "subfund") to which all Transportation Improvement Fees collected by the Director shall be deposited. The funds of the subfund shall not be commingled with any other funds or revenues of the City except for purposes of investment; but, provided that all such funds shall be separately accounted for. The subfund shall be interest-bearing and all interest received shall be credited to such subfund and used solely for purposes of the subfund.

18.17.100 – Limitation on use of funds derived from Transportation Improvement Fees.

- A. Funds derived from payment of Transportation Improvement Fees pursuant to this chapter shall be placed in the subfund and shall be used solely and exclusively for the purpose of funding transportation improvements, as defined herein, and as identified in the transportation improvement plan or to reimburse the City for expenditures, advances or indebtedness incurred for the construction of transportation improvements.
- B. Transportation Improvement Fees shall not be used for the provision of roadway, parking or transit improvements relating to (i) the needs of existing City residents, (ii) the enhancement of transportation improvements to provide a higher level of service to existing development, (iii) operation and maintenance costs associated with roadway, parking or transit improvements, (iv) repair and/or replacement of existing roadway, parking and transit improvements or (v) the provision of transportation services, as contrasted with transportation improvements.
- C. The City shall commit or expend Transportation Improvement Fees deposited to the subfund within five (5) years from the date of deposit. The City shall make findings once each fiscal year with respect to any Transportation Improvement Fees remaining unexpended or uncommitted in the subfund five (5) or more years after the deposit of the fee to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.

18.17.110 – Credits.

- A. Any applicant subject to a Transportation Improvement Fee pursuant to this chapter who constructs, escrows money with the City for the construction of, participates in an assessment district for the construction of or who otherwise contributes funds or improvements to the City for transportation improvements, as herein defined, shall be eligible for a credit for such contribution against the Transportation Improvement Fee otherwise due.
- B. Credit applications shall be made on forms provided by the City and, whenever possible, shall be submitted at or before the time of building permit issuance. The application shall contain a declaration of those facts, under oath, along with relevant documentary evidence which qualifies the applicant for the credit.

- C. The Director of Public Works shall determine whether the proposed construction, escrow payment, assessment district or cash contribution is for a transportation improvement listed in the transportation improvements plan or for a comparable transportation improvement, and is consistent with the project priorities and timing and, if necessary, shall determine the value of the developer contribution.
- D. The Director of Public Works shall forward his report and the credit application and supporting documentary evidence to the City Council, for a determination of Transportation Improvement Fee credit. If the City Council determines that a Transportation Improvement Fee credit is due, said decision shall be confirmed by ordinance and shall be incorporated in a contract between the applicant and the City except as otherwise provided herein.
- E. No credit shall be granted in an amount exceeding the otherwise applicable Transportation Improvement Fee.
- F. Notwithstanding Subsections 18.17.110.A through 18.17.110.D, if an applicant's property is in the airport traffic study area and the applicant has paid Airport Area Traffic Fees, the applicant shall be entitled to a credit in the amount of the Airport Area Traffic Fees paid or the portion of the present value of the total assessment district payment to be used for transportation improvements which the applicant is obligated to pay, without the necessity for a determination by the City Council, the enactment of an ordinance or the execution of a contract between the applicant and the City.
- G. Notwithstanding Subsections 18.17.110.A through 18.17.110.D, if an applicant's property is in the CBD area, and the applicant has obtained a building permit prior to the effective date of the ordinance codified in this chapter but has not yet received a Certificate of Occupancy, and is subject to an assessment district to mitigate traffic impacts, the applicant shall be entitled to a credit for the full amount of Transportation Improvement Fee otherwise due, without the necessity for a determination by the City Council, the enactment of an ordinance or the execution of a contract between the applicant and the City.
- H. Credits shall be on a building-by-building basis as development approval is sought and not on a development site basis.

18.17.120 – Refunds.

- A. Any applicant who has paid a Transportation Improvement Fee pursuant to this chapter may apply for a full or partial refund of same, if, within one (1) year after collection of the Transportation Improvement Fee (i) the development has been modified, pursuant to appropriate City ordinances and regulations, resulting in a reduction in the number of dwelling units in a residential project or in a mixed use development including residential uses, and/or the gross floor area of development in a nonresidential or mixed use development or (ii) a change in the type of use occurs which results in a reduction of trips generated by the ultimate use.
- B. Refund applications shall be made on forms provided by the City and shall contain a declaration of those facts, under oath, along with relevant documentary evidence which qualifies the applicant for the refund. In no event may a refund exceed the amount of the Transportation Improvement Fee paid by the applicant.
- C. Except as described in Subsection 18.17.120.E, upon application by the property owner the City shall refund the portions of the Transportation Improvement Fee which have been on deposit over five (5) years and which are unexpended or uncommitted. Refunds shall be made to the then current record owner or owners of lots or units of the development on a prorated basis, together with accrued interest.

- D. Once each fiscal year the City shall make findings identifying all unexpended or uncommitted Transportation Improvement Fees in the subfund.
- E. With respect to Transportation Improvement Fees unexpended or uncommitted five (5) years after deposit in the subfund, the City may make findings to identify the purpose to which the Transportation Improvement Fee is to be put and to demonstrate a reasonable relationship between the Transportation Improvement Fee and the purpose for which it was charged. If the City makes such findings, the Transportation Improvement Fees are exempt from the refund requirement. The findings need only be made with respect to funds in the possession of the City and need not be made with respect to letters of credit, bonds or other instruments taken to secure payment of Transportation Improvement Fees at a future date.
- F. The City shall refund the unexpended or uncommitted portion of Transportation Improvement Fees by direct payment, by providing a temporary suspension of Transportation Improvement Fees for subsequent development projects of developers entitled to the refund, or by any other means consistent with the intent of this section. The determination by the City Council of the means by which revenues are to be refunded is a legislative act.
- G. If the City finds that the administrative costs of refunding the unexpended or uncommitted Transportation Improvement Fees exceed the amount to be refunded, the City, after a public hearing, notice of which has been published in accordance with State law and posted in three (3) prominent places within the area of each development subject to a refund, may determine that the funds shall be allocated for other transportation improvements of the type for which the Transportation Improvement Fees were collected and which serve the development.

#### 18.17.130 – Exemptions.

The following uses and types of development are exempt from the payment of Transportation Improvement Fees.

- A. Nonresidential development: Construction or occupancy of a new nonresidential building or structure or an addition to or expansion of an existing nonresidential building or structure of three thousand (3,000) gross square feet or less, or serving a use which generates ten (10) or fewer PM peak hour trips pursuant to the ITE Trip Generation Manual.
- B. Residential development.
  - 1. Construction, replacement or rebuilding of a single-family dwelling (one unit per lot) on an existing lot of record, or the replacement of one (1) mobile home with another on the same pad, or the moving and relocation of a single-family home from one (1) lot within the City to another lot within the City, or the legalization of an illegal dwelling unit existing prior to January 1, 1964, for which an administrative use permit is approved in accordance with Subsection 21.25.403.D. This exemption shall not apply to tract development nor to the development of more than one (1) unit per lot nor to the replacement of a single-family dwelling with more than one (1) dwelling unit.
  - 2. Affordable housing for lower income households.

Property rented, leased, sold, conveyed or otherwise transferred, at a rental price or purchase price which does not exceed the "affordable housing cost" as defined in Section 50052.5 of the California Health and Safety Code when provided to a "lower income household" as defined in Section 50079.5 of the California Health and Safety Code or "very low income household" as defined in Section 50105 of the California Health and Safety Code. This exemption shall require the applicant to execute an agreement to guarantee the units shall be maintained for lower and very low income households whether as units for rent or for sale or transfer, for the lesser of a period of thirty years or the actual life or existence of the structure, including any addition, renovation or remodeling thereto. The agreement shall be in

the form of a deed restriction, second trust deed, or other legally binding and enforceable document acceptable to the City Attorney and shall bind the owner and any successor-in-interest to the real property being developed. The agreement shall subordinate, if required, to any State or Federal program providing affordable housing to lower and very low income households. The agreement shall be recorded with the Los Angeles County Recorder prior to the issuance of a Certificate of Occupancy. The City's Housing and Community Improvement Bureau shall be notified of pending transfers or purchases and give its approval of the purchaser's qualifying income status and purchase price, prior to the close of escrow. The City's Housing and Community Improvement Bureau shall be notified of pending rentals and give its approval of proposed tenant's qualifying income status and rental rate, prior to the tenant's occupancy. Applicant or any successor-in-interest shall be required to provide annually, or as requested, the names of all tenants or purchasers, current rents, and income certification to insure compliance. Voluntary removal of the housing restriction or violation of the restriction shall be enforced by the Director and shall require the applicant or any successor-in-interest to pay the then applicable Transportation Improvement Fee at the time of voluntary conversion or as imposed at the time of violation on the unit in violation, plus any attorneys' fees and costs of enforcement if applicable.

18.17.140 – Accounting and audits.

- A. For each subfund established pursuant to Section 18.17.090, the City shall, within sixty (60) days of the close of each fiscal year, make available to the public the beginning and ending balance for the fiscal year, and the Transportation Improvement Fees, interest and other income and the amount of expenditures by public facility and the amount of refunds made during the fiscal year. The City Council shall review this information at the next regularly scheduled public meeting not less than fifteen (15) days after the availability of the information required hereby.
- B. Any applicant may request an audit of the Transportation Improvement Fee in order to determine whether the fee exceeds the amount reasonably necessary to provide the transportation improvements to serve new development at the level of service set forth in the traffic mitigation program. Upon such request for an audit, the City Council may request the City auditor to conduct an audit to determine whether the Transportation Improvement Fee is reasonable. Any costs incurred by the City in having an audit conducted may be recovered from the applicant who requests the audit.

18.17.150 – Appeals.

- A. An applicant may validly appeal, by protest, any imposition of the Transportation Improvement Fee by filing a notice of appeal with the City Clerk at the time of development approval or conditional development approval or within ninety (90) days after the date of imposition of the Transportation Improvement Fee upon the development.
- B. A valid appeal by protest of the imposition of the Transportation Improvement Fee shall meet both of the following requirements:
  - 1. Tendering any required payment in full or providing satisfactory assurance of payment;
  - 2. Serving written notice on the City including:
    - a. A statement that the required payment has been tendered under protest or that required conditions have been satisfied,
    - b. A statement informing the City of the factual elements of the dispute and the legal theory forming the basis of the protest;
    - c. The name and address of the applicant,

- d. The name and address of the property owner,
  - e. A description and location of the property,
  - f. The number of residential units or nonresidential gross square footage proposed, by land use or dwelling unit type, as appropriate,
  - g. The date of imposition of the Transportation Improvement Fee upon the development.
- C. The City Council shall schedule a hearing and render a final decision on the applicant's appeal within one hundred sixty (160) days after the date of the imposition of the Transportation Improvement Fee upon the development.
- D. The City Council hearing shall be administrative. Evidence shall be submitted by the City and by the applicant and testimony shall be taken under oath.
- E. The burden of proof shall be on the applicant to establish that the applicant is not subject to imposition of the Transportation Improvement Fee pursuant to the express terms of this chapter and applicable State law.
- F. If the Transportation Improvement Fee has been paid in full or if the notice of appeal is accompanied by a cash deposit, letter of credit, bond or other surety acceptable to the City Attorney in an amount equal to the Transportation Improvement Fee calculated to be due, the application for development approval shall be processed. The filing of a notice of appeal shall not stay the imposition or the collection of the Transportation Improvement Fee calculated by the City to be due unless sufficient and acceptable surety has been provided.
- G. If as a result of an appeal pursuant to this section or judicial review pursuant to Section 18.17.160, a Transportation Improvement Fee is reduced or waived, the City Council may determine whether and how such reduction or waiver may impact the Transportation Improvement Fee calculation methodology. If the City Council determines that transportation improvement needs are correspondingly reduced, the City Council may amend the Transportation Improvement Fee calculation methodology, the applicable Transportation Improvement Fee, or take such other action as it may deem appropriate. If the City Council determines that transportation improvement needs remain the same, the City Council shall appropriate funds in an amount equal to the reduction or waiver of Transportation Improvement Fees and shall deposit same to the subfund or take such other action as it may deem appropriate.
- H. Any petition for judicial review of the City Council's final decision shall be made in accordance with applicable State law and pursuant to Section 18.17.160.

18.17.160 – Judicial review.

- A. Any judicial action or proceeding to attack, review, set aside, void or annul the ordinance codified in this chapter, or any provision thereof, or resolution, or amendment thereto, shall be commenced within one hundred twenty (120) days of the effective date of the ordinance codified in this chapter, resolution, or any amendment thereto.
- B. Any judicial action or proceeding to attack, review, set aside or annul the imposition or collection of a Transportation Improvement Fee on a development shall be preceded by a valid appeal by protest pursuant to Section 18.17.150 hereof and a final decision of the City Council pursuant thereto and shall be filed and service of process effected within one hundred eighty (180) days after the date of the imposition of the Transportation Improvement Fee upon the development.

18.17.170 – Annual report and amendment procedures.

- A. At least once each year the Director of Public Works shall evaluate progress in implementation of the transportation improvement plan and the Transportation Improvement Fee and shall prepare a report thereon to the City Council incorporating:
1. The total amount of development granted development approval in the City by type;
  2. The estimated increase in PM peak hour trips generated by approved development;
  3. The transportation improvements completed relative to the improvements listed in the transportation improvement plan;
  4. The amount of Transportation Improvement Fees in the subfund; and
  5. Recommended changes to the Transportation Improvement Fee, including but not necessarily limited to, changes in the transportation improvement plan and changes in the Transportation Improvement Fees chapter or fee-setting resolution.
- B. Based upon the report and such other factors as the City Council deems relevant and applicable, the City Council may amend the ordinance codified in this chapter or the fee-setting resolution implementing this chapter. Changes to Transportation Improvement Fee rates or schedules may be made by amending the fee-setting resolution. Any change which increases the amount of the Transportation Improvement Fee shall be adopted by the City Council only after a noticed public hearing. Nothing herein precludes the City Council or limits its discretion to amend the ordinance codified in this chapter, the Long Beach Transportation Study (1989), the traffic mitigation program, the transportation improvement plan, or the fee-setting resolution establishing Transportation Improvement Fee rates or schedules at such other times as may be deemed necessary.

18.17.180 – Effect of Transportation Improvement Fee on zoning and subdivision regulations.

This chapter shall not affect, in any manner, the permissible use of property, density/intensity of development, design and improvement standards and public improvement requirements or any other aspect of the development of land or construction of buildings, which may be imposed by the City pursuant to the zoning ordinance, 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.

18.17.190 - Transportation Improvement Fee as additional and supplemental requirement.

The Transportation Improvement Fee imposed by this chapter is a fee imposed on residential and nonresidential development reflecting its proportionate share of the cost of providing transportation improvements necessary to meet the demand created by such development at City level of service goals as set forth in the traffic mitigation program. As such, the Transportation Improvement Fee is additional and supplemental to, and not in substitution of, either on-site transportation improvement requirements or off-site transportation improvement requirements necessary to provide access to the development, which may be imposed by the City pursuant to zoning, subdivision and other City ordinances and regulations. In no event shall an applicant for development approval be obligated to pay a Transportation Improvement Fee in excess of that calculated pursuant to this chapter.

## **CHAPTER 18.18 PARK AND RECREATION FACILITIES FEE**

- 18.18.010 – Short title.
- 18.18.020 – Purpose.
- 18.18.030 – Definitions.
- 18.18.040 – Requirement.
- 18.18.050 – Amount of Park Fee.
- 18.18.060 – Calculation of applicable Park Fee.
- 18.18.070 – Collection of Park Fee.
- 18.18.080 – Establishment of Park Fee account.
- 18.18.090 – Limitation on use of funds derived from Park Fees.
- 18.18.100 – Credits.
- 18.18.110 – Refunds.
- 18.18.120 – Exemptions.
- 18.18.130 – Audits.
- 18.18.140 – Appeals.
- 18.18.150 – Judicial review.
- 18.18.160 – Amendment procedures.
- 18.18.170 – Effect of Park Fee on zoning and subdivision regulations.
- 18.18.180 – Park Fee as additional and supplemental requirement.

## CHAPTER 18.18 PARK AND RECREATION FACILITIES FEE

### 18.18.010 – Short title.

This chapter shall be known and cited as the "Long Beach Park and Recreation Facilities Impact Fee Ordinance." The fees imposed pursuant to this chapter shall be known as "Park Fees."

### 18.18.020 – Purpose.

A Park Fee is hereby imposed on new residential development for the purpose of assuring that the park land and recreational facility standards established by the City are met with respect to the additional needs created by such development.

### 18.18.030 – Definitions.

For purposes of this chapter, the following words and terms shall have the meanings stated herein, unless another meaning is plainly intended:

- A. "Accessory use, residential" is a dwelling unit as identified in Section 21.15.063 of this code. An accessory residential unit which exceeds two hundred twenty (220) square feet of residential dwelling space shall be classified as a single-family, duplex or multifamily dwelling unit for purposes of application of the Park Fee.
- B. "Applicant" means the property owner, or duly designated agent of the property owner, of land on which a request for development approval is received by the City.
- C. "Building permit" means the City permit required for new building construction and/or additions which add a dwelling unit, pursuant to Title 18 of the municipal code.
- D. "Certificate of Occupancy" means the official certification that a premises conforms to the provisions of the zoning regulations and Building Code and may be used or occupied.
- E. "Collection" means the point at which the Park Fee due is calculated by the City and collected from the applicant.
- F. "Commitment" means the earmarking of Park Fees collected to fund or partially fund or to retire debt issued for the funding of park land acquisition or recreation improvements serving new residential development.
- G. "Development approval" means tentative map or parcel map approval if the imposition of the Park Fee could lawfully have been imposed at such time or, building permit issuance if Park Fees could not be lawfully imposed at tentative map or parcel map approval.
- H. "Dwelling unit" or "DU" is as defined in Section 21.15.910 of this code.
- I. "Duplex" means a building containing two dwelling units.
- J. "Imposition" means the determination that the Park Fee is applicable to the residential development project and the attachment of the Park Fee requirement as a specific condition of development approval.
- K. "Mobile home" is as defined in Section 21.15.1770 of this code.
- L. "Multifamily" means a permanent building designed for or occupied by three (3) or more families living independently of each other. This includes apartment houses and condominiums, but does not include hotels, motels, communal housing, residential care facilities or convalescent hospitals.

