

ORDINANCE NO. _____ (N.C.S.)

**AN ORDINANCE AMENDING CHAPTER 9 OF THE SALINAS MUNICIPAL CODE
(BUILDING) TO MODIFY THE TIMING OF PAYMENT OF DEVELOPMENT
IMPACT FEES FROM BUILDING ISSUANCE TO CERTIFICATE OF OCCUPANCY**

WHEREAS, California Government Code §§ 66000-66008, also known as the Mitigation Fee Act, provide local jurisdictions the authority to impose fees to defray all or part of the cost of public facilities related to new development; and

WHEREAS, the City of Salinas would like to balance the requirement of recovering public facilities costs associated with new development and the critical need for housing production; and

WHEREAS, the City's Annual Report on our Regional Housing Needs Allocation (RHNA) documented the production of only seventy-eight housing units in 2017 and the need for development of another 1,869 residential units in Salinas by 2023; and

WHEREAS, the City is well short of its RHNA allocation and must consider new housing policies to facilitate quicker production of these needed housing units; and

WHEREAS, on March 20, 2018, the Monterey Bay Economic Partnership presented a report to the City Council on "What Realistic Policy Changes Could Improve Housing Affordability in the Monterey Bay Region" and recommended a delay in collection of development impact fees to certificate of occupancy; and

WHEREAS, the City of Salinas' 2015-2023 Housing Element recommends that staff "monitor existing development fees, including in-lieu fees, development impact fees, and processing fees, to ensure they are not a constraint to the feasibility of affordable housing development"; and

WHEREAS, City staff reviewed development impact fees related to housing and found that timing of payment at building permit issuance does constrain housing development by requiring upfront payment of fees before permanent financing is in place; and

WHEREAS, numerous cities in Northern California such as Santa Rosa, Livermore, Berkeley, and Mountain View collect these impact fees at final inspection or issuance of certificate of occupancy for residential development; and

WHEREAS, City staff presented this research to the Housing and CDBG Subcommittee of City Council on October 17, 2018 and was encouraged to bring this item to full City Council for consideration; and

WHEREAS, on November 6, 2018, the Salinas City Council held a duly noticed public hearing to consider proposed amendment to Chapter 9 (Buildings) related to the timing of payment of development impact fees on cost recovery fees and service charges.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF SALINAS AS FOLLOWS:

SECTION 1. Chapter 9 of the Salinas Municipal Code is hereby amended as follows (Revisions are shown in underline/~~strikethrough~~ text):

Article V. – Development Impact Fees.

Sec. 9-48. - Collection, penalty, and severability.

- (a) These fees for commercial projects as defined in the Zoning Code shall be due and payable before the issuance of a building permit for the construction of improvements subject to these fees, and no building permit shall be issued until the fees are paid.
- (b) The fees for residential projects as defined in the Zoning Code including those portions of a mix-use building or development shall be due and payable at issuance of a certificate of occupancy for the construction of improvements subject to these fees, and no certificate of occupancy shall be issued until the fees are paid.
- (c) In the case of a mobile home or any governmental agency benefited by the services to be provided, these fees shall be due and payable before connection to the sanitary sewer system shall be allowed.
- (d) Violation of this article shall be a misdemeanor.

Article V-B. – Traffic Fees.

Sec. 9-50.81. - Collection of fees—Penalty.

- (a) For any commercial development as defined in the Zoning Code that requires a building permit, these fees shall be paid prior to the date of issuance of the building permit, and no building permit shall be issued until said fees are paid, unless a contract for installment payment has been approved by the Salinas ~~e~~City ~~e~~Council.
- (b) For any residential development as defined in the Zoning Code including those portions of a mix-use building or development that requires a building permit, these fees shall be paid prior to the issuance of a certificate of occupancy, and no certificate of occupancy shall be issued until said fees are paid, unless a contract for installment payment has been approved by the Salinas City Council.
- (c) For development not requiring a building permit, these fees shall be paid prior to the initiation of the new use.
- (d) Violation of this article is a misdemeanor.

Article V-D. – Public Facilities Impact Fees.

Sec. 9-50.95.90 - Collection, penalty, and severability.

- (a) The fees for commercial projects as defined in the Zoning Code shall be due and payable before the issuance of a building permit for the construction of improvements subject to these fees, and no building permit shall be issued until the fees are paid.
- (b) The fees for residential projects as defined in the Zoning Code including those portions of a mix-use building or development shall be due and payable at issuance of a certificate of occupancy for the construction of improvements subject to these fees, and no certificate of occupancy shall be issued until the fees are paid.
- (c) In the case of a mobile home or any governmental agency benefited by the services to be provided, these fees shall be due and payable before connection to the sanitary sewer system shall be allowed.
- (d) Violation of this article shall be a misdemeanor.

SECTION 2. CEQA CONSIDERATIONS. The adoption of this Ordinance involving a change to the timing of development impact fee payment is “Not a Project” under the California Environmental Quality Act (CEQA), Guidelines Section 15378.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Salinas City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect and be in force thirty days from and after its adoption.

PASSED AND ADOPTED this ____ day of November 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney