

Council Meeting
January 9, 2007

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: SECOND AND FINAL READING OF ORDINANCE 3688

RECOMMENDATION:

Second and Final Reading of **ORDINANCE NO. 3688** adopting a Fire Facilities Impact Fee program and amending the Torrance Municipal Code.

BACKGROUND:

At the regular meeting of the City Council held on the 19th day of December, 2006, this Ordinance was introduced and approved for its first reading by the following roll call vote:

AYES:	COUNCILMEMBERS:	Brewer, Drevno, McIntyre, Nowatka, Sutherland, Witkowsky, and Mayor Scotto.
NOES:	COUNCILMEMBERS:	None.
ABSTAIN:	COUNCILMEMBERS:	None.
ABSENT:	COUNCILMEMBERS:	None

Respectfully submitted,


Sue Herbers, City Clerk

NOTED:



LeRoy J. Jackson, City Manager

Attachment A: Ordinance 3688
B: Ordinance summary

ORDINANCE NO. 3688**AN ORDINANCE OF THE CITY OF TORRANCE
ADOPTING A FIRE FACILITIES IMPACT FEE PROGRAM
AND AMENDING THE TORRANCE MUNICIPAL CODE.**

THE CITY COUNCIL OF THE CITY OF TORRANCE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1

The City Council makes the following findings and determinations in connection with the adoption of this Ordinance:

- A. On November 21, 2006, the City Council held a duly noticed open and public meeting regarding the proposed adoption of a Fire Facilities Plan and the proposed Fire Facilities Impact Fee program, as required by Government Code Section 66016.
- B. On December 19, 2006, the City Council held a duly noticed public hearing regarding the proposed adoption of the Fire Facilities Plan and the adoption of the proposed Fire Facilities Impact Fee, as required by Government Code Section 66018. Following the receipt of all staff reports, public testimony and other evidence, the public hearing was closed.
- C. All other prerequisites to the adoption of this Ordinance, the approval of the Development Impact Fee Study, the Fire Facilities Plan, and the proposed Fire Facilities Impact Fee, as specified by the Mitigation Fee Act (California Government Code Section 66000 et seq.) and other applicable laws have been satisfied.
- D. City staff has evaluated the potential environmental impacts of the adoption of this Ordinance, the approval of the Development Impact Fee Study, the proposed Fire Facilities Plan, and the proposed Fire Facilities Impact Fees pursuant to the California Environmental Quality Act ("CEQA"). City staff has determined that these actions do not constitute a "project" under CEQA pursuant to State CEQA Guidelines Section 15378(b)(4) because these actions involve the creation of a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. In addition, City Staff has determined that these actions are categorically exempt from CEQA under CEQA guidelines Section 15273(a)(4) because these actions and documents are merely establishing a fee to obtain funds for those capital projects necessary to maintain service within existing service areas and these actions do not provide for the creation of new service areas. The capital projects described in the Development Impact Fee Study will maintain the level of service currently provided by the City's existing fire facilities system by ensuring that the impacts of new development will not negatively impact existing service levels.
- E. The City Council concurs with City staff's determination that the adoption of this Ordinance, the approval of the amended Development Impact Fee Study, the adoption of the Fire Facilities Plan, and the adoption of the proposed Fire Facilities Impact Fees do not constitute a project under CEQA pursuant to CEQA Guidelines Section 15378(b)(4). The City Council additionally concurs with City staff's determination that the Adoption of this Ordinance, the approval of the Development Impact Fee Study, the adoption of the Fire Facilities Plan and the adoption of the fire facilities impact fees are statutorily exempt from CEQA pursuant to CEQA Guidelines Section 15273(a)(4). City staff is therefore directed to prepare and file a Notice of Exemption with the County Clerk pursuant to CEQA Guidelines Section 15062 within five (5) days of the date that this Ordinance is adopted.

SECTION 2

Article 5 of Chapter 9 of Part I of Division 2 of the Torrance Municipal Code is hereby added to read as follows:

“ARTICLE 5 – FIRE FACILITIES IMPACT FEES

SECTION 29.5.1	FINDINGS AND INTENT.
SECTION 29.5.2	RESIDENTIAL FIRE FACILITIES IMPACT FEES REQUIRED.
SECTION 29.5.3	NON-RESIDENTIAL FIRE FACILITIES IMPACT FEES REQUIRED.
SECTION 29.5.4	FIRE FACILITIES IMPACT FEES – EXEMPTION AND/OR REDUCTION.
SECTION 29.5.5	APPEALS.
SECTION 29.5.6	USE OF FUNDS.
SECTION 29.5.7	FEE AMOUNT APPLICABLE TO PENDING PROJECTS.
SECTION 29.5.8	PERIODIC ADJUSTMENT OF FEE AMOUNT.