- M. "Park Fee" means a monetary exaction imposed as a condition of development approval in connection with a residential development project in order to fund and to assure the provision of park land and recreation improvements needed to serve such development at established City service level standards within a reasonable period of time.
- N. "Park land" means land used or to be used or acquired or to be acquired for use as a City park or open space or property owned by another public entity, such as a public school site, which is improved by the City and designated to meet City park land and recreation improvement needs related to projected residential development.
- O. "Recreation improvement" means the construction of facilities, including, but not limited to, soccer fields, softball fields, lighting, landscaping, bicycle paths, tennis courts, indoor recreational space and related facilities, the expenditure of funds for such facilities and improvements incidental thereto, and the expenditure of funds for the planning, design and engineering of such facilities and improvements and utility relocation ancillary thereto and designed to meet City park land and recreation improvement needs related to projected residential development.
- P. "Residential development project" means any residential development undertaken for the purpose of creating a new dwelling unit or units and involving the issuance of a building permit for such construction, reconstruction or use, but not including the following so long as no additional dwelling units are added: (i) a permit to operate, (ii) a permit issued for the internal alteration, remodeling, rehabilitation or other improvements to an existing structure, (iii) the rebuilding of a structure destroyed by an act of God, (iv) the rehabilitation or replacement of a building in order to comply with the City seismic safety requirements, or (v) the rehabilitation or replacement of a building destroyed by imminent public hazard, acts of terrorism, sabotage, vandalism, warfare or civil disturbance except where said destruction was caused or in any manner accomplished, instigated, motivated, prompted, incited, induced, influenced or participated in by any persons or their agents having any interest in the real or personal property at the location.
- Q. "Secondary housing unit" is as defined and regulated in Sections 21.15.2400 and 21.51.275 of this code. A secondary housing unit which exceeds six hundred forty (640) square feet of residential dwelling space shall be classified as a single-family, duplex or multifamily dwelling unit for purposes of application of the Park Fee.
- R. "Single-family dwelling" means a residential unit designed and intended for occupancy by one (1) family as defined in Section 21.15.2410 of this code.

18.18.040 – Requirement.

- A. All residential development shall be required to pay a Park Fee prior to the issuance of a Certificate of Occupancy. The City may, prior to the issuance of a building permit for a residential development subject to the Park Fee, require that the applicant, as a condition of issuance of the building permit execute a contract with the City to pay the applicable Park Fee prior to issuance of the Certificate of Occupancy.
- B. Park Fees shall be imposed, where possible, at the time of tentative map approval, parcel map approval or site plan approval of a residential development.
- C. Park Fees shall be collected prior to the issuance of a Certificate of Occupancy for a residential development.
- D. Whenever a residential development project contains more than one (1) dwelling unit, the Park Fee shall be paid in a lump sum for all dwelling units in each phase of a residential development project for which a Certificate of Occupancy is sought.

- E. Payment of the Park Fee due shall be a condition of development approval of all residential development projects, and no tentative map or parcel map or site plan shall be approved nor shall a building permit be issued without compliance with the provisions of this chapter.
- F. The Park Fee requirement shall not apply to applicants who have a valid building permit on the effective date of the ordinance codified in this chapter.

18.18.050 – Amount of Park Fee.

- A. The Park Fee per dwelling unit, by type, shall be established by resolution of the City Council and may be amended from time to time as set forth in Section 18.18.160.
- B. The Park Fee imposed pursuant to this chapter shall not apply to applicants who have a valid building permit on the effective date of the ordinance codified in this section. Applicants who have a valid building permit on the effective date of the ordinance codified in this section and who are not otherwise exempt, shall continue to be subject to the Park Fee imposed pursuant to Ordinance C-6567.
- C. The fees established by this chapter shall be revised annually by means of an automatic adjustment based on the average percentage change over the previous calendar year in the Construction Cost Index for the Los Angeles metropolitan area. The first fee adjustment shall not be made before October 1, 2008. The fees, as adjusted annually, shall be compiled by the Department of Parks, Recreation and Marine, and shall be included in an annual report to the City Council pertaining to the Park Fee. The annual report shall be presented to the City Council by August 1st of each year, and fee adjustments shall be effective on October 1st of each year. The continued validity of the fee calculation methodology and the automatic adjustment shall be evaluated by a Nexus Study which shall be presented to the City Council for its consideration and action every five (5) years, commencing with the annual report due on or before August 1, 2012.

18.18.060 – Calculation of applicable Park Fee.

Upon receipt of an application for a Certificate of Occupancy, the Director shall calculate the amount of the applicable Park Fee due by determining the number and type of dwelling units in the proposed residential development project and multiplying same by the Park Fee amount per dwelling unit, by type, as established by City Council resolution.

18.18.070 - Collection of Park Fee.

The Director shall be responsible for the collection of the Park Fee prior to the issuance of a Certificate of Occupancy unless:

- A. The applicant is entitled to a full credit pursuant to Section 18.18.100 of this chapter; or
- B. The applicant is exempt pursuant to Section 18.18.120 of this chapter; or
- C. The applicant has taken an appeal pursuant to Section 18.18.140 of this chapter and a bond or other surety in the amount of the fee, as calculated by the Director, has been posted with the City.

18.18.080 – Establishment of Park Fee account.

The City hereby establishes a segregated Park Fee trust fund account (hereinafter "account") to which all Park Fees collected by the Director shall be posted. The funds of the account shall not be commingled with any other funds or revenues of the City and all such funds shall be accounted for. The account shall be an interest bearing account and all interest received shall be credited to such account and used solely for purposes of the account.

18.18.090 – Limitation on use of funds derived from Park Fees.

- A. Funds derived from payment of Park Fees pursuant to this chapter shall be placed in the account and shall be used solely and exclusively for the purpose of funding park land acquisition and recreation improvements, as defined herein, and as identified in the Park Fee report, or to reimburse the City for expenditures, advances or indebtedness incurred for the acquisition of park land or construction of recreation improvements, as defined herein or identified in the Park Fee report. Park Fees shall not be used for the provision of park land or recreation improvements, as defined herein, and as identified in the Park Fee report, or to reimburse the City for expenditures, advances or indebtedness incurred for the acquisition of park land or construction of recreation improvements, as defined herein or identified in the Park Fee report. Park Fees shall not be used for the provision of park land or recreation improvements relating to (i) the needs of existing City residents, (ii) the enhancement of park and recreation facilities to provide a higher level of service to existing City residents, (iii) operation and maintenance costs associated with City park and recreation facilities, (iv) repair and/or replacement of existing park and recreational facilities, or (v) the provisions of recreational services and programming.
- B. The City shall commit or expend Park Fees deposited to the account within five (5) years from the date of deposit.

18.18.100 – Credits.

- A. Any applicant subject to a Park Fee pursuant to this chapter who constructs, escrows money with the City for the construction of, agrees to participate in an assessment district for the construction of or who otherwise contributes funds or improvements to the City for the acquisition of park land or the construction of recreation improvements as herein defined, may be eligible for a credit for such contribution against the Park Fee otherwise due.
- B. Credit applications shall be made on forms provided by the City and, whenever possible, shall be submitted at or before the time of building permit issuance. The application shall contain a declaration of those facts, under oath, along with relevant documentary evidence which qualifies the applicant for the credit.
- C. The Director of Parks, Recreation and Marine shall determine whether the proposed construction, escrow payment, assessment district or cash contribution is for a recreation improvement listed in the Park Fee report and is consistent with the project priorities and timing and, if necessary, shall determine the value of the developer contribution.
- D. The Director of Parks, Recreation and Marine shall forward his report and the credit application and supporting documentary evidence to the City Council, for a determination of Park Fee credit. If the City Council determines that a Park Fee credit is due, said decision shall be confirmed by ordinance and shall be incorporated in a contract between the applicant and the City.
- E. No credit shall be granted in an amount exceeding the otherwise applicable Park Fee.

18.18.110 – Refunds.

- A. Any applicant who has paid a Park Fee pursuant to this chapter may apply for a full or partial refund of same, if, within one (1) year after collection of the Park Fee the residential development project has been modified, pursuant to appropriate City ordinances and regulations, resulting in a reduction in the number of dwelling units, a change in the type of dwelling units or the applicability of an exemption pursuant to Section 18.18.120 of this chapter. Refund applications shall be made on forms provided by the City and shall contain a declaration of those facts, under oath, along with relevant documentary evidence which qualifies the applicant for the refund. In no event may a refund exceed the amount of the Park Fee actually paid.
- B. Once each fiscal year the City shall make findings identifying all unexpended or uncommitted fees in the account.

- C. Except as described in Subsection 18.18.110.D, upon application of the property owner the City shall refund the portions of any impact fee which have been on deposit over five (5) years and which are unexpended or uncommitted. Refunds shall be made to the then current record owner or owners of the development project or projects on a prorated basis, together with accrued interest.
- D. With respect to fees unexpended or uncommitted within five (5) years of deposit in the Park Fee account, the City may make findings to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. If the City makes such findings, the fees are exempt from the refund requirement.
- E. The City may refund the unexpended or uncommitted portion of Park Fees by direct payment, by offsetting such refunds against other Park Fees due for residential development projects on the subject property, or by other means subject to agreement by the property owner.
- F. If the City finds that the administrative costs of refunding the unexpended or uncommitted Park Fees exceeds the amount to be refunded, the City, after a public hearing, notice of which has been published in accordance with State law and posted in three (3) prominent places within the area of each residential development project subject to a refund, may determine that the funds shall be allocated for other park land acquisition or recreation improvement projects of the type for which the Park Fees were collected and which serve the residential development project.

#### 18.18.120 - Exemptions.

The following uses and types of residential development are exempt from the payment of Park Fees:

- A. The following actions shall be exempt from the fee:
  - 1. Replacement of existing dwelling units. If the applicant is proposing to replace an existing legal dwelling unit or units with a greater number of units on the same lot, then the fee will be paid only for the number of new dwelling units that exceed the number of the existing legal dwelling units on that lot. A dwelling unit shall be considered existing if it is a legal dwelling unit as defined in Section 21.15.910 of this code (or any successor section thereto) and it existed on the lot within twelve (12) months prior to the application for a building permit for the replacement unit or units;
  - 2. The placement or installation of a replacement mobilehome as defined in Section 21.15.1770 of this code (or any successor section thereto) on a separate lot, mobilehome park space or pad when a park and recreation facilities fee for such lot or space has been previously paid pursuant to this chapter; or when a mobilehome legally existed on such park space or pad within twelve (12) months prior to construction approval for the replacement mobilehome;
  - 3. The relocation of existing legal dwelling units from one location in the City to another;
  - 4. The legalization of an existing illegal dwelling unit existing prior to January 1, 1964, for which an administrative use permit is approved in accordance with Subsection 21.25.403.D (or any successor section thereto).
- B. Affordable housing for lower income households. Property rented, leased, sold, conveyed or otherwise transferred, at a rental price or purchase price which does not exceed the "affordable housing cost" as defined in Section 50052.5 of the California Health and Safety Code when provided to a "lower income household" as defined in Section 50079.5 of the California Health and Safety Code or "very low income household" as defined in Section 50105 of the California Health and Safety Code. This exemption shall require the applicant to execute an agreement to guarantee the units shall be maintained for lower and very low income households whether as units for rent or for sale or transfer, for the lesser of a period of thirty (30) years or the actual life

or existence of the structure, including any addition, renovation or remodeling thereto. The agreement shall be in the form of a deed restriction, second trust deed, or other legally binding and enforceable document acceptable to the City Attorney and shall bind the owner and any successor-in-interest to the real property being developed. The agreement shall subordinate, if required, to any State or Federal program providing affordable housing to lower and very low income households. The agreement shall be recorded with the Los Angeles County Recorder prior to the issuance of a Certificate of Occupancy. The City's Housing and Community Improvement Bureau shall be notified of pending transfers or purchases and give its approval of the purchaser's qualifying income status and purchase price, prior to the close of escrow. The City's Housing and Community Improvement Bureau shall be notified of pending rentals and give its approval of proposed tenant's qualifying income status and rental rate, prior to the tenant's occupancy. Applicant or any successor-in-interest shall be required to provide annually, or as requested, the names of all tenants or purchasers, current rents, and income certification to insure compliance. Voluntary removal of the housing restriction or violation of the restriction shall be enforced by the Director and shall require the applicant or any successor-in-interest to pay the then applicable Park Fee at the time of voluntary conversion or as imposed at the time of violation on the unit in violation, plus any attorneys' fees and costs of enforcement if applicable.

#### 18.18.130 – Audits.

Any person may request an audit of the Park Fee in order to determine whether the Park Fee exceeds the amount reasonably necessary to provide the park land acquisition and recreation improvements to serve new residential development at the City's established service level standards. Upon such request for an audit, the City Council may retain an independent auditor to conduct an audit to determine whether the Park Fee is reasonable. Any costs incurred by the City in having the audit conducted by an independent auditor may be recovered from the person who requests the audit.

#### 18.18.140 – Appeals.

- A. An applicant may validly appeal, by protest, any imposition of the Park Fee by filing a notice of appeal with the City Clerk at the time of development approval or conditional development approval or within ninety (90) days after the date of the imposition of the Park Fee upon the development.
- B. A valid appeal by protest of the imposition of the Park Fee shall meet both of the following requirements:
  1. Tendering any required payment in full or providing satisfactory assurance of payment;
  2. Serving written notice on the City including:
    - a. A statement that the required payment has been tendered under protest or that required conditions have been satisfied,
    - b. A statement informing the City of the factual elements of the dispute and the legal theory forming the basis of the protest,
    - c. The name and address of the applicant,
    - d. The name and address of the property owner,
    - e. A description and location of the property,
    - f. The number of residential units or nonresidential square footage proposed, by land use or dwelling unit type, as appropriate,

- g. The date of imposition of the Park Fee upon the development.
- C. The City Council shall schedule a hearing and render a final decision on the applicant's appeal within one hundred sixty (160) days after the date of the imposition of the Park Fee upon the development.
- D. The City Council hearing shall be administrative. Evidence shall be submitted by the City and by the applicant and testimony shall be taken under oath.
- E. The burden of proof shall be on the applicant to establish that the applicant is not subject to imposition of the Park Fee pursuant to the express terms of this chapter and applicable State law.
- F. If the Park Fee has been paid in full or if the notice of appeal is accompanied by a cash deposit, letter of credit, bond or other surety acceptable to the City Attorney in an amount equal to the Park Fee calculated to be due, the application for development approval shall be processed. The filing of a notice of appeal shall not stay the imposition or the collection of the Park Fee calculated by the City to be due unless sufficient and acceptable surety has been provided.
- G. If as a result of an appeal pursuant to this section or judicial review pursuant to Section 18.18.150, a Park Fee is reduced or waived, the City Council may determine whether and how such reduction or waiver may impact the Park Fee calculation methodology. If the City Council determines that park and recreation needs are correspondingly reduced, the City Council may amend the Park Fee calculation methodology, the applicable Park Fee, or take such other action as it may deem appropriate. If the City Council determines that park and recreation needs remain the same, the City Council shall appropriate funds in an amount equal to the reduction or waiver of Park Fees and shall deposit same to the subfund or take such other action as it may deem appropriate.
- H. Any petition for judicial review of the City Council's final decision shall be made in accordance with applicable State law and pursuant to Section 18.18.150.

18.18.150 – Judicial review.

- A. Any judicial action or proceeding to attack, review, set aside, void or annul the ordinance codified in this chapter, or any provision thereof, or amendment thereto, shall be commenced within one hundred twenty (120) days of the effective date of the ordinance codified in this chapter, resolution, or any amendment thereto.
- B. Any judicial action or proceeding to attack, review, set aside or annul the imposition or collection of a Park Fee on a development shall be preceded by a valid appeal by protest pursuant to Section 18.18.140 hereof and a final decision of the City Council pursuant thereto and shall be filed and service of process effected within one hundred eighty (180) days after the date of imposition upon the development.

18.18.160 – Amendment procedures.

At least once every year after the first year that this chapter has been effective, prior to City Council adoption of the annual budget and capital improvements program, staff shall prepare a report to the City Council on the subject of impact fees and shall incorporate:

- A. Recommendations on amendments, if appropriate, to this chapter or to resolutions establishing impact fee amounts.
- B. Proposed changes to the Park Fee report identifying capital improvements to be funded by impact fees.
- C. Proposed changes in the impact fee calculation methodology or variables pertaining thereto.

- D. Proposed changes to impact fee rates or schedules. Based upon the report and such other factors as the City Council deems relevant and applicable, the City Council may amend this chapter and resolutions establishing impact fee rates or schedules. Changes to the impact fee rates or schedules may be made by resolution. Any change which increases the amount of the fee shall be adopted by the City Council after a noticed public hearing. Nothing herein precludes the City Council or limits its discretion to amend this chapter, the Park Fee report or resolutions establishing impact fee rates or schedules at such other times as may be deemed necessary.

