

CHAPTER 23.92FIRE MITIGATION FEE

23.92.010 Purpose. In order to implement the goals and objectives of the Public Safety Element of the City of Encinitas' General Plan, and to mitigate the impacts caused by new development in the City, certain fire protection facilities must be constructed. The City Council has determined that a development impact fee is needed in order to finance these public improvements, and to pay for new development's fair share of the construction of these improvements. It is the purpose of this Chapter to assess and collect fees during the subdivision or building permit processing to finance the cost of additional fire protection facilities and equipment necessitated by new development. In establishing the fee described in the following sections, the City Council has found the fee to be consistent with the City's General Plan, and pursuant to Government Code Section 65913.2, the City has considered the effects of the fee with respect to the City's housing needs as established in the Housing Element of the General Plan. (Ord. 91-22)

23.92.020 Requirement.

A. The fire mitigation fee shall be determined by the Fire Chief or his/her designated agent, and satisfied by the applicant as a condition of approval of the development project. If the new development is in a new subdivision as defined by Government Code Section 66424, the fee shall be paid by the applicant during the subdivision processing as a condition of the approval of the proposed final or parcel map; or at the subdivider's option, a covenant may be executed burdening each lot for a pro rata share of the fee, due as a condition of the issuance of a building permit. If the development is not in a new subdivision, the fee shall be paid by the applicant as a condition of the granting of a building permit for the proposed development.

B. In accordance with Government Code Section 66007, in the case of a residential development, the City shall require the applicant to satisfy the fee requirement prior to the issuance of the certificate of occupancy, as a condition of approval of the development, only if the City has established a separate account for the public improvements or facilities for which the fees will be collected and has adopted a proposed construction plan prior to the final inspection, or if the fees are reimbursement to the City for expenditures previously made.

C. The requirement to pay the fire mitigation fee may be satisfied by the applicant by dedicating land or donating facilities or equipment to the fire agency serving the City. The Fire Chief or his/her designated agent shall determine whether to require a dedication of land and/or donation of facilities and equipment, impose a requirement to pay fees, or require a combination of both for the purpose of fire protection facilities acquisition and construction. The value of any land, facilities, or equipment shall be credited to the applicant's fire mitigation fee requirement.

23.92.030 Exemptions. The following development is exempt from the regulations of this Chapter:

- A. Swimming pools;
- B. Fences;
- C. Residential accessory structures to an existing unit;
- D. Construction for public or governmental purposes;
- E. Remodels of existing residential structures which do not add new units; or
- F. Development involving the replacement on the same parcel by the owner of a dwelling unit or dwellings destroyed by fire or other calamity, provided that the application for a building permit to replace such dwelling or dwellings is filed within six months after destruction and that the number of dwelling units is not increased.

23.92.040 Distribution and Use of Funds.

- A. The fees collected in accordance with this Chapter shall be used to provide capital facilities and equipment for fire prevention and control, to include station construction, station expansion and fire apparatus acquisition.
- B. Fees shall be distributed to the fire agency serving the City as received.
- C. Fees paid pursuant to this Section shall be deposited by the fire agency in a segregated fund identified as the "Fire Mitigation Fee Fund."
- D. Prior to the receipt of fees, the fire agency shall adopt a resolution establishing a fire mitigation fee program within the fire agency jurisdiction. The form and content of the resolution must be first approved by the City Manager.

23.92.050 Residential Development.

A. A person seeking to construct a residential development project which is within one of the categories identified in this Section shall pay a fire mitigation fee of \$115 per resident based on the number of dwelling units proposed for construction. The fee shall be determined as follows:

$$\$115 \times \text{Density Factor} = \text{Fee per dwelling unit}$$

B. The density factor and required fire mitigation fee for residential project categories shall be as follows:

<u>Project Category</u>	<u>Density Factor</u>	<u>Fee</u>
Single-family Home	2.8	\$322 per dwelling unit
Multi-family Home	2.0	\$230 per dwelling unit

C. A person seeking to construct additions to or remodel an existing structure which creates a new Dwelling Unit, as defined in Municipal Code Section 30.04, Chapter Definitions, shall be subject to the full fee for each additional unit as is required by this Section.

23.92.060 Other Development.

A. A person seeking to construct a new development project or additions to an existing structure which is within one of the categories identified in this Section shall pay a fire mitigation fee of \$115 per employee based on the gross square footage within the structure. The fee shall be determined as follows:

$$\$115 \times \text{Density Factor} = \text{Fee per 1,000 sq. ft.}$$

B. The density factor and required fire mitigation fee for other development project categories shall be as follows:

<u>Project Category</u>	<u>Density Factor</u>	<u>Fee</u>
Office Space	3.3	\$ 380 per 1,000 sq. ft.
Retail Space	2.0	\$ 230 per 1,000 sq. ft.
Industrial	1.4	\$ 161 per 1,000 sq. ft.
Institutional	1.0	\$ 115 per 1,000 sq. ft.

C. Greenhouses shall be charged at such a rate as determined by the County of San Diego, Fire Mitigation Fee Ordinance, Section 810.309 (b) in effect at the time of construction.

23.92.070 Fee Adjustment. A developer of any project subject to the fee described in this Chapter may apply to the Fire Chief for a reduction or adjustment of said fee based upon the absence of any reasonable relationship or nexus between the fire protection impacts of that development and the amount of the fee charged. The application shall state in detail the factual basis for the claim of waiver or reduction. The application shall be made in writing to the Fire Chief at the time of the filing of the request for a final or parcel map, or for a building permit. The Fire Chief shall consider the fee adjustment application within 30 days of the filing of the application. If a reduction or waiver is granted, any change in use within the project which results shall subject the development to payment of the full fee.