SECTION 29.5.1 FINDINGS AND INTENT.

- A. New residential and non-residential development in the City of Torrance (the “City”) has attracted and will continue to attract employees and residents to the City, and there is a causal connection between such development projects and the increased need for fire facilities.
- B. Failure to enhance the ability of the City’s fire facilities system to accommodate additional service calls will make it more difficult for residents, employers, and employees to obtain the fire services they need.
- C. Sources of City revenue other than fire facilities impact fees, including tax revenues which will be paid by new residential and non-residential development, will be needed for many public purposes and therefore will not be sufficient to offset the burdens on fire facilities created by new development.
- D. It is the intent of the City to require persons or organizations that develop land to mitigate the impacts of that development on the City’s fire facilities system. The City may therefore require developers to mitigate fire facilities impacts caused by their development and to pay a fire facilities impact fee that will be used to mitigate those impacts by constructing fire facilities pursuant to the most current Fire Facilities Plan.
- E. The amount of fire facilities impact fees collected pursuant to this Chapter shall be limited to the cost of fire facilities impact mitigation attributable to new development. The amount of fire facilities impact fees collected shall not include the cost of fire facilities impact mitigation measures made necessary by existing development.

SECTION 29.5.2 RESIDENTIAL FIRE FACILITIES IMPACT FEES REQUIRED.

- A. Except as provided in Section 29.5.4, the required fire facilities impact fee for a residential building shall be paid in an amount established by resolution of the City Council. The required fire facilities impact fee shall be due and paid on a lump-sum basis on the date the first dwelling in the development or development phase receives its final building inspection, or certificate of occupancy, whichever occurs first.

- B. The Community Development Director, or his or her designee, shall be responsible for calculating the amount of the fire facilities impact fee required for each development project based on the applicable land use category and corresponding rate specified in the resolution which adopts the fire facilities impact fee. In calculating such fee, the Community Development Director shall utilize the fee rate that is assigned to the land use category that is most applicable to the development project.
- C. For the purposes of this section, "final building inspection" shall mean the physical inspection of the building by the Building & Safety Division of the Community Development Department of the City of Torrance for compliance with all applicable building codes and the issuance by all applicable City, county, regional, state and federal agencies of their respective clearances for occupancy.
- D. For the purposes of this section, "certificate of occupancy" shall mean a document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure, building or development conforms with all the applicable provisions of the Torrance Municipal Code, ordinances and conditions of approval.

SECTION 29.5.3 NON-RESIDENTIAL FIRE FACILITIES IMPACT FEES REQUIRED.

- A. Except as provided in Section 29.5.4, the required fire facilities impact fee for a nonresidential development shall be paid in an amount established by resolution of the City Council. The required fire facilities impact fee shall be due and paid on a lump-sum basis on the date of the final building inspection of the building, or the date the certificate of occupancy is issued, whichever occurs first.
- B. The Community Development Director, or his or her designee, shall be responsible for calculating the amount of the fire facilities impact fee required for each development project based on the applicable land use category and corresponding rate specified in the resolution which adopts the fire facilities impact fee. In calculating such fee, the Community Development Director shall utilize the fee rate that is assigned to the land use category that is most applicable to the development project.
- C. For the purposes of this section, "certificate of occupancy" shall mean a document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure, building or development conforms to all the applicable building codes, the Torrance Municipal Code, and conditions of approval.

SECTION 29.5.4 FIRE FACILITIES IMPACT FEES -- EXEMPTION OR REDUCTION

- A. The following uses and types of developments may be exempted from the payment of fire facilities impact fees:
 1. Any residential development that does not increase the number of permanent housing units on the parcel where the construction takes place, such as remodeling or rebuilding existing units.
 2. The remodeling or rebuilding of an existing non-residential structure, provided the remodeling or rebuilding does not do any of the following: (i) increase the square footage of the structure above that of the previously existing structure; (ii) increase the building footprint above that of the previously existing structure; (iii) change the use to which the property or structure is to be put; or (iv) increase the average daily trips generated from the property above the amount generated by the prior use of the property.
 3. Publicly owned facilities, including but not limited to, public libraries, public administration facilities, public parks, public utilities, schools, and related facilities.