18.18.170 – Effect of Park Fee on zoning and subdivision regulations.

This chapter shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and public improvement requirements or any other aspect of the development of land or construction of buildings, which may be imposed by the City pursuant to the zoning ordinance, 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 such residential development projects.

18.18.180 – Park Fee as additional and supplemental requirement.

The Park Fee imposed by this chapter is a fee imposed on residential development projects reflecting its proportionate share of the cost of providing park land and improvements necessary to meet the needs created by such development at established City service level standards. As such, the Park Fee is additional and supplemental to, and not in substitution of, on-site open space requirements imposed by the City pursuant to zoning, subdivision and other City ordinances and requirements. In no event shall an applicant for development approval be obligated to pay a Park Fee in excess of that calculated pursuant to this chapter, which shall not individually or collectively exceed the reasonable cost of providing park land and recreation improvements to such residential development project at established City service level standards.

## CHAPTER 18.20 UNSAFE BUILDINGS OR STRUCTURES

- 18.20.010 – Substandard buildings—Proceedings for repair.
- 18.20.020 – Substandard buildings—Notice required.
- 18.20.030 – Substandard buildings—Service of notice.
- 18.20.040 – Substandard buildings—Order to vacate.
- 18.20.050 – Substandard buildings—Vacating and reoccupying.
- 18.20.060 – Substandard buildings—Posting of placard on vacated building.
- 18.20.070 – Nonconforming buildings—Notice to comply or vacate.
- 18.20.080 – Dangerous buildings or conditions—Correction proceedings.
- 18.20.090 – Dangerous buildings or conditions—Inspection.
- 18.20.100 – Dangerous buildings or conditions—Abatement proceedings.
- 18.20.110 – Dangerous buildings or conditions—Summary abatement.
- 18.20.120 – Inspection of buildings—Report.
- 18.20.130 – Hearing by Board of Examiners, Appeals and Condemnation.
- 18.20.140 – Appeals to City Council.
- 18.20.150 – Demolition or repairs by City—Expense liability.
- 18.20.160 – Service of notices and orders.
- 18.20.170 – Extensions of time to perform work.
- 18.20.180 – Owner's responsibility for enforcement costs.
- 18.20.190 – Abatement charges.
- 18.20.200 – Hearing on charges.
- 18.20.210 – Interest on charges.
- 18.20.220 – Transfer of collection.
- 18.20.230 – Method of collection.
- 18.20.240 – Tax-sold property.
- 18.20.250 – Tax-sold property—Redemptions.
- 18.20.260 – Error correction—Assessment cancellation.
- 18.20.270 – Refunds.
- 18.20.280 – Notice to secure structure.
- 18.20.290 – Emergency hazard abatement.
- 18.20.300 – Criminal prosecution.

## CHAPTER 18.20 UNSAFE BUILDINGS OR STRUCTURES

### 18.20.010 – Substandard buildings—Proceedings for repair.

Whenever the Building Official determines by inspection that an existing building is substandard, or constitutes a nuisance, he or she shall institute proceedings to cause the repair, rehabilitation, vacation or demolition of such building.

### 18.20.020 – Substandard buildings—Notice required.

The Building Official shall give notice specifying the inadequacies and hazards to be corrected. Such notice shall also specify that the building may be ordered vacated if remedial measures are not commenced and completed within the time specified in the notice which time shall be such as the Building Official concludes is reasonable in view of the circumstances, but which shall in no event require commencement of such work within less than thirty (30) days nor completion within less than ninety (90) days.

### 18.20.030 – Substandard buildings—Service of notice.

Notices shall be given by service thereof in the manner elsewhere provided in this chapter for service of notices. Service of such notice in the manner therein prescribed shall constitute notice to the owner of such building, and failure of any such person to receive such notice shall in no manner affect the validity of the subsequent proceedings taken hereunder. In addition to giving such notice, the Building Official shall also prepare and cause to be recorded with the county recorder, a certificate stating that the building described is a substandard building, or is a public nuisance, and that the owner thereof has been so notified. When, and if, all required corrections to such a building have been made, the Building Official shall cause the certificate of substandard buildings or public nuisance to be terminated and cause to be recorded with the County Recorder a copy thereof.

### 18.20.040 – Substandard buildings—Order to vacate.

If, after thirty (30) days from service of the notice requiring remedial work, as provided in Section 18.20.030, such work is not commenced, or within ninety (90) days of such notice, such work is not completed, the Building Official may order the building vacated and posted as specified in Section 18.20.060. If the building is unoccupied, the order to vacate may be immediate. If the building is occupied, a notice of intent to order the building vacated shall be given thirty (30) days prior to issuing such order.

### 18.20.050 – Substandard buildings—Vacating and reoccupying.

Any substandard buildings, ordered vacated in accordance with Sections 18.20.010 through 18.20.060, shall be immediately vacated and shall not be reoccupied until the inadequacies or hazards specified by the Building Official in his notice as provided in Sections 18.20.010 through 18.20.060 have been eliminated and approval obtained from the Building Official for reinstatement of the occupancy. No person shall occupy or cause to be occupied any building or portion thereof which has been ordered vacated until approval of such occupancy is reinstated by the Building Official.

### 18.20.060 – Substandard buildings—Posting of placard on vacated building.

- A. Each such building ordered vacated shall be locked and otherwise secured against ingress, and the Department of Development Services shall post thereon a placard stating:

SUBSTANDARD BUILDING

Do Not Occupy  
By Order of

Department of Development Services  
City of Long Beach

This building has been ordered vacated and it is a misdemeanor to occupy this building. It is a misdemeanor to remove this placard. Sections 18.20.010 through 18.20.060 of the Long Beach Municipal Code.

- B. Notice of such posting and a copy of the posted notice shall be served on the owner by certified mail at the time of posting. No person other than a representative of the Department shall remove such a placard from any building where it has been officially posted. Each such building shall be rehabilitated within two (2) months after being ordered vacated or it shall be removed or demolished. If this rehabilitation, removal or demolition has not been accomplished within the above mentioned two-month period, then the Building Official shall institute action to correct violations or to demolish.

18.20.070 – Nonconforming buildings—Notice to comply or vacate.

Whenever any building or portion thereof is being maintained, occupied or used contrary to the provisions of this title or municipal code, the Building Official shall order such unlawful use, occupancy or maintenance to be discontinued by a date certain. If the maintenance, occupancy or use of any such building or portion thereof is not made to comply with the requirements of this title within the time set forth in the aforesaid order, the Building Official may order that the building, or the portion thereof in which any such violation occurs, be vacated. Such vacation shall be immediate but shall be subject to appeal in accordance with the provisions of this chapter. No person shall use or occupy such building or portion of building so vacated until such unlawful use, occupancy or maintenance has been discontinued and approval obtained from the Building Official for reinstatement of the occupancy.

18.20.080 – Dangerous buildings or conditions—Correction proceedings.

Whenever the Building Official determines by inspection that any building or structure, or portion thereof, is dangerous as defined in Section 18.02.050, he or she shall institute proceedings to correct such dangerous conditions.

18.20.090 – Dangerous buildings or conditions—Inspection.

- A. The Building Official and a duly authorized representative and the members of the Board of Examiners, Appeals and Condemnation shall have the right of reasonable inspection of any building for the purpose of determining the condition thereof. No person shall refuse or interfere with such inspection by any such official.
- B. For the purpose of such inspection, the Building Official may order any structural member or portion of the structural frame of any building, whether such building is already erected, or is in course of construction, to be exposed whenever he or she has reasonable grounds for believing that such structural member or frame is in an unsafe condition or does not conform to the requirements of this chapter. No owner, reputed owner or person having custody, control or management or in charge of maintenance, occupancy or use of such building who is served with such order shall fail or refuse to forthwith fully uncover or expose the portion of the structural frame or structural member as required by such order.

18.20.100 – Dangerous buildings or conditions—Abatement proceedings.

All buildings or portions thereof which are determined to be dangerous as defined in Section 18.02.050 are public nuisances and shall be abated under the procedures set forth in this chapter for abatement of nuisances.

18.20.110 – Dangerous buildings or conditions—Summary abatement.

Where necessary in the opinion of the Building Official to protect life or property from an acutely dangerous condition, the Building Official may take emergency action to abate the hazard by City forces as provided in this chapter or may order the building immediately vacated, posted unsafe, barricaded, utilities disconnected, or other appropriate protective remedy.

18.20.120 – Inspection of buildings—Report.

If the building is not demolished, the substandard conditions corrected, or the nuisance otherwise abated, on or before the expiration of the time specified in the posted notice, the Building Official shall cause such building to be thoroughly inspected and shall make a written report or record of his findings with respect thereto. Copies of such report shall be filed with the Board of Examiners, Appeals and Condemnation.

18.20.130 – Hearing by Board of Examiners, Appeals and Condemnation.

- A. Following the filing by the Building Official of his or her findings in connection with the condemnation of a building as being substandard or as being a public nuisance, the Building Official shall notify the members of the Board of Examiners, Appeals and Condemnation of such filing and shall notify other interested persons of the time and place for a hearing before the Board for the purpose of passing upon the findings of the Building Official. The Board may conduct an independent investigation into the facts of such matter and the members thereof, or their authorized representatives, may inspect any building or structure involved therein.
- B. Notice of the time and place of such hearing shall be given by the Secretary of the Board to the owner and other parties owning an interest in the substandard building. The notice must be served at least ten (10) days prior to the date fixed for such hearing.
- C. Any person claiming an interest in the building which is the subject of the hearing may appear before the Board and object to the condemnation. The Board shall take such evidence as may be necessary to determine whether the building or structure is substandard or is a public nuisance. Upon or after the conclusion of the hearing, the Board shall determine whether the building or structure is substandard or a nuisance and what alterations or repairs, if any, could be made in order to correct the substandard conditions or to abate the nuisance, or whether the total demolition thereof is required; the Board may establish a time not to exceed sixty (60) days, within which such repairs, alterations, or demolition shall be completed. The time period may, upon written request, be extended for a period not to exceed sixty (60) days if a determination is made by the Board that denial of the extension will result in substantial hardship to the owner.
- D. The Board shall make written findings of its determination in the manner aforesaid, and shall cause a copy thereof to be served upon the same persons and in the same manner elsewhere herein provided for service of the initial notice in connection with such proceedings. The time for completion of repairs or alterations, or the demolition of the building or structure, shall commence to run on the date such findings are either delivered, posted or mailed, as the case may be. Simultaneously with service of such written findings, a copy thereof shall be filed in the office of the Building Official.

18.20.140 – Appeals to City Council.

- A. Whenever any person is aggrieved by any final order of the Board of Examiners, Appeals and Condemnation, dealing with correction of substandard conditions or abatement of a nuisance, such person may, within fifteen (15) days after notice of such ruling or act has been served as hereinabove provided, appeal to the City Council by filing with the City Clerk a written statement of the rulings or acts complained of and the reasons for taking such appeal. The City Clerk shall thereupon refer such appeal to the City Council at its next regular meeting, and the Council shall thereupon fix a time for the hearing of the matter by the Council, which time shall be not less than ten (10) days nor more than thirty (30) days from the time the hearing date is set. On the date

thus fixed, or on the date to which the hearing has been continued, the Council shall proceed to hear and consider the evidence relating to the matter and shall make and enter on its minutes its final determination therein. The Council may confirm, modify or set aside the findings of the Board, and its determination in the matter shall be final and conclusive. No proceeding or action shall be against the City nor against the Council nor the Board nor any member of either thereof, nor against any officer, agent or employee of the City to review or enjoin the enforcement of its determination or orders of the Council made pursuant hereto, or to recover damages for carrying out such orders in a lawful and reasonable manner unless such action is commenced within thirty (30) days from and after service of notice of the findings and determination of the Council.

- B. Notice of the determination of the Council shall be served by the City Clerk upon the person or persons taking the appeal in the manner elsewhere provided in this chapter for service of notices.
- C. The effect of any order from which an appeal is taken as herein provided shall be suspended and of no force and effect until such appeal is fully determined.

18.20.150 - Demolition or repairs by City—Expense liability.

- A. Within the limitations of the budget, the Building Official may cause to be demolished, altered or repaired, at City expense, any building found by the Board of Examiners, Appeals and Condemnation to constitute a substandard building or to be a public nuisance which has not been demolished, altered or repaired within the time established by and in accordance with the determination of the Board or, in the event of an appeal, by the City Council. All expenses so incurred by him on behalf of the City in connection therewith, including the applicable processing costs as set forth in the schedule of fees and charges established by City Council resolution, and incidental enforcement costs shall become an indebtedness of the owner of such building or structure, and thereupon a lien shall attach to the parcel of real property upon which is located the building which is the subject of the proceedings. Such lien shall remain in effect until either:
  - 1. The substandard conditions shall have been corrected or the nuisance abated;
  - 2. If corrected or abated by the Building Official, payment in full of costs of correction or abatement, and accrued interest and penalties, if any, has been made; or
  - 3. The order requiring correction of substandard conditions or abatement is reversed on appeal to the City Council or by a final judgment of a court of competent jurisdiction.
- B. Any person having the legal right to do so may repair or demolish a substandard building prior to such action by the City, but if the work is performed after the deadline established by the Board of Examiners, Appeals and Condemnation or, in the event of an appeal, by the City Council, the appropriate processing and other costs incurred by the City in preparing to do the work and all incidental enforcement costs are chargeable to the property.

18.20.160 – Service of notices and orders.

- A. All notices and orders provided for by this chapter shall be in writing, shall state in general terms wherein the building or structure is unsafe or dangerous, or in what manner it is substandard, or in what manner it constitutes a public nuisance, and the minimum requirements for its correction, or total costs that will be charged to the owner of the property. Service of such order shall be upon the owner thereof or upon the person causing or permitting the condition to exist, or the person having the custody, control, maintenance, occupancy, use or management of the building, and upon any lessee or mortgagee thereof if shown on the official records of the county, by delivering the same to either of said persons or their agents in charge of the building. As an alternate method of such service, such notice may be served by registered United States mail with return receipt requested. Service by this method shall be deemed complete upon deposit of such notice in the United States mail with prepaid postage affixed. If, after reasonable diligence, either the identity of the owner thereof cannot be ascertained or such owner cannot be located,

then such order shall be posted in one or more conspicuous places upon or near the entrance to the building.

- B. Whenever the Building Official posts such a notice upon the property, it shall be posted at one (1) or more conspicuous places upon the building and shall be in substantially the following form:

NOTICE

To all persons owning or claiming any interest in this building:

You are notified that the Building Official of the City of Long Beach has determined that this building is (insert substandard or a nuisance) by reason of the following facts:

Pursuant to the provisions of the building regulations of the Long Beach Municipal Code, this building is hereby condemned and the owner or owners of said building are hereby directed to correct deficiencies therein or to abate a nuisance existing therein or thereon. Further particulars regarding the facts may be obtained at the office of the Development Services Department of the City of Long Beach.

Unless this building is (how to be corrected or demolished) in the manner hereinabove specified, on or before the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_, the Building Official of the City of Long Beach may cause such work to be done for and on behalf of the owner of said building, and all expenses incurred by the City for such work will be charged to, and become an indebtedness of, the owner or owners of said building to the City of Long Beach, and will become a lien against the real property on which such building is situated.

Dated and posted this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Building Official, City of Long Beach

- C. Not less than five (5) days after the aforesaid notice is posted on the building, an additional copy of such notice shall be served in the manner hereinabove provided upon the person or persons shown by the current county assessment roll to be the owner or owners of the building, or of any interest therein, including lessees and mortgagees, at the address shown thereon or to any known more recent address, or in the absence of any address then in care of general delivery, at Long Beach.
- D. No owner or other person causing or permitting such condition to exist shall fail or refuse, after delivery or posting of such order, to correct such condition in accordance with the requirements of the order.

18.20.170 – Extensions of time to perform work.

Any time limit prescribed in this chapter for the doing of an act by an occupant or owner of a building or by the Building Official may for good cause be extended by the Building Official, and failure to require the doing of any act authorized in this chapter to be required by him within the time limit prescribed in this chapter shall not affect the validity of any order made thereafter.

18.20.180 – Owner's responsibility for enforcement costs.

If the substandard conditions have not been corrected or the nuisance abated by the owner as directed within the time frame established by the Building Official, or as said time frame may be modified on appeal to the Board of Examiners, Appeals and Condemnation or City Council, all incidental enforcement costs incurred by the City in connection therewith shall be charged to and become an indebtedness of the owner of such property, except as provided below, whether or not the

work is later performed by the City, by the owner, or by others. "Incidental enforcement costs" include, but are not limited to, the actual expenses and costs of the City in investigating the nuisance, obtaining title information, preparing notices, and performing inspections. Incidental enforcement costs shall not be charged to, nor become an indebtedness of, a property owner who is the head of a low-income household (defined to be a household earning less than eighty percent of the county median income).

18.20.190 – Abatement charges.

When a building has been demolished, altered or repaired by the Building Official at City expense as authorized by Section 18.20.150, or when the owner is responsible for incidental enforcement costs as provided by Section 18.20.180, the Building Official shall prepare a sworn statement showing the costs thereof. The Building Official shall thereupon give notice of the amount of such charges in the same manner as elsewhere provided in this chapter for service of notices.

18.20.200 – Hearing on charges.

