

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

**AN ORDINANCE AMENDING CHAPTER 9 OF THE SALINAS MUNICIPAL CODE
(BUILDING) TO MODIFY THE TIMING OF PAYMENT OF REGIONAL
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, 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, on November 6, 2018, the Salinas City Council adopted an amendment to Chapter 9 (Buildings) related to the timing of payment of development impact fees related to housing from the approval of building permit to the issuance of a certificate of occupancy ; and

WHEREAS, on January 8, 2019, the City Council considered the 2018 Nexus Update for the Regional Development Impact Fee Program and adopted said update; and

WHEREAS, the City Council, desires to align the Regional Development Impact Fee program with its recently approved policy relative to the timing of payment of development impact fees.

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-C. – Regional Development Impact Fee.

Sec. 9-50.90.30 – Establishment of a regional development impact fee.

- (a) The regional development impact fee is hereby established in the amounts specified in a resolution to be ~~adopted~~approved by the city council for the purpose of paying for regional transportation improvement projects identified in Exhibit B of the JPA needed to meet increased demand created by traffic resulting from new development. The revenues raised from the impact fee shall be remitted to the RDIF agency to be held, maintained, used and accounted for as required in Government Code Section 66006 of the Mitigation Fee Act in a coordinated fashion, as provided in the JPA.

- (b) The regional development impact fee shall be automatically adjusted as of July 1 of each year following the first year after the effective date of this article. The adjustment shall be calculated by TAMC as administrator of the RDIF agency, based on the increase or decrease in the Engineering News Record Construction Cost Index for the San Francisco Bay Area for the period ending December 31 of the preceding calendar year.
- (c) In addition to the automatic adjustment set forth above, TAMC may recommend to the county and other TAMC members that the regional development impact fee be increased to reflect revisions to the project list in the Monterey County regional transportation plan, program revenue, increases in land values over the inflationary increase, or other factors.
- (d) Except as provided in Government Code Sections 65961, 66474.2 and 66498.1 or as otherwise provided by state or federal law or the exemptions set forth in Section 9-50.90.40 of this article, no tract map, parcel map, tentative subdivision map, conditional use permit, land use permit, building permit or other land use entitlement for a new development project shall be approved or issued unless payment of the fee is a condition of approval for any such entitlement. ~~Prior to issuance of a building permit or at such other time as required by law, the City of Salinas shall require the applicant to pay the fee.~~
 - (i) 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.
 - (ii) For any residential development as defined in the Zoning Code including those portions of a mixed-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.
 - (iii) For development not requiring a building permit, these fees shall be paid prior to the initiation of the new use.
 - (iv) Violation of this article is a misdemeanor.
- (e) Regional development impact fees shall be imposed and collected by the City of Salinas and, along with any interest earned on the fees while in the possession of the City of Salinas, shall be transmitted by the city to the RDIF agency no later than the tenth business day of each month for all fees collected during the prior month. The fees shall be placed by the RDIF agency in the regional transportation impact fee trust fund. All interest or other earnings of the fund shall be credited to the fund.

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 January 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