Within thirty (30) days from the date of service of such notice the property owner, or any interested person, may demand a hearing as to the reasonableness of the charges. Such demand shall be in writing and filed with the Building Official. It shall describe the property involved, state the reasons for objecting, and include the address of the applicant for service of notices in connection with such hearing. Such demand shall be presented by the Building Official to the Board of Examiners, Appeals and Condemnation for hearing at its next regular meeting that is not less than ten (10) and not more than forty-five (45) days thereafter. The Building Official shall give written notice of such hearing to the address furnished in the demand for hearing in the manner elsewhere provided in this chapter for service of notices. At the time set for such hearing, the Board of Examiners, Appeals and Condemnation shall hear all evidence pertinent to the reasonableness of such charges and shall then either confirm or modify the charges. The decision of the Board of Examiners, Appeals and Condemnation thereon shall be final.

18.20.210 – Interest on charges.

If the amount of the charges as determined by the Board of Examiners, Appeals and Condemnation has not been paid within thirty (30) days after the date of hearing, the payment thereof shall thereupon become delinquent and the amount so determined shall thereafter bear interest at the rate of twelve percent (12%) until paid, as determined by the tax collector. If no hearing is demanded as to the reasonableness of the charges, the payment thereafter shall become delinquent sixty (60) days after notice of the charges for abatement is served by the Building Official; and such amount shall thereafter bear interest at the rate of twelve percent (12%) until paid, as determined by the tax collector.

18.20.220 – Transfer of collection.

The Building Official shall certify a list of all delinquent charges for correction of substandard conditions or nuisance abatement to the tax collector. Each parcel of property shall be described sufficiently to identify it in accordance with the records of the tax collector. The amount of the charges including such interest as has accrued after the delinquent date to July 1 of the year shall be set forth opposite the description by the tax collector.

18.20.230 – Method of collection.

Upon receipt of the list the tax collector shall enter the charges shown thereon for each parcel of property upon the current tax roll and shall proceed to collect the charges in the same manner as municipal ad valorem taxes, and penalties and interest for nonpayment thereafter shall attach as though the amounts were ad valorem taxes; provided, however, that no receipt for payment of ad valorem taxes appearing upon the tax roll as against a particular parcel shall be issued unless all

such charges for collection of substandard conditions or nuisance abatement, and penalties thereon, entered upon that tax roll against the lot are first paid in full.

18.20.240 – Tax-sold property.

Upon the sale of any lot to the City for nonpayment of taxes, all charges for correction of substandard conditions or nuisance abatement for the parcel appearing upon the tax roll, together with the penalties thereon, shall be added to and become a part of the same delinquent tax record.

18.20.250 – Tax-sold property—Redemptions.

No certificate of redemption from sale for delinquent taxes shall be issued until all charges for correction or substandard conditions and nuisance abatement, and penalties entered on the delinquent tax records against the property involved, have first been paid in full.

18.20.260 – Error correction—Assessment cancellation.

- A. The Building Official may, prior to certifying any such unpaid charges to the tax collector, correct any errors with respect to such taxes appearing upon his records.
- B. After such taxes have been certified to the tax collector, the Council, by order entered on its minutes, may cancel any charges for correction of substandard conditions or nuisance abatement, or penalty, or any portion of either thereof, appearing on the tax records, which, because of error, is charged against the wrong property, or which has been paid but such payment has not been recorded upon the tax records, or which is based upon a clerical error in such records, or which was charged against property acquired subsequent to the lien date by the United States, by the State, or any city, or any school district or other political subdivision and, because of this public ownership, not subject to sale for delinquent assessments.

18.20.270 – Refunds.

Any charge for correction of substandard conditions or for nuisance abatement or penalty, or portion of either thereof, which is paid as the result of an erroneous assessment upon the wrong property, or which is paid more than once, or which is based upon a clerical error appearing in the tax records, may be refunded by the Council to the person entitled thereto; provided, however, that such refunds shall only be made upon the written application of the person entitled thereto, which must be filed with the City Clerk not later than one year after the date the erroneous payment was made.

18.20.280 – Notice to secure structure.

When any unoccupied building or structure is not properly secured, locked or closed, and is accessible to juveniles, transients and undesirables, and is in such condition as to constitute an immediate health, fire or safety hazard and the Building Official determines that the hazard is such as to require immediate closure, he shall serve the record owner and the person having control of such building or structure with notice to secure or close the same forthwith so as to prevent unauthorized persons from gaining access thereto. Notice shall be served as provided in this chapter and shall state that if the required work is not performed within forty-eight (48) hours after service of the notice, the City will perform such work and all expenses incurred by the City including, but not limited to, incidental processing and enforcement costs shall become an indebtedness of the owner and a lien on the property. Collection of such charges shall be accomplished in accordance with this title and Chapter 8.56.

18.20.290 – Emergency hazard abatement.

When any open building or structure constitutes such a threat to life, limb or property that it must be secured, closed, barricaded or demolished forthwith and compliance with other provisions of this code become infeasible, as determined by a City officer charged with responsibility for enforcement of

health and safety regulations, the Director of Public Works may summarily secure, close, barricade or demolish such building or structure without prior notice to the property owner. All costs incurred by the City in abating the hazard shall be borne by the property owner and failure to receive prior notice shall not affect or relieve the property owner's obligation for payment of such costs.

18.20.300 – Criminal prosecution.

Pursuant to Section 1.32.010 of this code, any violation of the provisions of this Title 18 is a misdemeanor, and the notice, hearing, appeal and other administrative procedures contained in this Title 18 shall not be a condition precedent to any criminal prosecutions.

## **CHAPTER 18.21 MAINTENANCE OF LONG-TERM BOARDED AND VACATED BUILDINGS**

18.21.010 – Purposes and definitions.

18.21.020 – Owner responsibilities.

18.21.030 – Monitoring program—Purpose.

18.21.040 – Monitoring program—Department responsibility and fees.

18.21.050 – Civil remedy.

## CHAPTER 18.21 MAINTENANCE OF LONG-TERM BOARDED AND VACATED BUILDINGS

### 18.21.010 – Purposes and definitions.

- A. Purpose. Vacant buildings are a major cause and source of blight in both residential and non-residential neighborhoods, especially when the owner of the building fails to actively maintain and manage the building to ensure that it does not become a liability to the neighborhood. Vacant buildings (whether or not those buildings are boarded), substandard or unkempt buildings, and long-term vacancies discourage economic development and retard appreciation of property values. It is the responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare. One vacant building which is not actively and well maintained and managed can be the core and cause of spreading blight.
- B. Definitions. For the purposes of this chapter, the term "boarded building" shall mean a building whose doors and windows have been covered with plywood or other material for the purpose of preventing entry into the building by persons or animals.

### 18.21.020 – Owner responsibilities.

- A. No person shall allow a building or structure designed for human, industrial, or commercial use, or occupancy to stand vacant for more than thirty (30) days unless one of the following applies:
  - 1. The building is the subject of an active building permit for repair or rehabilitation, or a permit for demolition, and the owner is progressing diligently to complete the repair or rehabilitation;
  - 2. The building meets all applicable codes, does not contribute to blight, is ready for occupancy and is actively being offered for sale, lease, or rent;
  - 3. The Building Official or designee determines that the building does not contribute to, and is not likely to contribute to, blight because the owner is actively maintaining and monitoring the building so that it does not contribute to blight. Active maintenance and monitoring shall include:
    - a. Maintenance and appropriate watering and care of landscaping and plant materials,
    - b. Maintenance of the exterior of the building, including but not limited to, paint and finishes, in good condition,
    - c. Regular removal of all trash, debris and graffiti,
    - d. Maintenance of the building or structure in continuing compliance with all applicable codes and regulations,
    - e. Prevention of criminal activity on the premises, including, but not limited to, use and sale of controlled substances, prostitution, or other criminal street gang activity.
- B. "Vacant building" or "vacant structure" shall mean a building which is without a lawful resident or occupant or which is not being put to a lawful commercial, residential, or industrial use, and which may be unoccupied and unsecured; occupied and secured by boarding or other similar means; unoccupied and a dangerous structure or; unoccupied with multiple City municipal code or nuisance violations.
- C. The owner of any vacant or boarded building or structure, whether boarded by voluntary action of the owner or as a result of enforcement activity by the City, shall cause the boarded or vacant

building to be rehabilitated for occupancy within sixty (60) days after the building or structure is boarded or becomes unoccupied.

18.21.030 – Monitoring program—Purpose.

- A. Vacant buildings are a major cause and source of blight in residential and nonresidential neighborhoods, especially when the owner of the building fails to maintain and manage the building to ensure that it does not become a liability to the neighborhood. Vacant buildings often attract transients and criminals, including drug users. Use of vacant buildings by transients and criminals, who may employ primitive cooking or heating methods, creates a risk of fire for the vacant buildings and adjacent properties. Vacant properties are often used as dumping grounds for junk and debris and are often overgrown with weeds and grass. Vacant buildings which are boarded up to prevent entry by transients and other long-term vacancies discourage economic development and retard appreciation of property values.
- B. Because of the potential economic and public health, welfare and safety problems caused by vacant buildings, the City needs to monitor vacant buildings, so that they do not become attractive nuisances, are not used by trespassers, are properly maintained both inside and out, and do not become a blighting influence in the neighborhood. City Departments involved in such monitoring include the Police, Fire, Health, and Development Services Departments. There is a substantial cost to the City for monitoring vacant buildings (whether or not those buildings are boarded up) which should be borne by the owners of the vacant buildings.

18.21.040 – Monitoring program—Department responsibility and fees.

- A. Purpose. The Building Official or designee shall be responsible for administering a program for identifying and monitoring the maintenance of all vacant buildings or structures in the City.
- B. Purposes. The purposes of the monitoring program shall be:
  - 1. To identify buildings that become vacant;
  - 2. To order vacant buildings that are open and accessible to be secured against unlawful entry per Long Beach Municipal Code Section 18.20.280;
  - 3. To initiate proceedings against any vacant or boarded building or structure found to be substandard as defined in this title; and
  - 4. To maintain surveillance over vacant or boarded buildings so that timely code enforcement proceedings are commenced in the event a building becomes substandard or a public nuisance.
- C. Notice of vacant building.
  - 1. Upon discovery of a potential vacant building by a code enforcement officer or receipt of a complaint about a vacant or boarded building from any source, the City may cause an inspection of the property in order to determine if the building or structure should be classified as a vacant building;
  - 2. If the City determines that a building or portion of a building may be classified as a vacant building under this chapter, the City shall ascertain the identity of, and contact the owner or agent of the owner, and advise the owner in writing that the building or structure is vacant and that the following measures need to be taken by the owner:
    - a. Immediate measures to temporarily secure the building or structure from unauthorized entry,

- b. Measures to permanently secure the building during the period of time that the building or structure remains vacant,
  - c. The posting of a sign or signs on the property in a conspicuous place, as determined by the City, which sign(s) shall notify the public of the owners or authorized agents' name and address and an emergency contact telephone number;
3. If the City determines that a building or structure is vacant it shall cause a "Notice of Vacant Building" to be recorded against the title of the property, which notice shall make reference to the provisions of this chapter and disclose that administrative penalties and costs may likewise be assessed against the owner and property as a result of the building or structure remaining in a vacant condition;
  4. If the owner fails to take immediate measures to temporarily or permanently secure the building from unauthorized entry, the vacant building shall constitute a nuisance and the City may, without further notice, and by any lawful means, abate the nuisance. In this event, the owner shall be liable for the costs incurred by the City for inspections or to secure the building or structure, including costs incurred to ascertain ownership of the property and obtaining title information, preparing notices, and any and all administrative costs together with actual labor or material cost or expense incurred by the City to secure the building or structure or otherwise abate the nuisance. If the owner does not reimburse the City within thirty (30) days of being billed therefore, the City may file a lien against the property for all of the expenses incurred by the City.

D. Optional vacant building plan and timetable.

1. If the owner of a vacant building files a vacant building plan and timetable with the City not later than seven (7) days after the owner or agent of the owner receives written notice pursuant to Subsection 18.21.040.C, the City is authorized to:
  - a. Suspend the processing of any citation or other remedy for violation of this chapter,
  - b. Extend the period of time in which the owner of a vacant building must secure the building;
2. The vacant building plan and timetable must be submitted on forms prepared by the City and must include, at a minimum, the following information:
  - a. A description of the premises, including the address thereof,
  - b. The names, addresses, and telephone numbers of all owners with a right of control over the vacant building or structure,
  - c. The names and addresses of all known lien holders and all other parties with an ownership interest in the vacant building or structure,
  - d. The name, address and telephone number of the owner's property manager or agent, and whether the property manager or agent has the authority to independently act on the owner's behalf to repair or maintain the property,
  - e. The period of time the building is expected to remain vacant,
  - f. If the owner plans on demolishing the building, the date the building is scheduled for demolition, and whether or not a permit has been issued for said demolition,

- g. If the owner plans on returning the building to a lawful occupancy and use, the estimated date for returning the building to a lawful occupancy or use, and whether or not a permit has been issued to return the vacant building to a lawful occupancy or use,
  - h. A plan for regular inspection and maintenance of the building during the period of vacancy,
  - i. Measures the owner will employ to secure the building to prevent access by trespassers. One of the following methods must be used to secure the building as specified in the discretion of the City:
    - i. Installation of adequate windows and doors, or window and door coverings,
    - ii. Installation and maintenance of adequate locks for windows and doors,
    - iii. Installation of boards on windows and doors or security screening to the satisfaction of the City,
    - iv. Employment of security officers to the satisfaction of the City,
    - v. Installation, operation, and monitoring of an electronic security system, which monitors doors and windows by glass breakage or motion sensors, and a method of responding to alarms from the electronic security system, other than sole reliance on the City's Police Department,
    - vi. Any other methods as specified by the City,
  - j. Measures the owner will employ to monitor and inspect the property on a weekly basis. The weekly monitoring and inspection must be performed by the owner, property manager, or agent of the owner with full authority to maintain and make repairs to the property on a weekly basis;
- 3. The plan and timetable submitted by the owner or agent of the owner must be approved by the City. Any and all repairs required to effect the plan and timetable shall comply with all applicable City of Long Beach ordinances, codes and regulations. The owner shall be required to notify the City in writing of any changes in information supplied as part of the vacant building plan and timetable within ten (10) days of the change;
  - 4. During the period of time that the vacant building plan and timetable are in effect, the owner shall be responsible for paying to the City the monthly monitoring fee as said fee is established, and from time to time amended, in accordance with a duly adopted resolution of the City Council;
  - 5. In the event that the owner fails to comply with the vacant building plan and timetable, the City shall so notify the owner or authorized agent and shall thereafter institute appropriate administrative, civil or other legal action to secure compliance with this chapter.
- E. Monitoring fee imposed. Any vacant or boarded building or structure as defined in this chapter shall be subject to a monthly monitoring fee, to recover the City's regulatory costs to monitor the status of the vacant or boarded building. The monthly monitoring fee shall be set by resolution of the City Council. The monitoring fee shall be applicable until such time as the building or structure is no longer vacant or boarded, and shall likewise be applicable even when a vacant building plan and timetable is in effect. The monitoring fee shall be imposed upon the initial determination that the building is vacant. The fee shall thereafter be imposed in each thirty (30) day period following the imposition of the initial monitoring fee, to be billed to the owner on a quarterly basis until such time as the building or structure is no longer vacant or boarded.

- F. Code enforcement response fee. In addition to the monthly monitoring fee imposed pursuant to this section, the City also establishes a further and separate enforcement response fee for actual costs incurred by the City to respond to or abate substandard or blighted conditions existing in or about the property upon which the boarded or vacant building or structure is located. Such costs shall include, but not be limited to, personnel costs involved with inspecting or responding to calls for service at the property, personnel costs involved in abating the substandard or blighted conditions existing on the property, costs of any materials or supplies either purchased or supplied by the City in connection with the abatement of any substandard or blighted condition in or about the property, costs of any contracted services, including the costs of materials, supplies, and labor provided by the City's contractor, if any, costs of procuring title or ownership information concerning or related to the property, as well as any other incidental enforcement costs incurred by the City in connection with remedying the substandard or blighted conditions existing on the property. The amount of the code enforcement response fee shall be established by resolution of the City Council.
- G. Procedure. The vacant or boarded building monitoring fee and the code enforcement response fee, if any, shall be billed to the owner of the property and mailed to the owner's address as set forth on the last equalized assessment roll of the county assessor. Said fee or fees and associated administrative costs shall be charged to and become an indebtedness of the owner of the property.
- H. If the monthly monitoring or code enforcement response fees or associated administrative costs and expenses are not paid within thirty (30) days after billing, then the fee or costs may be specially assessed against the property involved. If the fees or costs are specially assessed against the property, said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.
- I. The City may also cause a notice of lien to be recorded against the property. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fee or costs assessed against the property.
- J. Hearing on charges. Within thirty (30) days from the date that the property owner is mailed a notice regarding the imposition of either monthly monitoring fees or code enforcement response fees or charges, the property owner may demand a hearing as to the reasonableness of the fees or charges imposed. Such demand shall be in writing and presented to the Director of Development Services for the City of Long Beach. Said demand shall describe the property involved, state the reasons for objecting, and include an address of the property owner for service of notice in connection with such hearing. Such demand shall be presented by the City to the Board of Examiners, Appeals and Condemnation for hearing at its next regularly scheduled meeting that is not less than ten (10) and not more than forty-five (45) days thereafter. The Director of Development Services shall give written notice of such hearing to the address furnished by the property owner in the demand for an appeal hearing. At the time set for such hearing, the Board of Examiners, Appeals and Condemnation shall hear all evidence pertinent to the reasonableness of such fees and charges and shall either confirm or modify the charges. The decision of the Board of Examiners, Appeals and Condemnation shall be final. If the amount of the charges is uncontested by the property owner or as set by the Board of Examiners, Appeals and Condemnation on appeal, has not been paid within thirty (30) days after imposition or appeal hearing whichever is later, the payment thereof shall thereupon become delinquent and the amount so imposed or determined shall thereafter bear interest at the rate of twelve percent (12%) per annum until paid, as determined by the tax collector.

18.21.050 – Civil remedy.

A. Penalty.

1. Any owner of a vacant or boarded building which remains boarded in violation of Subsection 18.21.020.B or any owner of a building which remains vacant or boarded in violation of Subsection 18.21.020.A shall be liable for an administrative penalty in an amount not to exceed one thousand dollars (\$1,000.00) per calendar year per building.
2. A second or subsequent administrative penalty imposed upon any owner pursuant to this section shall be in an amount not to exceed five thousand dollars (\$5,000.00).

B. Procedure.

1. The administrative penalty shall be imposed by the Board of Examiners, Appeals and Condemnation upon the recommendation of the Building Official or designee and after the owner shall have been afforded a hearing before the Board of Examiners, Appeals and Condemnation. The hearing shall be conducted in accord with the provisions of Chapter 18.10 and Chapter 18.20. In setting the penalty, the Board shall consider the severity of the blighting conditions on the property and the owner's efforts, or lack thereof, to remedy the problem. The decision of the Board shall be final.
2. The administrative penalty shall be due and payable within thirty (30) days after the decision of the Board. If the penalty is not paid within forty-five (45) days after the decision of the Board, the penalty shall become a personal indebtedness or obligation of the property owner or it may be specially assessed against the property involved. If the property is specially assessed said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.
3. The City may also cause a notice of lien to be recorded against the property. The notice shall, at a minimum, identify the record owner or possessor of the property and set forth the last known address of the record owner or possessor, the date on which the penalty was imposed, a description of the real property subject to the lien, and the amount of the penalty or costs assessed against the property.

## **CHAPTER 18.22 POLICE FACILITIES IMPACT FEE**

- 18.22.010 – Legislative findings.
- 18.22.020 – Purpose.
- 18.22.030 – Definitions.
- 18.22.040 – Fund established.
- 18.22.050 – Police Facilities Impact Fee.
- 18.22.060 – Fee imposed.
- 18.22.070 – Calculation of Police Facilities Impact Fee.
- 18.22.080 – Payment of fee.
- 18.22.090 – Use of funds.
- 18.22.100 – Refund.
- 18.22.110 – Exemptions and credits.
- 18.22.120 – Appeals.
- 18.22.130 – Judicial review.
- 18.22.140 – Annual report and amendment procedures.
- 18.22.150 – Effect of Police Facilities Impact Fee on zoning and subdivision regulations.
- 18.22.160 – Violation—Penalty.
- 18.22.170 – Severability.

## 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 nonresidential 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.
- D. The fees established pursuant to this chapter are derived from, are based upon, and do not exceed the costs of providing additional police services attributable to new residential or nonresidential construction, including: master planning to more specifically identify capital facilities to serve new development; the acquisition of additional property for police facilities; the construction of buildings for police services; the furnishing of buildings or facilities for police services; and the purchasing of equipment and vehicles for police services.
- E. The fees collected pursuant to this chapter shall be used to finance the police facilities and equipment identified in Subsection 18.22.010.D.
- F. Detailed study of the impacts of future residential and nonresidential construction in the City, along with an analysis of the need for new police facilities and equipment has been prepared. This study is included in the "Public Safety Impact Fee Study" for the City of Long Beach dated August 18, 2006 which is incorporated herein by reference as though set forth in full, word for word.
- G. There is a reasonable relationship between the need for the police facilities and equipment set forth in Subsection 18.22.010.D and the impacts of the types of development for which the corresponding fee is charged.
- H. There is a reasonable relationship between the fee's use and the type of development for which the fee is charged.
- I. There is a reasonable relationship between the amount of the fee and the cost of the facilities and equipment or portion thereof attributable to the development on which the fee is imposed.

### 18.22.020 – Purpose.

A Police Facilities Impact Fee is imposed on residential and nonresidential development for the purpose of assuring that the impacts created by said development pay its fair share of the costs required to support needed police facilities and related costs necessary to accommodate such development.

### 18.22.030 – Definitions.

As used in this chapter:

- A. "Accessory use" is as defined in Section 21.15.060 of this code.

- B. "Applicant" means the property owner, or duly designated agent of the property owner, for which a request for building permit or construction approval for a mobilehome pad is received by the City.
- C. "Building permit" means the City permit required for new building construction and/or additions which add square footage pursuant to Title 18 of this code. Neither a grading permit nor a foundation permit shall be considered a building permit for purposes of this chapter.
- D. "Calculation" means the point in time at which the City calculates the Police Facilities Impact Fee to be paid by the applicant. Calculation will generally occur at the time of issuance of the applicable building permit or construction approval for a mobilehome pad but may occur earlier in the development approval process.
- E. "City Manager" means the City Manager of the City of Long Beach or other municipal officials he or she may designate to carry out the administration of this chapter.
- F. "Collect" or "collection" means the point in time at which the Police Facilities Impact Fees are paid by the applicant. Collection will occur on the date of final inspection or the date a Certificate of Occupancy or Temporary Certificate of Occupancy, whichever occurs first, or in the case of a mobilehome pad or pads, collection will occur at or on the date of construction approval is issued.
- G. "Development" means the addition of new dwelling units and/or new nonresidential square footage to an undeveloped, partially developed or redeveloped site and involving the issuance of a building permit and Certificate of Occupancy for such construction, reconstruction or use. Development also includes the approval and construction of new mobilehome pads in existing or new mobilehome parks or sites, but not including the following so long as no additional dwelling units or gross floor area is added:
  - 1. A permit to operate;
  - 2. A permit for the internal alteration, remodeling, rehabilitation, or other improvements or modifications to an existing structure;
  - 3. The rebuilding of a structure destroyed by an act of God or the rehabilitation or replacement of a building in order to comply with the City's seismic safety requirements;
  - 4. Parking facilities; or
  - 5. The rehabilitation or replacement of a building destroyed by imminent public hazard, acts of terrorism, sabotage, vandalism, warfare or civil disturbance except where said destruction was caused or in any manner accomplished, instigated, motivated, prompted, incited, induced, influenced, or participated in by any persons or their agents having any interest in the real or personal property at the location.
- H. "Dwelling unit" or "DU" is as defined in Section 21.15.910 of this code.
- I. "Fee-setting resolution" means and refers to the City resolution specifying the Police Facilities Impact Fee per dwelling unit or mobilehome pad for residential development and per gross square foot of floor area for nonresidential development, by type and by location. The Police Facilities Impact Fee set forth in the fee-setting resolution may be revised 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 chapter, 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 mobilehome pad or pads.

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 nonresidential 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 nonresidential development as those terms are defined in this chapter.

18.22.060 – Fee imposed.

- A. Any person who, after the effective date of this chapter, seeks to engage in residential or nonresidential development including mobile home development as defined in this chapter by obtaining a building permit or construction approval for a mobilehome 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 Bureau application for conceptual or site plan review has been filed and deemed complete by the Department of Development Services 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 18.22.060.A shall be issued unless and until the Police Facilities Impact Fee required by this chapter has been paid to the City.

18.22.070 – Calculation of Police Facilities Impact Fee.

- A. The Director shall calculate the amount of the applicable Police Facilities Impact Fee due as specified in the then current fee-setting resolution.
- B. The Director shall calculate the amount of the applicable Police Facilities Impact Fee due by:
  - 1. Determining the number and type of dwelling units in a residential development or mobilehome pads in a mobilehome park or site, and multiplying the same by the Police

Facilities Impact Fee amount per dwelling unit or pad as established by the then current fee-setting resolution;

2. Determining the gross square feet of floor area, type of use and location in a nonresidential development, and multiplying the same by the Police Facilities Impact Fee amount as established by the then current fee-setting resolution;
3. Determining the number and type of dwelling units and the nonresidential number of gross square feet of floor area, type of use and location, in a structure containing mixed uses which include a residential use, and multiplying the same by the Police Facilities Impact Fee amount for each use as established by the then current fee-setting resolution;
4. Determining the gross square feet of floor area, type of use and location in a structure containing mixed uses which include two (2) or more nonresidential principal uses, and multiplying the same by the Police Facilities Impact Fee amount as established by the then current fee-setting resolution. The gross square feet of floor area of any accessory use will be charged at the same rate as the predominant principal use unless the Director finds that the accessory use is related to another principal use.

18.22.080 – Payment of fee.

- A. The City shall collect from the applicant the Police Facilities Impact Fee prior to the issuance of a Certificate of Occupancy, Temporary Certificate of Occupancy, final inspection or construction approval for mobilehome pad or pads, whichever occurs first.
- B. Except for an administrative charge that shall be allocated to the Department of Development Services, all funds collected shall be properly identified and promptly transferred for deposit in the Police Facilities Impact Fee fund and used solely for the purposes specified in this chapter.

18.22.090 – Use of funds.

- A. Funds collected from the Police Facilities Impact Fee shall be used to fund the costs of providing additional police services attributable to new residential and nonresidential construction and shall include:
  1. The acquisition of additional property for law enforcement facilities;
  2. The construction of new buildings for law enforcement services;
  3. The furnishing of new buildings or facilities for law enforcement services;
  4. The purchasing of equipment and vehicles for law enforcement services;
  5. The funding of a master plan to identify capital facilities to serve new Police Department development;
  6. The cost of financing (e.g., interest payments) related to Subsections 1 through 5, inclusive.
- B. Funds shall not be used for periodic or routine maintenance.
- C. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which Police Facilities Impact Fees may be expended, 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 described in Subsection 18.22.090.A.
- D. Funds may be used to provide refunds as described in Section 18.22.100.

18.22.100 – Refund.

- A. Any applicant who has paid a Police Facilities Impact Fee pursuant to this chapter may apply for a full or partial refund of same, if, within one year after collection of the Police Facilities Impact Fee the development project has been modified, pursuant to appropriate City ordinances and regulations, resulting in a reduction in the number of dwelling units, a change in the type of dwelling units, a reduction in square footage, or the applicability of an exemption pursuant to Section 18.22.110 of this chapter. The City shall retain a sum equaling twenty percent (20%) of the impact fee paid by the applicant to offset the administrative costs of refund. The applicant must submit an application for such a refund in accordance with Chapter 3.48 of this code. In no event shall a refund exceed the amount of the Police Facilities Impact Fee actually paid.
- B. Any funds not expended, encumbered or obligated by issued indebtedness by the end of the calendar quarter immediately following five years from the date the Police Facilities Impact Fee was paid shall, upon application of the then current landowner, be returned to such landowner with interest at a rate equal to the rate of interest earned by the City from the time the fee was paid, provided that the landowner submits an application for a refund within one hundred eighty (180) calendar days from the expiration of the five-year period.

18.22.110 – Exemptions and credits.

- A. Exemptions. Any claim of exemption must be made no later than the time of application for a building permit or mobile home construction approval. The following shall be exempted from payment of the Police Facilities Impact Fee:
  - 1. Alterations or expansion of an existing residential building where no additional dwelling units are created and where the use is not changed;
  - 2. The replacement of a building or structure destroyed by fire, flood, earthquake or other act of God, with a new building or structure of the same size and use;
  - 3. The installation of a replacement mobile home on a lot or other such site when a Police Facilities Impact Fee for such mobile home site has previously been paid pursuant to this chapter, or where a mobilehome legally existed on such site on or prior to the effective date of the ordinance codified in this chapter;
  - 4. Nonresidential development. Construction or occupancy of a new nonresidential building or structure or an addition to or expansion of an existing nonresidential building or structure of three thousand (3,000) gross square feet or less;
  - 5. Residential development. Construction, replacement or rebuilding of a single-family dwelling (one unit per lot) on an existing lot of record, or the replacement of one (1) mobilehome with another on the same pad, or the moving and relocation of a single-family home from one (1) lot within the City to another lot within the City, or the legalization of an illegal dwelling unit existing prior to January 1, 1964, for which an administrative use permit is approved in accordance with Section 21.25.403(D). This exemption shall not apply to tract development, to the development of more than one (1) unit per lot nor to the replacement of a single-family dwelling with more than one (1) dwelling unit;
  - 6. Affordable Housing for Lower Income Households. Property rented, leased, sold, conveyed or otherwise transferred, at a rental price or purchase price which does not exceed the "affordable housing cost" as defined in Section 50052.5 of the California Health and Safety Code when provided to a "lower income household" as defined in Section 50079.5 of the California Health and Safety Code or "very low-income household" as defined in Section 50105 of the California Health and Safety Code. This exemption shall require the applicant to execute an agreement to guarantee that the units shall be maintained for lower and very low-income households whether as units for rent or for sale or transfer, for the lesser of a period

of thirty (30) years or the actual life or existence of the structure, including any addition, renovation or remodeling thereto. The agreement shall be in the form of a deed restriction or other legally binding and enforceable document acceptable to the City Attorney and shall bind the owner and any successor-in-interest to the real property being developed. The agreement shall subordinate, if required, to any State or federal program providing affordable housing to lower and very low-income households. The agreement shall be recorded with the Los Angeles County Recorder prior to the issuance of a Certificate of Occupancy. The City's Housing and Community Improvement Bureau shall be notified of pending transfers or purchases and give its approval of the purchaser's qualifying income status and purchase price, prior to the close of escrow. The City's Housing and Community Improvement Bureau shall be notified of pending rentals and give its approval of proposed tenant's qualifying income status and rental rate, prior to the tenant's occupancy. Applicant or any successor-in-interest shall be required to provide annually, or as requested, the names of all tenants or purchasers, current rents, and income certification to insure compliance. Voluntary removal of the housing restriction or violation of the restriction shall be enforced by the City's Housing and Community Improvement Bureau and shall require the applicant or any successor-in-interest to pay the then applicable Police Facilities Impact Fee at the time of voluntary conversion or as imposed at the time of violation on the unit in violation, plus any attorneys' fees and costs of enforcement, if applicable;

7. Hospitals as that term is defined in Section 21.15.1370 of this code.

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

#### 18.22.120 – Appeals.

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

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

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

2. Serving written notice on the City including:

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

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

c. The name and address of the applicant;

d. The name and address of the property owner;

e. A description and location of the property;

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

g. The date of issuance of the building permit.

- C. The City Council shall schedule a hearing and render a final decision on the applicant's appeal within sixty (60) days after the date the applicant files a valid appeal.
- D. The City Council hearing shall be administrative. Evidence shall be submitted by the City and by the applicant and testimony shall be taken under oath.
- E. The burden of proof shall be on the applicant to establish that the applicant is not subject to the imposition of the Police Facilities Impact Fee pursuant to the express terms of this chapter and applicable State law.
- F. If the Police Facilities Impact Fee has been paid in full or if the notice of appeal is accompanied by a cash deposit, letter of credit, bond or other surety acceptable to the City Attorney in an amount equal to the Police Facilities Impact Fee calculated to be due, the application for the building permit or mobilehome construction approval shall be processed. The filing of a notice of appeal shall not stay the imposition or the collection of the Police Facilities Impact Fee calculated by the City to be due unless sufficient and acceptable surety has been provided.
- G. Any petition for judicial review of the City Council's final decision shall be made in accordance with applicable State law and pursuant to Section 18.22.130.

18.22.130 – Judicial review.

- A. Any judicial action or proceeding to attack, review, set aside, void or annul the ordinance codified in this chapter, or any provision thereof, or resolution, or amendment thereto, shall be commenced within ninety (90) days of the effective date of the ordinance codified in this chapter, resolution, or any amendment thereto.
- B. Any judicial action or proceeding to attack, review, set aside or annul the imposition or collection of a Police Facilities Impact Fee on a development shall be preceded by a valid appeal by protest pursuant to Section 18.22.120 hereof and a final decision of the City Council pursuant thereto and shall be filed and service of process effected within ninety (90) days after the hearing on appeal regarding the imposition of a Police Facilities Impact Fee upon the development.

18.22.140 – Annual report and amendment procedures.

- A. Within one hundred eighty (180) days after the last day of each fiscal year, the Police Chief of the City of Long Beach shall evaluate progress in implementation of the Police Facilities Impact Fee program and shall prepare a report thereon to the City Council in accordance with Government Code Section 66006 incorporating among other things:
  - 1. The police facilities and equipment commenced, purchased or completed utilizing monies from the Police Facilities Impact Fee fund;
  - 2. The amount of the fees collected and the interest earned;
  - 3. The amount of Police Facilities Impact Fees in the fund; and
  - 4. Recommended changes to the Police Facilities Impact Fee, including, but not necessarily limited to, changes in the Police Facilities Impact Fee chapter or fee-setting resolution.
- B. Based upon the report and such other factors as the City Council deems relevant and applicable, the City Council may amend the ordinance codified in this chapter or the fee-setting resolution implementing this chapter. Changes to the Police Facilities Impact Fee rates or schedules may be made by amending the fee-setting resolution. Any change which increases the amount of the Police Facilities Impact Fee shall be adopted by the City Council only after a noticed public hearing. Nothing herein precludes the City Council or limits its discretion to amend the ordinance

codified in this chapter or the fee-setting resolution establishing Police Facilities Impact Fee rates or schedules at such other times as may be deemed necessary.

18.22.150 – Effect of Police Facilities Impact Fee on zoning and subdivision regulations.

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

## **CHAPTER 18.23 FIRE FACILITIES IMPACT FEE**

- 18.23.010 – Legislative findings.
- 18.23.020 – Purpose.
- 18.23.030 – Definitions.
- 18.23.040 – Fund established.
- 18.23.050 – Fire Facilities Impact Fee.
- 18.23.060 – Fee imposed.
- 18.23.070 – Calculation of Fire Facilities Impact Fee.
- 18.23.080 – Payment of fee.
- 18.23.090 – Use of funds.
- 18.23.100 – Refund.
- 18.23.110 – Exemptions and credits.
- 18.23.120 – Appeals.
- 18.23.130 – Judicial review.
- 18.23.140 – Annual report and amendment procedures.
- 18.23.150 – Effect of Fire Facilities Impact Fee on zoning and subdivision regulations.
- 18.23.160 – Violation—Penalty.
- 18.23.170 – Severability.

## CHAPTER 18.23 FIRE FACILITIES IMPACT FEE

### 18.23.010 – 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 nonresidential construction in the City has created an urgency in that funds are needed for the increased demand for fire services and the facilities that support those services which are required to serve the increasing residential and workforce population of the City.
- D. The fees established pursuant to this chapter are derived from, are based upon, and do not exceed the costs of providing additional fire services attributable to new residential or nonresidential construction, including: master planning to more specifically identify capital facilities to serve new development; the acquisition of additional property for fire facilities; the construction of buildings for fire services; the furnishing of buildings or facilities for fire services; and the purchasing of equipment, apparatus, and vehicles for fire services.
- E. The fees collected pursuant to this chapter shall be used to finance the fire facilities, equipment, and apparatus identified in Subsection 18.23.010.D.
- F. Detailed study of the impacts of future residential and nonresidential construction in the City, along with an analysis of the need for new fire facilities and equipment has been prepared. This study is included in the "Public Safety Impact Fee Study" for the City of Long Beach dated August 18, 2006 which is incorporated herein by reference as though set forth in full, word for word.
- G. There is a reasonable relationship between the need for the fire facilities, apparatus and equipment set forth in Subsection 18.23.010.D and the impacts of the types of development for which the corresponding fee is charged.
- H. There is a reasonable relationship between the fee's use and the type of development for which the fee is charged.
- I. There is a reasonable relationship between the amount of the fee and the cost of the facilities, apparatus and equipment or portion thereof attributable to the development on which the fee is imposed.

### 18.23.020 – Purpose.

A Fire Facilities Impact Fee is imposed on residential and nonresidential development for the purpose of assuring that the impacts created by said development pay its fair share of the costs required to support needed fire facilities and related costs necessary to accommodate such development.

### 18.23.030 – Definitions.

As used in this chapter:

- A. "Accessory use" is as defined in Section 21.15.060 of this code.

- B. "Applicant" means the property owner, or duly designated agent of the property owner, for which a request for building permit or construction approval for a mobilehome pad is received by the City.
- C. "Building permit" means the City permit required for new building construction and/or additions which add square footage pursuant to Title 18 of this code. Neither a grading permit nor a foundation permit shall be considered a building permit for purposes of this chapter.
- D. "Calculation" means the point in time at which the City calculates the Fire Facilities Impact Fee to be paid by the applicant. Calculation will generally occur at the time of issuance of the applicable building permit or construction approval for a mobilehome pad but may occur earlier in the development approval process.
- E. "City Manager" means the City Manager of the City of Long Beach or other municipal officials he or she may designate to carry out the administration of this chapter.
- F. "Collect" or "collection" means the point in time at which the Fire Facilities Impact Fees are paid by the applicant. Collection will occur on the date of final inspection or the date a Certificate of Occupancy or Temporary Certificate of Occupancy, whichever occurs first, or in the case of a mobilehome pad or pads, collection will occur at or on the date of construction approval is issued.
- G. "Development" means the addition of new dwelling units and/or new nonresidential square footage to an undeveloped, partially developed or redeveloped site and involving the issuance of a building permit and Certificate of Occupancy for such construction, reconstruction or use. Development also includes the approval and construction of new mobilehome pads in existing or new mobilehome parks or sites but not including the following so long as no additional dwelling units or gross floor area is added:
  - 1. A permit to operate;
  - 2. A permit for the internal alteration, remodeling, rehabilitation, or other improvements or modifications to an existing structure;
  - 3. The rebuilding of a structure destroyed by an act of God or the rehabilitation or replacement of a building in order to comply with the City's seismic safety requirements;
  - 4. Parking facilities; or
  - 5. The rehabilitation or replacement of a building destroyed by imminent public hazard, acts of terrorism, sabotage, vandalism, warfare or civil disturbance except where said destruction was caused or in any manner accomplished, instigated, motivated, prompted, incited, induced, influenced, or participated in by any persons or their agents having any interest in the real or personal property at the location.
- H. "Dwelling unit" or "DU" is as defined in Section 21.15.910 of this code.
- I. "Fee-setting resolution" means and refers to the City resolution specifying the Fire Facilities Impact Fee per dwelling unit or mobilehome pad for residential development and per gross square foot of floor area for nonresidential development, by type and by location. The Fire Facilities Impact Fee set forth in the fee-setting resolution may be revised pursuant to Section 18.23.140 and applicable State law.
- J. "Fire Department" means the Fire Department of the City of Long Beach.
- K. "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 chapter, 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.

- L. "Mixed use" is as defined in Section 21.15.1760 of this code.
- M. "Mobilehome" is as defined in Section 21.15.1770 of this code.
- N. "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.
- 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 mobilehome pad or pads.

18.23.040 – Fund established.

A Fire Facilities Impact Fee fund is established. The Fire Facilities Impact Fee fund is a fund to be utilized for payment of the actual or estimated costs of fire facilities, apparatus and equipment related to new residential and nonresidential construction as described in this chapter.

18.23.050 – Fire Facilities Impact Fee.

There is imposed a Fire Facilities Impact Fee on all new residential and nonresidential development as those terms are defined in this chapter.

18.23.060 – Fee imposed.

- A. Any person who, after the effective date of the ordinance codified in this chapter, seeks to engage in residential or nonresidential development including mobilehome development as defined in this chapter by obtaining a building permit or construction approval for a mobilehome pad or pads is required to pay a Fire Facilities Impact Fee in the manner and amount as set forth in the then current fee-setting resolution. The Fire Facilities Impact Fee imposed pursuant to this chapter shall not apply to those projects for which a Planning Bureau application for conceptual or site plan review has been filed and deemed complete by the Department of Development Services by April 3, 2007.
- B. No Certificate of Occupancy, Temporary Certificate of Occupancy, final inspection approval or construction approval for a mobilehome pad or pads, as applicable, for the activities listed in subsection A of this section shall be issued unless and until the Fire Facilities Impact Fee required by this chapter has been paid to the City.

18.23.070 – Calculation of Fire Facilities Impact Fee.

- A. The Director shall calculate the amount of the applicable Fire Facilities Impact Fee due as specified in the then current fee-setting resolution.
- B. The Director shall calculate the amount of the applicable Fire Facilities Impact Fee due by:
  - 1. Determining the number and type of dwelling units in a residential development, or mobilehome pads in a mobilehome park or site, and multiplying the same by the Fire

- Facilities Impact Fee amount per dwelling unit or pad as established by the then current fee-setting resolution;
2. Determining the gross square feet of floor area, type of use and location in a nonresidential development, and multiplying the same by the Fire Facilities Impact Fee amount as established by the then current fee-setting resolution;
  3. Determining the number and type of dwelling units and the nonresidential number of gross square feet of floor area, type of use and location, in a structure containing mixed uses which include a residential use, and multiplying the same by the Fire Facilities Impact Fee amount for each use as established by the then current fee-setting resolution;
  4. Determining the gross square feet of floor area, type of use and location in a structure containing mixed uses which include two (2) or more nonresidential principal uses, and multiplying the same by the Fire Facilities Impact Fee amount as established by the then current fee-setting resolution. The gross square feet of floor area of any accessory use will be charged at the same rate as the predominant principal use unless the Director finds that the accessory use is related to another principal use.

18.23.080 – Payment of fee.

- A. The City shall collect from the applicant the Fire Facilities Impact Fee prior to the issuance of a Certificate of Occupancy, Temporary Certificate of Occupancy, final inspection or construction approval for mobilehome pad or pads, whichever occurs first.
- B. Except for an administrative charge that shall be allocated to the Department of Development Services, all funds collected shall be properly identified and promptly transferred for deposit in the Fire Facilities Impact Fee fund and used solely for the purposes specified in this chapter.

18.23.090 – Use of funds.

- A. Funds collected from the Fire Facilities Impact Fee shall be used to fund the costs of providing additional fire services attributable to new residential and nonresidential construction and shall include:
  1. The acquisition of additional property for Fire Department facilities;
  2. The construction of new buildings for Fire Department services;
  3. The furnishing of new buildings or facilities for Fire Department services;
  4. The purchasing of equipment, apparatus, and vehicles for Fire Department services;
  5. The funding of a master plan to identify capital facilities to serve new Fire Department development;
  6. The cost of financing (e.g., interest payments) related to Subsections 1 through 5, inclusive.
- B. Funds shall not be used for periodic or routine maintenance.
- C. In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which Fire Facilities Impact Fees may be expended, 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 described in Subsection 18.23.090.A.
- D. Funds may be used to provide refunds as described in Section 18.23.100.

18.23.100 – Refund.

- A. Any applicant who has paid a Fire Facilities Impact Fee pursuant to this chapter may apply for a full or partial refund of same, if, within one year after collection of the Fire Facilities Impact Fee the development project has been modified, pursuant to appropriate City ordinances and regulations, resulting in a reduction in the number of dwelling units, a change in the type of dwelling units, a reduction in square footage, or the applicability of an exemption pursuant to Section 18.23.110 of this chapter. The City shall retain a sum equaling twenty percent (20%) of the impact fee paid by the applicant to offset the administrative costs of refund. The applicant must submit an application for such a refund in accordance with Chapter 3.48 of this code. In no event shall a refund exceed the amount of the Fire Facilities Impact Fee actually paid.
- B. Any funds not expended, encumbered or obligated by issued indebtedness by the end of the calendar quarter immediately following five years from the date the Fire Facilities Impact Fee was paid shall, upon application of the then current landowner, be returned to such landowner with interest at a rate equal to the rate of interest earned by the City from the time the fee was paid, provided that the landowner submits an application for a refund within one hundred eighty (180) calendar days from the expiration of the five-year period.

18.23.110 – Exemptions and credits.

- A. Exemptions. Any claim of exemption must be made no later than the time of application for a building permit or mobilehome construction approval. The following shall be exempted from payment of the Fire Facilities Impact Fee:
  - 1. Alterations or expansion of an existing residential building where no additional dwelling units are created and where the use is not changed;
  - 2. The replacement of a building or structure destroyed by fire, flood, earthquake or other act of God, with a new building or structure of the same size and use;
  - 3. The installation of a replacement mobilehome on a lot or other such site when a Fire Facilities Impact Fee for such mobilehome site has previously been paid pursuant to this chapter, or where a mobilehome legally existed on such site on or prior to the effective date of the ordinance codified in this chapter;
  - 4. Nonresidential development. Construction or occupancy of a new nonresidential building or structure or an addition to or expansion of an existing nonresidential building or structure of three thousand (3,000) gross square feet or less;
  - 5. Residential development. Construction, replacement or rebuilding of a single-family dwelling (one unit per lot) on an existing lot of record, or the replacement of one (1) mobilehome with another on the same pad, or the moving and relocation of a single-family home from one (1) lot within the City to another lot within the City, or the legalization of an illegal dwelling unit existing prior to January 1, 1964, for which an administrative use permit is approved in accordance with Section 21.25.403(D). This exemption shall not apply to tract development, to the development of more than one (1) unit per lot nor to the replacement of a single-family dwelling with more than one (1) dwelling unit;
  - 6. Affordable housing for lower income households. Property rented, leased, sold, conveyed or otherwise transferred, at a rental price or purchase price which does not exceed the "affordable housing cost" as defined in Section 50052.5 of the California Health and Safety Code when provided to a "lower income household" as defined in Section 50079.5 of the California Health and Safety Code or "very low-income household" as defined in Section 50105 of the California Health and Safety Code. This exemption shall require the applicant to execute an agreement to guarantee that the units shall be maintained for lower and very low-income households whether as units for rent or for sale or transfer, for the lesser of a period

of thirty (30) years or the actual life or existence of the structure, including any addition, renovation or remodeling thereto. The agreement shall be in the form of a deed restriction or other legally binding and enforceable document acceptable to the City Attorney and shall bind the owner and any successor-in-interest to the real property being developed. The agreement shall subordinate, if required, to any State or federal program providing affordable housing to lower and very low-income households. The agreement shall be recorded with the Los Angeles County Recorder prior to the issuance of a Certificate of Occupancy. The City's Housing and Community Improvement Bureau shall be notified of pending transfers or purchases and give its approval of the purchaser's qualifying income status and purchase price, prior to the close of escrow. The City's Housing and Community Improvement Bureau shall be notified of pending rentals and give its approval of proposed tenant's qualifying income status and rental rate, prior to the tenant's occupancy. Applicant or any successor-in-interest shall be required to provide annually, or as requested, the names of all tenants or purchasers, current rents, and income certification to insure compliance. Voluntary removal of the housing restriction or violation of the restriction shall be enforced by the City's Housing and Community Improvement Bureau and shall require the applicant or any successor-in-interest to pay the then applicable Fire Facilities Impact Fee at the time of voluntary conversion or as imposed at the time of violation on the unit in violation, plus any attorneys' fees and costs of enforcement, if applicable.

7. Hospitals as that term is defined in Section 21.15.1370 of this code.

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

#### 18.23.120 – Appeals.

- A. An applicant may appeal, by protest, any imposition of the Fire Facilities Impact Fee by filing a notice of appeal with the City Clerk within ninety (90) days after the applicant pays the required fee.
- B. A valid appeal by protest of the imposition of the Fire Facilities Impact Fee shall meet all of the following requirements:
1. Tendering in advance of the appeal any required payment in full or providing assurance of payment satisfactory to the City Attorney;
  2. Serving written notice on the City including:
    - a. A statement that the required payment has been tendered under protest or that required conditions have been satisfied;
    - b. A statement informing the City of the factual elements of the dispute and the legal theory forming the basis of the protest;
    - c. The name and address of the applicant;
    - d. The name and address of the property owner;
    - e. A description and location of the property;
    - f. The number of residential units or nonresidential gross square footage proposed, by land use or dwelling unit type, as appropriate; and
    - g. The date of issuance of the building permit.

- C. The City Council shall schedule a hearing and render a final decision on the applicant's appeal within sixty (60) days after the date the applicant files a valid appeal.
- D. The City Council hearing shall be administrative. Evidence shall be submitted by the City and by the applicant and testimony shall be taken under oath.
- E. The burden of proof shall be on the applicant to establish that the applicant is not subject to the imposition of the Fire Facilities Impact Fee pursuant to the express terms of this chapter and applicable State law.
- F. If the Fire Facilities Impact Fee has been paid in full or if the notice of appeal is accompanied by a cash deposit, letter of credit, bond or other surety acceptable to the City Attorney in an amount equal to the Fire Facilities Impact Fee calculated to be due, the application for the building permit or mobilehome construction approval shall be processed. The filing of a notice of appeal shall not stay the imposition or the collection of the Fire Facilities Impact Fee calculated by the City to be due unless sufficient and acceptable surety has been provided.
- G. Any petition for judicial review of the City Council's final decision shall be made in accordance with applicable State law and pursuant to Section 18.23.130.

18.23.130 – Judicial review.

- A. Any judicial action or proceeding to attack, review, set aside, void or annul the ordinance codified in this chapter, or any provision thereof, or resolution, or amendment thereto, shall be commenced within ninety (90) days of the effective date of the ordinance codified in this chapter, resolution, or any amendment thereto.
- B. Any judicial action or proceeding to attack, review, set aside or annul the imposition or collection of a Fire Facilities Impact Fee on a development shall be preceded by a valid appeal by protest pursuant to Section 18.23.120 hereof and a final decision of the City Council pursuant thereto and shall be filed and service of process effected within ninety (90) days after the hearing on appeal regarding the imposition of a Fire Facilities Impact Fee upon the development.

18.23.140 – Annual report and amendment procedures.

- A. Within one hundred eighty (180) days after the last day of each fiscal year, the Fire Chief of the City of Long Beach shall evaluate progress in implementation of the Fire Facilities Impact Fee program and shall prepare a report thereon to the City Council in accordance with Government Code Section 66006 incorporating among other things:
  - 1. The fire facilities, apparatus, and equipment commenced, purchased or completed utilizing monies from the Fire Facilities Impact Fee fund;
  - 2. The amount of the fees collected and the interest earned;
  - 3. The amount of Fire Facilities Impact Fees in the fund; and
  - 4. Recommended changes to the Fire Facilities Impact Fee, including, but not necessarily limited to, changes in the Fire Facilities Impact Fee chapter or fee-setting resolution.
- B. Based upon the report and such other factors as the City Council deems relevant and applicable, the City Council may amend the ordinance codified in this chapter or the fee-setting resolution implementing this chapter. Changes to the Fire Facilities Impact Fee rates or schedules may be made by amending the fee-setting resolution. Any change which increases the amount of the Fire Facilities Impact Fee shall be adopted by the City Council only after a noticed public hearing. Nothing herein precludes the City Council or limits its discretion to amend the ordinance codified

in this chapter or the fee-setting resolution establishing Fire Facilities Impact Fee rates or schedules at such other times as may be deemed necessary.

18.23.150 – Effect of Fire Facilities Impact Fee on zoning and subdivision regulations.

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

18.23.160 – 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.

18.23.170 – 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.

## **CHAPTER 18.24 FORECLOSURE REGISTRY PROGRAM**

18.24.010 – Purpose.

18.24.020 – Definitions.

18.24.030 – Registration.

18.24.035 – Penalty/fine for failure to timely register a property with the City.

18.24.040 – Maintenance required.

18.24.050 – Security requirements.

18.24.055 – Special provisions where property is encumbered with the security interests of multiple beneficiaries.

18.24.060 – Additional authority.

18.24.070 – Enforcement.

18.24.080 – Appeals.

18.24.090 – Alternative monetary penalties.

18.24.100 – Severability.

## CHAPTER 18.24 FORECLOSURE REGISTRY PROGRAM

### 18.24.010 – Purpose.

It is the intent of the City Council, through the adoption of this chapter, to establish a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of vacant, abandoned or foreclosed upon residential real properties; to establish a vacant, abandoned or foreclosed upon residential property registration program and to set forth guidelines for the maintenance of vacant, abandoned or foreclosed upon residential real properties.

### 18.24.020 – Definitions.

Certain words and phrases in this chapter are defined, when used herein, as follows:

**Abandoned.** Any residential building, structure or real property that is vacant or occupied by a person without a legal right of occupancy, and subject to a current Notice of Default and/or Notice of Trustee's Sale, pending Tax Assessor's Lien Sale and/or any residential real property conveyed via a foreclosure sale resulting in the acquisition of Title by an interested beneficiary of a deed of trust, and/or any residential real property conveyed via a deed in lieu of foreclosure sale.

**Accessible Property.** Residential real property that is accessible to the public, either in general, or through an open and unsecured door, window, gate, fence, wall, or the like.

**Agreement.** Any written instrument that transfers or conveys Title to residential real property from one owner to another after a sale, trade, transfer or exchange.

**Assignment of Rents.** An instrument that transfers the beneficial interest under a deed of trust from one lender or entity to another.

**Beneficiary.** A lender participating in a residential real property transaction that holds a secured interest in the residential real property in question identified in a deed of trust.

**Buyer.** Any person, partnership, association, corporation, fiduciary or other legal entity that agrees to transfer anything of value in consideration for residential real property via an "agreement" as that term is defined in this Section.

**Dangerous Building.** Any residential building or structure reasonably deemed by qualified City staff to represent a violation of any provision specified in Section 18.02.050.

**Days.** Calendar days.

**Deed of Trust.** An instrument whereby an owner of residential real property, as trustor, transfers a secured interest in the real property in question to a third party trustee, said instrument relating to a loan issued in the context of a real property transaction. This definition applies to any and all subordinate deeds of trusts including, but not limited to a second trust deed or third trust deed.

**Deed in Lieu of Foreclosure.** A recorded instrument that transfers ownership of real property between parties to a particular deed of trust as follows - from the trustor (i.e., borrower), to the trustee upon consent of the beneficiary (i.e., lender).

**Default.** The material breach of a legal or contractual duty arising from or relating to a deed of trust, such as a trustor's failure to make payment when due.

**Distressed.** Any residential building, structure or real property that is subject to a current Notice of Default and/or Notice of Trustee's Sale, pending Tax Assessors Lien Sale and/or any residential real property conveyed via a foreclosure sale resulting in the acquisition of Title by an interested

beneficiary of a deed of trust, and/or any residential real property conveyed via a deed in lieu of foreclosure/sale, regardless of vacancy or occupancy by a person with no legal right of occupancy.

Enforcement Official. The City Manager, the Director of Development Services, and/or any employee or agency of the City of Long Beach designated and/or charged with enforcing the Long Beach Municipal Code, including but not limited to, applicable codes adopted by reference therein.

Evidence of Vacancy. Any residential real property condition that independently, or in the context of the totality of circumstances relevant to that real property, would lead a reasonable enforcement official to believe that a property is vacant or occupied by a person without a legal right of occupancy. Such real property conditions include, but are not limited to: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past due utility notices or disconnected utilities; accumulation of trash, junk or debris; the absence of window coverings such as curtains, blinds or shutters; the absence of furnishings or personal items consistent with residential habitation; and/or statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

Foreclosure. The process by which real property subject to a deed of trust is sold to satisfy the debt of a defaulting trustor (i.e., borrower).

Local. Within forty (40) road or driving miles distance from the subject building, structure or real property in question.

Neighborhood Standard. The condition of residential real property that prevails in and through the neighborhood where an abandoned building, structure or real property is located. When determining the neighborhood standard no abandoned or distressed building, structure or real property shall be considered.

Notice of Default. A recorded instrument that reflects and provides notice that a default has taken place with respect to a deed of trust, and that a beneficiary intends to proceed with a trustee's sale.

Out of Area. In excess of forty (40) road or driving miles of the subject property.

Owner. Any person, partnership, association, corporation, fiduciary or other legal entity having recorded Title to the property as reflected in the official records of the County Recorder of Los Angeles County.

Owner of Record. The person holding recorded Title to the residential real property in question at any point in time when Official Records are produced by the Los Angeles County Registrar/Recorder's office.

Property. Any unimproved or improved residential real property, or portion thereof, situated in the City of Long Beach, including buildings or structures located on said real property, regardless of condition.

Residential Building. Any improved real property, or portion thereof, designed or permitted to be used for dwelling purposes, including buildings and structures located on such improved real property. This includes any real property being offered under any circumstances for sale, trade, transfer, or exchange as "residential," whether or not said property is legally permitted and zoned for such use.

Securing. Such measures as may be directed by a code enforcement official that assist in rendering real property inaccessible to unauthorized persons, including but not limited to repairing fences and walls, chaining/padlocking gates, the repairing or boarding of doors, windows or other such openings.

Trustee. Any person, partnership, association, corporation, fiduciary or other legal entity holding a deed of trust securing an interest in real property.

Trustor. Any owner/borrower identified in a deed of trust, who transfers an interest in real property to a trustee as security for payment of a debt by that owner/trustor.

Vacant. Any building, structure or real property that is unoccupied or occupied by a person without a legal right of occupancy.

18.24.030 – Registration.

- A. Not later than ten (10) days after recording a notice of default on any residential property located in the City of Long Beach which is subject to a deed of trust, the beneficiary, or its trustee, shall register the property with the Development Services Department of the City of Long Beach on forms provided by the City.
- B. The registration pursuant to this Section shall be renewed annually until such time as:
  - 1. The foreclosure process is complete or the notice of default has been rescinded or withdrawn;
  - 2. The Trustor has surrendered the property to the beneficiary as evidenced by either a letter from the trustor addressed to the beneficiary confirming such surrender, or by the trustor's delivery of the keys to the property to the beneficiary or its agent.
  - 3. The beneficiary has obtained possession of the property under Section 1161 or 1161a or 1161b of the Code of Civil Procedure, as applicable, following completion of the foreclosure proceeding.

If a subsequent notice of default is issued for the same property after being withdrawn or rescinded, the registration requirement set forth in this Section shall be reinstated.

- C. The registration pursuant to this Section shall contain the identity of the beneficiary and trustee, the direct mailing address of the beneficiary and trustee and, in the case of a corporate or out of area beneficiary or trustee, the local property management company, if any, responsible for the security, maintenance and marketing of the property in question.
- D. An annual registration fee as set by the City Council by resolution shall accompany the submission of each registration form. The fee and registration shall be valid for one (1) year from the date of registration. Registration fees will not be prorated. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 15th of the year due.
- E. Any person, partnership, association, corporation, fiduciary or other legal entity that has registered a property under this chapter must make a written report to the City of Long Beach Development Services Department of any change of information contained in the registration form within ten (10) days of the change.
- F. The duties/obligations specified in this chapter shall be joint and several among and between all trustees and beneficiaries and their respective agents.

18.24.035 – Penalty/fine for failure to timely register a property with the City.

- A. Notwithstanding any other provision of this chapter or Chapter 9.65 to the contrary, the City may, after fifteen (15) days written notice to the beneficiary or its trustee, impose a fine/penalty on a beneficiary or its trustee for its failure to timely register a property with the City under this chapter. The amount of such fines and/or penalties shall be established by the City Council by resolution.

- B. The imposition of a fine/penalty for failure to register a property shall be in accordance with the provisions and procedures set forth in Chapter 9.65 of the Long Beach Municipal Code: "Administrative Citations and Penalties."
- C. Any failure to pay fines or penalties imposed pursuant to this chapter may be remedied by the City in accordance with Section 9.65.140, or any successor section thereto.

18.24.040 - Maintenance required.

It is declared a public nuisance for any person, partnership, association, corporation, fiduciary or other legal entity, that owns, leases, occupies, controls or manages any property subject to the registration requirement contained in Section 18.24.030, to cause, permit, or maintain any property condition contrary to any provision of this chapter. Consequently, the following maintenance requirements as to any property subject to the registration requirement contained in Section 18.24.030 are adopted:

- A. Any property subject to this chapter must comply with the requirements of the Long Beach Municipal Code Chapter 18.20 entitled "Unsafe Buildings or Structures."
- B. In addition, the property shall be kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper, circular, flyers, notices (except those required by federal, State or local law), discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.
- C. The property shall be maintained free of graffiti, tagging or similar marking. Any removal or painting over of graffiti shall be with an exterior grade paint that matches the color of the exterior of the structure.
- D. Visible front and side yards shall be landscaped and maintained to the neighborhood standard.
- E. Landscaping includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation.
- F. Landscaping does not include weeds, gravel, broken concrete, asphalt, plastic sheeting, mulch, indoor-outdoor carpet or any other similar material.
- G. Pools and spas shall be kept in working order so that water remains clear and free of pollutants and debris, or alternatively shall be drained and kept dry. In either case, properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.
- H. Adherence to this section does not relieve the beneficiary/trustee or property owner of obligations set forth in any portion of the Long Beach Municipal Code or in any Covenants, Conditions and Restrictions and/or Home Owners Association rules and regulations which may apply to the property.

The sole exception to these maintenance requirements shall, within the sole reasonable discretion of the Director of Development Services or designee, apply to property subject to the registration requirement contained in Section 18.24.030 that is under construction and/or repair, not less than three (3) business days per week, undertaken in compliance with all applicable laws, including but not limited to, City permitting requirements.

18.24.050 – Security requirements.

- A. Properties subject to this chapter shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- B. Secure manner includes, but is not limited to, closing and locking of windows, doors (walk-through, sliding, and garage), gates and any other opening that may allow access to the interior of the property and/or structure(s). In the case of broken windows, "securing" means reglazing or boarding the window.
- C. If the property is owned by a corporation and/or out of area beneficiary/trustee/owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this Section, and any other applicable laws, are being fulfilled.
- D. The property shall be posted with the name and twenty-four (24) hour contact phone number of the local property management company. The posting shall be 8-½" x 11" in size, shall be of a font that is legible from a distance of twenty (20) feet, and shall contain the following verbiage: "THIS PROPERTY MANAGED BY \_\_\_\_\_," and "TO REPORT PROBLEMS OR CONCERNS CALL (name and phone number)."
- E. The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street on the front of the property so it is visible from the street. If no such area exists, the posting shall be on a stake of sufficient size to support the posting, in a location that is visible from the street to the front of the property, and to the extent possible, not readily accessible to potential vandalism. Exterior posting must be constructed of, and printed with weather resistant materials.
- F. The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirement of this chapter. If the property management company determines the property is not in compliance, it is the company's responsibility to bring the property into compliance.
- G. The duties/obligations specified in this chapter shall be joint and several among and between all trustees and beneficiaries and their respective agents.

18.24.055 – Special provisions where property is encumbered with the security interests of multiple beneficiaries.

- A. In the event that a property is encumbered by the security interests of more than one (1) beneficiary at the time when a notice of default is recorded, the beneficiary who causes a notice of default for its security interest to be recorded shall be responsible for registering the property with the City as provided in Section 18.24.030
- B. Upon the recordation of a notice of default on a property by any beneficiary, regardless of the security lien interest priority of such beneficiary in the property in relation to the priority of the security interests of the other beneficiaries in the same property, the City, in its discretion may elect to enforce the provisions of this chapter against one or more beneficiaries who have not separately recorded a notice of default against the property.

18.24.060 - Additional authority.

In addition to the enforcement remedies established in this chapter, the City shall have the authority to require the beneficiary, trustee, owner or owner of record of any property affected by this chapter, to implement additional maintenance and/or security measures including, but not limited to, securing any and all doors, windows or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard and/or other measures as may be reasonably required to secure and reduce the visual decline of the property.

18.24.070 - Enforcement.

- A. Any violation of this chapter shall be treated as a strict liability offense; a violation shall be deemed to have occurred regardless of a violator's intent. Any person, firm and/or corporation that violates any portion of this chapter including, but not limited to the registration requirements set forth in Section 18.24.030, the maintenance requirements set forth in Section 18.24.040, and the security requirements set forth in Section 18.24.050 may be subject to administrative enforcement under Chapter 9.65 of the Long Beach Municipal Code. Administrative penalties imposed pursuant to this chapter shall not exceed one hundred thousand dollars (\$100,000.00) per property.
- B. Any person, partnership, association, corporation, fiduciary or other legal entity, that owns, leases, occupies, controls or manages any property subject to the registration requirement contained in Section 18.24.030, and causes, permits, or maintains a violation of this chapter as to that property, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in Chapter 1.32 of the Long Beach Municipal Code.
- C. This chapter is intended to be cumulative to, and not in place of, other rights and remedies available to the City pursuant to the Long Beach Municipal Code. The City Attorney or a duly authorized enforcement official may pursue any other right or remedy permitted by the Long Beach Municipal Code, including, but not limited to, commencement of any civil action, or administrative action to abate the condition of a property as a public nuisance.

18.24.080 – Appeals.

If an administrative citation has been issued pursuant to the provisions of Chapter 9.65 of the Long Beach Municipal Code, then the procedures set forth in Chapter 9.65 shall govern.

18.24.090 – Alternative monetary penalties.

- A. This section is intended to carry out the provisions of Section 2929.3 of the California Civil Code. Nothing in this section shall be interpreted or implemented in a manner that is inconsistent with State law. If there is a conflict between the provisions of State law and this section, State law shall control.
- B. The City may elect to impose monetary penalties on a legal owner, pursuant to Section 2929.3 of the California Civil Code, if that legal owner fails to maintain vacant residential property that is either purchased at a foreclosure sale or acquired through foreclosure under a mortgage or deed of trust.

For purposes of this section, "fails to maintain" means failing to care for the exterior of the property, including, but not limited to, permitting excess foliage growth that diminishes the value of surrounding properties, failing to take action to prevent trespassers, squatters or other unauthorized persons from remaining on the property, or failing to take action to prevent mosquito larvae from growing in standing water, or other conditions that create a public nuisance.

- C. The City may impose a fine of up to one thousand dollars (\$1,000.00) per day for each day that the legal owner fails to maintain the property as required by this section, commencing on the day following the expiration of the period to remedy the violation, as established by the City in Subsection D.
  - 1. In determining the amount of the fine, the City shall take into consideration any timely and good faith efforts by the legal owner to remedy the violation.
  - 2. Fines and penalties collected pursuant to this section shall be directed toward local nuisance abatement programs.

3. Pursuant to Section 2929.3 of the California Civil Code, the City may not impose fines on a legal owner under both this Section and any other local ordinance. However, Section 2929.3 of the California Civil Code shall not preempt any local ordinance.
  4. Notwithstanding Subsection C.3, the rights and remedies provided in this section are cumulative and in addition to any other rights and remedies provided by law.
- D. If the City imposes a fine pursuant to this section, the City shall give notice of the alleged violation to the legal owner. The notice shall include a description of the conditions that gave rise to the alleged violation, and state the City's intent to assess a civil fine if action to correct the violation is not commenced within a period of not less than fourteen (14) days and completed within a period of not less than thirty (30) days.
1. The notice shall be mailed to the address provided in the deed or other instrument as specified in subdivision (a) of Section 27321.5 of the California Government Code, or, if none, to the return address provided on the deed or other instrument.
  2. The City may provide less than thirty (30) days' notice to remedy a condition, if the City determines that a specific condition of the property threatens public health or safety and the notice of violation states that there is a threat to public health or safety and lists the required time to correct the violation.

#### 18.24.100 – Severability.

If any section or provision of this chapter is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this chapter shall remain valid. The City Council hereby declares that it would have adopted this chapter, and each section or provision thereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

## CHAPTER 18.25 TENANT RELOCATION AND CODE ENFORCEMENT

- 18.25.010 – Purpose.
- 18.25.020 – Findings.
- 18.25.030 – Definitions.
- 18.25.040 – Eligibility.
- 18.25.050 – Order to vacate.
- 18.25.060 – Notification of tenants and owners.
- 18.25.070 – Issuance of permits.
- 18.25.080 – Payment of relocation benefits.
- 18.25.090 – Relocation eligibility and assistance by City.
- 18.25.100 – Immediate vacation.
- 18.25.110 – Amount of relocation payments.
- 18.25.120 – Evictions to avoid payment of relocation assistance.
- 18.25.130 – Move-back option.
- 18.25.140 – Certificate of occupancy.
- 18.25.150 – Appeals.
- 18.25.160 – Penalty.
- 18.25.170 – Private right of action.
- 18.25.180 – Application to heirs.
- 18.25.190 – Relationship to other laws.
- 18.25.200 – Penalty fund.
- 18.25.210 – Severability.

## CHAPTER 18.25 TENANT RELOCATION AND CODE ENFORCEMENT

### 18.25.010 – Purpose.

The primary purpose of this chapter is to provide for owner-paid relocation payments and assistance to residential tenants who are displaced due to the City of Long Beach's code enforcement activities.

### 18.25.020 – Findings.

This chapter is enacted in recognition of the following facts and for the following reasons:

- A. Some residential rental units in the City have been found to have severe code violations that threaten the life and safety of occupants. In some circumstances, the hazardous living conditions have required that tenants vacate the structure to allow for extensive repairs or demolition.
- B. These code violations often are caused by negligence, deferred maintenance, or the illegal use of certain structures as dwelling units. These code violations typically constitute a violation of the owner's legal responsibility to the tenants. For example, they may be a breach of the owner's implied warranty of habitability, and could constitute constructive eviction of the tenants from their residence.
- C. The difficulty of finding affordable replacement housing and the burden of incurring moving-related expenses creates a financial hardship for tenants, particularly those who are low income. Financial hardship arises because the tenants generally need a large sum of money to relocate, often including first month's rent, security deposits, moving and storage expenses, and utility deposits. Low income tenants are generally unable to obtain the sums needed to relocate and, as a result, are at an increased risk of becoming homeless.
- D. Relocation assistance is necessary to ensure that displaced tenants secure safe, sanitary and decent replacement housing in a timely manner. The level of payments provided for in this chapter are reflective of actual relocation costs likely to be incurred by displaced households. This is consistent with and in furtherance of the housing element of the City's General Plan.
- E. In the past, affected tenants have turned to local, State and national governmental entities for financial assistance in obtaining replacement housing. However, the resources available to such entities to assist displaced tenants have become increasingly scarce.
- F. It is fair for property owners who fail to properly maintain residential rental properties, or who create illegal residential units, to bear responsibility for the hardship their actions or inaction create for tenants. Relocation of tenants is a necessary element of code enforcement that should be the responsibility of the property owner, and the City should be reimbursed by the responsible owner for all costs which the City incurs in the code enforcement process.
- G. Delayed payment of relocation assistance often imposes extreme hardship upon tenants who must obtain the large sums necessary to relocate. Delayed payments may also require the City to expend funds to provide tenants with financial assistance for relocation. Any requirement to pay relocation assistance should contain disincentives for delayed payment in the form of appropriate penalties.
- H. It is the intent of this chapter to ensure that adequate relocation assistance is available to tenants who face displacement through no fault of their own. It is also the intent to provide assistance in a manner that is as equitable as possible to the tenant, the property owner, and the public at large. The requirement for owners to pay relocation costs under this chapter will facilitate the correction of code violations and will likewise protect the public health, safety, and general welfare of the residents of the City.

- I. This chapter is in the public interest for the reasons stated above. Additionally, it furthers the public interest by helping to remove a potential impediment to code enforcement. The City finds that this chapter also is fair, in that it imposes reasonable costs and penalties on owners who operate contrary to the code enforcement regulations of the City.

18.25.030 – Definitions.

For purposes of this chapter, certain terms, phrases, words and their derivatives shall be construed as specified in this Section.

- A. "City Manager" means the City Manager of the City of Long Beach, or his or her designee.
- B. "Code enforcement activity" means activity initiated by the City to determine the condition of a building or structure and which requires the property owner to make necessary repairs, to vacate the building, to demolish the structure or structures, or to take other action to bring the property into compliance with applicable State or local zoning, building, fire, health or housing standards regulations.
- C. "Comparable replacement dwelling" shall have the same meaning as that specified in Section 7260 et seq. of the California Government Code, or any successor statute thereto.
- D. "Day" means calendar day.
- E. "Displacement" means the removal of the tenant household from the property due to the issuance of an order to vacate pursuant to Section 18.20.140.
- F. "Department of Development Services" means the Department of Development Services of the City of Long Beach.
- G. "Notice of intent to order building vacated" means an official notice issued by the City in accordance with Section 18.20.020.
- H. "Order to vacate" means an official notice issued by the City in accordance with Section 18.20.110.
- I. "Property owner" means a person, corporation, or any other entity holding fee title to the subject real property.
- J. "Relocation" means the required vacating of a residential rental unit or room by a tenant or household to further the City's code enforcement activity.
- K. "Rental unit" means a dwelling space containing a separate bathroom, kitchen, and living area, including a single-family dwelling or unit in a multifamily or multipurpose dwelling; or, it means a unit in a condominium or cooperative housing project, which is hired, rented, or leased to a tenant or household within the meaning of Section 1940 of the California Civil Code.
- L. "Room" means an unsubdivided portion of the interior of a building including, but not limited to, illegally converted garage spaces, which are used for the purpose of sleeping, and which are occupied by a tenant for at least thirty (30) consecutive days as determined by the Department of Development Services.
- M. "Substandard building" means and includes every building or other structure as defined in Section 18.02.200. For the purposes of this chapter, substandard building or structure shall mean only those buildings that contain rental units or rooms as defined herein.
- N. "Tenant household" means one (1) or more individuals who: (1) have a landlord-tenant relationship with the property owner, by renting or leasing a rental unit or room in a substandard

building; and (2) can demonstrate a landlord-tenant relationship by leases, cancelled rent checks, rent receipts, utility bills, phone bills, or any other evidence of renting or leasing the premises as determined by the Department of Development Services.

- O. "Long Beach Municipal Code" means all ordinances, rules, and regulations of the City of Long Beach regulating maintenance, sanitation, ventilation, light, location, use or occupancy of residential buildings.

#### 18.25.040 – Eligibility.

A tenant household shall be eligible for consideration for relocation assistance under this chapter when tenants in the household are displaced from their rental units or rooms because of the issuance of a "notice of intent to order building vacated" or an "order to vacate" in accordance with Sections 18.20.120 or 18.20.140, or an order of immediate vacation when the structure or premises has been declared "dangerous" in accordance with Section 18.20.210, or their respective successor sections.

#### 18.25.050 – Order to vacate.

As part of the City's code enforcement activity, the Building Official will decide whether repairs or other actions to abate substandard buildings can be reasonably accomplished without relocation of the tenant or household.

If relocation is necessary to abate a substandard building or condition, the Building Official shall issue and serve an "order to vacate" in accordance with Sections 18.20.140 through 18.20.170.

#### 18.25.060 – Notification of tenants and owners.

- A. When the Building Official issues a notice of substandard building, notice of intent to order building vacated or an order to vacate in accordance with Sections 18.20.120 or 18.20.140, the Building Official shall notify the Department of Development Services of the issuance of the orders and the Department of Development Services shall inform the tenant households in writing of the procedure to apply for relocation assistance, what the tenant household's rights are, and who to contact with questions regarding relocation assistance. The Department of Development Services shall also inform the tenant household that the household may request payment of relocation assistance from the City in accordance with Section 18.25.090, if the owner fails, neglects, or refuses to make the required relocation payments in accordance with this chapter. Relocation assistance information shall be provided to tenant households in English, Spanish, Korean and Khmer to insure the information is accessible to limited English proficiency persons.
- B. The Department of Development Services shall also inform the property owner that failure to make required relocation payments within ten (10) days of notice may result in the City making payments on behalf of the owner, and that failure to reimburse the City for all payments made and other costs and penalties incurred shall result in a lien being placed on the owner's property.
- C. The issuance of an order to vacate shall not relieve the property owner of any legal obligations, including any obligation to provide any notice imposed by any provisions of federal, State, or local laws or ordinances.
- D. At the time a notice of substandard building is issued in accordance with Section 18.20.120, the City shall also notify the property owner of the obligation to pay tenant relocation if required repairs are not made within the time specified in the notice of substandard building.

#### 18.25.070 – Issuance of permits.

If an order to vacate is issued, the City shall require the property owner or the owner's authorized agent to obtain building permits to convert, repair, rehabilitate or demolish the dwelling units that are in violation of the building code in the Long Beach Municipal Code.

18.25.080 – Payment of relocation benefits.

- A. The relocation benefits required by this chapter shall be paid by the owner or designated agent to the tenant household in the form of a certified check, cashier's check, or money order, within ten (10) days after the order to vacate is issued and served in accordance with Section 18.20.160. Proof of such payment shall be made to the Department of Development Services. The tenant household shall not be required by the property owner to vacate the premises until relocation payment is made to the tenant and proof thereof is made to the Department of Development Services, unless the building, fire or health official determines that the building or structure is a dangerous building within the meaning of Section 18.02.050 or other applicable codes. The property owner shall also be responsible for reimbursing the City for any relocation payments the City makes or costs the City incurs under this chapter.
- B. If the building, fire or health official determines that the unit or room is dangerous and must be vacated in less than ten (10) days, then the owner shall make required relocation payments to the tenant household in the form of a certified check, cashier's check, or money order, within two (2) business days after the order to vacate is issued and served in accordance with Section 18.20.160. Proof of the payment shall be made to the Department of Development Services.
- C. No relocation benefits pursuant to this chapter shall be payable to any tenant who has caused or substantially contributed to the condition or conditions giving rise to the order to vacate, as determined by the Department of Development Services, nor shall relocation benefits be payable to a tenant if any guest or invitee of the tenant has caused or substantially contributed to the condition giving rise to the order to vacate, as determined by the Department of Development Services. The Department of Development Services shall make the determination whether a tenant, tenant's guest, or invitee, caused or substantially contributed to the condition giving rise to the order to vacate. Service of a three (3) day notice, notice to terminate or unlawful detainer complaint shall not in and of itself render a tenant household ineligible for relocation benefits under this chapter.
- D. An owner shall not be liable for relocation benefits if the Building Official determines that the building or structure became substandard or dangerous as the result of a fire, flood, earthquake, or other act of God beyond the control of the owner and the owner did not cause or contribute to the condition.
- E. Delay in Payment of Relocation Assistance by Owner. If the owner fails, neglects, or refuses to pay relocation assistance to a displaced tenant, or a tenant subject to displacement, in accordance with this chapter, the City shall also be entitled to recover from the owner an additional amount equal to the sum of one-half ( $\frac{1}{2}$ ) the amount so paid or due, but not to exceed ten thousand dollars (\$10,000.00) cumulative per property, as a penalty for failure to make timely payment to the displaced tenant, plus the City's actual costs, including direct and indirect costs of administering the provisions of assistance to the displaced tenant or tenants.

18.25.090 – Relocation eligibility and assistance by City.

- A. The City may assist tenants displaced or to be displaced due to code enforcement activity subject to this chapter by providing information, referral, monitoring, or other advisory assistance. Any tenant household interested in City assistance should contact the Department of Development Services for relocation information. Failure by tenant households to contact the Department of Development Services shall not relieve property owners from their responsibility to provide relocation assistance.
- B. Tenant households shall submit requests for relocation assistance to the Department of Development Services in order to establish the existence of a landlord-tenant relationship. The Department of Development Services shall make a determination as to whether a tenant household is eligible for relocation assistance within three (3) business days of receipt of a

completed request for relocation assistance. If the Building Official has determined that the tenant household must vacate its unit or room in less than ten (10) days, the Department of Development Services shall make a determination as to whether the tenant household is eligible for relocation assistance within two (2) business days of receiving a completed request for relocation assistance. Once an eligibility determination has been made, the Department of Development Services shall immediately provide written notice in English, Spanish, Korean and Khmer to the tenant household, the owner, and the Building Official regarding the eligibility determination and any relocation assistance owed.

- C. If the owner fails, neglects or refuses to pay relocation assistance to a displaced tenant or a tenant subject to displacement, the City may advance all or a portion of the required payments to the tenant. If the City advances relocation assistance, or a portion thereof, the City shall be entitled to recover from the owner any amount so paid to a tenant pursuant to this Section, and the Department of Development Services shall notify the owner of the City's advancement of payment.

For the City to consider such payments, the tenant household must make a request to the Department of Development Services after the owner fails, neglects or refuses to make such required payments.

- D. Any amount paid by the City on behalf of the owner and any applicable penalties and actual costs including incidental enforcement costs shall become delinquent thirty (30) days after notice by the City and may also be placed as a lien against the property of the owner by recording the lien in the office of the County Recorder for Los Angeles County. Any delinquent payments will accrue interest at the rate of twelve percent (12%) per year until paid.
- E. The failure of the owner to pay the amounts to the City set forth in this chapter within the time specified constitutes a debt to the City. To enforce that debt, the City Manager or his or her designee may take any and all appropriate legal action, impose a lien as set forth above, or pursue any other legal remedy to collect such money.

#### 18.25.100 – Immediate vacation.

If the Building Official determines that the building is dangerous and immediate vacation is required, immediate City payment of relocation benefits can be made to tenant households as soon as the tenant household is determined eligible by the Department of Development Services. The tenant household must sign a request for relocation assistance from the Department of Development Services in order to receive immediate relocation payments. Those payments and other related costs shall be a charge against the property owner, and the owner shall reimburse the City for these relocation costs. Additionally, those costs may be collected, if need be, as outlined in Section 18.25.090. The payment of relocation assistance by the City shall be solely predicated upon the availability of City funds.

#### 18.25.110 – Amount of relocation payments.

Each eligible tenant household shall receive monetary relocation assistance in the amount of three thousand three hundred sixty-six dollars (\$3,366.00). Each eligible household with a disabled person displaced under this chapter shall also be entitled to reimbursement for structural modifications to the household paid for by the tenant household at the vacated premises up to a maximum value of an additional two thousand five hundred dollars (\$2,500.00). The Department of Development Services shall increase both of these amounts on a percentage basis as determined by the change in the Consumer Price Index between January 1, 2005 and January 1 of the year in which the application for relocation assistance is filed with the Department of Development Services.

#### 18.25.120 – Evictions to avoid payment of relocation assistance.

Owners shall not evict tenants to avoid their responsibility to pay relocation assistance to tenants under this chapter. Tenants receiving notices to terminate or quit from the property owner or owner's agent within ninety (90) days of a notice of substandard building shall be presumed eligible and entitled to collect relocation assistance pursuant to this chapter. However, this presumption may be rebutted upon a showing by the owner that the tenant has caused or substantially contributed to the condition or conditions giving rise to the order to vacate.

18.25.130 – Move-back option.

A displaced tenant household shall have the option of moving back into the rental unit or room from which it was required to move provided that such rental room or unit was a legally permitted rental room or unit at the time of displacement. If this is not possible, the displaced tenant household shall have the option of moving into an equivalent unit or room in the same building, as soon as it is ready for occupancy. If a tenant household wishes to avail itself of this option, it must inform the owner in writing of its current address at all times during the period of displacement.

The property owner shall notify a displaced tenant household at least thirty (30) days in advance by first class mail of the availability of the unit or room including monthly rent and date of availability. The notice shall inform the tenant household that it has ten (10) days to notify property owner of their intent to move back into the property. Within ten (10) days of receipt of notice of availability of the unit or room, a tenant household wishing to move back shall so notify the owner in writing.

If a tenant household wishing to move back into the unit or room is required to pay a security deposit, the household must be permitted sufficient time to do so. In no event may that time exceed sixty (60) days.

18.25.140 – Certificate of occupancy.

The City shall not give the owner a certificate of occupancy until such time as the owner provides the Department of Development Services and Building Official with written proof that he or she has properly notified all displaced tenant households in writing of their right to return to their unit or room, or an equivalent unit or room in the same building if this is not possible, for the same rent they were paying prior to displacement for a minimum of six (6) months.

The City shall not issue the owner a certificate of occupancy until such time as the Building Official has determined that all necessary repairs have been made to the building.

18.25.150 – Appeals.

Any property owner or tenant household may contest a decision by the Department of Development Services or his or her representative regarding eligibility, relocation payment amounts, or any other determination or claim made under this chapter. To do so, the party shall file a written request for an appeal with the Director of Community Development within ten (10) days of the decision, determination or claim. The Director or his/her designee shall hold a hearing at his/her earliest opportunity and in no event more than fourteen (14) days after the Director receives notice of the appeal. All notices from the Director shall be sent to both the property owner and all tenant households affected by the appeal. The determination of the Director shall be final.

18.25.160 – Penalty.

Any person violating any provision or failing to comply with any of the requirements of this chapter shall be guilty of a misdemeanor or infraction, as determined by the City Prosecutor. In addition to any penalty imposed for a violation of this chapter, any person violating or causing or permitting the violation of this chapter shall reimburse the City for any administrative costs or expenses the City incurs in administering this chapter. Those amounts may include any provisional relocation assistance provided to tenants, such as temporary housing, moving expenses, relocation payments, public health assistance, transportation, storage or other related services.

The remedies and penalties provided for in this section and chapter shall be in addition to any other available remedies and penalties provided for by the Long Beach Municipal Code or other law.

18.25.170 – Private right of action.

Tenant households subject to displacement and/or their legal representatives shall have standing as third party beneficiaries to file an action against the owner for injunctive relief and/or actual damages pursuant to this chapter.

Nothing herein shall be deemed to interfere with the right of a property owner to file an action against a tenant or nontenant third party for the damage done to the owner's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

18.25.180 – Application to heirs.

The provisions of this chapter shall apply to all property owners and their heirs, assigns and successors in interest.

18.25.190 – Relationship to other laws.

Nothing in this chapter is intended to prevent displaced households from securing any relocation assistance and/or benefits to which they may be entitled under any other local, State or federal law.

18.25.200 – Penalty fund.

Any and all penalties levied and collected by the City pursuant to this chapter shall be placed in a revolving fund and utilized at the sole discretion of the City to advance relocation assistance to tenants or households displaced as a result of code enforcement activities.

18.25.210 – Severability.

If any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this chapter shall not be invalidated.