4. Facilities serving the health and safety of the public, including but not limited to, hospitals, police, fire and safety facilities.
- B. A developer may be exempted or allowed a reduction in fees from the fire facilities impact fee requirements of Sections 29.5.2 and 29.5.3 if the developer enters into a development agreement with the City pursuant to which fire facilities impact fees are assessed to the developer, or equivalent or comparable fire facilities improvements are implemented by the developer.
 - C. A developer may be entitled to a reduction in the amount of the fire facilities impact fee required by Sections 29.5.2 and 29.5.3 if the developer constructs fire facilities improvements pursuant to the most current Fire Facilities Plan. The fire facilities impact fee may be reduced by the amount of fire facilities improvement costs that would be reasonably incurred by the City in building those same fire facilities improvements. The amount of such reduction shall be subject to the approval of the Community Development Director prior to construction of the fire facilities improvement.
 - D. A developer may be entitled to a reduction in the amount of the fire facilities impact fee required by Sections 29.5.2 and 29.5.3 if the development is located in an assessment district that has been formed to construct facilities pursuant to the most current Fire Facilities Plan. The fire facilities impact fee may be reduced by the amount of the total assessment placed upon the development for the costs of fire facilities improvements. The amount of such reduction shall not exceed the amount of the fire facilities impact fee required by Sections 29.5.2 and 29.5.3.
 - E. The Community Development Director may grant a reduction in the amount of the fire facilities impact fee required by Sections 29.5.2 and 29.5.3 if the Community Development Director determines that the development will contribute extraordinary sales tax revenue to the City and thereby confer an extraordinary financial benefit upon the City.
 - F. If a fee exemption or a fee reduction is granted pursuant to this Section 29.5.4, any subsequent change or intensification of the use or uses of the property or any expansion of the structures on the property, shall invalidate the fee exemption or fee reduction, and the applicant shall be subject to the fire facilities impact fee requirement applicable to the entire development based on the fee in effect at the time of the change or expansion, less any amount previously paid.

SECTION 29.5.5 APPEALS.

- A. A developer subject to the fire facilities impact fee required by this Chapter for a particular project may apply to the Community Development Director for: (1) a fee adjustment based upon a showing of substantial evidence of a lesser impact upon the fire facilities level of service, or (2) a land use category adjustment based upon a showing of substantial evidence that another land use category is more appropriate for a particular development. The application shall be made in writing and filed with the Community Development Director prior to the issuance of building permit. If a development review is not required for the development, then the application shall be made in writing and filed not later than the time at which the building permit is issued. The application shall state in detail the factual basis for the request for reduction.
- B. The Community Development Director shall make a decision on the application for adjustment within thirty calendar days after the application has been filed. Notice of the Director's decision shall be mailed to the applicant.

- C. The decision of the Community Development Director may be appealed to the Planning Commission by filing an application for appeal with the Community Development Director. The application must be filed within fifteen calendar days after notice of the Director's decision has been mailed to the applicant.
- D. The Planning Commission shall consider the appeal at a public hearing to be held within sixty calendar days after the appeal application has been filed. Notice of the Planning Commission's decision shall be mailed to the applicant.
- E. The decision of the Planning Commission may be appealed to the City Council by filing an application for appeal with the City Clerk. The application must be filed within fifteen calendar days after notice of the Commission's decision has been mailed to the applicant.
- F. The City Council shall consider the appeal at a public hearing to be held within sixty calendar days after the appeal application is filed. The decision of the City Council shall be final. The decision of the City Council shall be in writing and shall be mailed to the applicant.
- G. If a fee exemption, a fee reduction or a land use category adjustment is granted pursuant to this Section 29.5.5, any subsequent change or intensification of the use or uses of the property or any expansion of the structures on the property, shall invalidate the fee exemption, fee reduction or land use category adjustment, and the applicant shall be subject to the fire facilities impact fee requirement applicable to the entire development based on the fee in effect at the time of the change or expansion, less any amount previously paid.
- H. If a fee exemption, fee reduction or land use category adjustment is not granted pursuant to this Section 29.5.5, then upon the payment of the required fees, the City shall, pursuant to Government Code Section 66020, provide the applicant a written notice of the amount of the fees or a description of the dedications, reservations, or other exactions, and shall also provide notification that the 90-day protest period has begun.

SECTION 29.5.6 USE OF FUNDS.

Pursuant to California Government Code Section 66006, all fire facilities impact fees paid and collected pursuant to this Chapter shall be placed into one or more separate account(s) established for such fee and used solely for the purpose of constructing fire facilities improvements pursuant to the most current Fire Facilities Plan; provided, however, that if the Community Development Director authorizes minor alterations to such plan, then those alterations shall not affect the ability of the City to use fire facilities impact fees collected pursuant to this Chapter for the purpose of constructing fire facilities improvements in accordance with the most current Fire Facilities Plan as altered or amended.

SECTION 29.5.7 FEE AMOUNT APPLICABLE TO PENDING PROJECTS.

Except as may otherwise be provided in the resolution which adopts the fee amount, an applicant subject to the payment of fire facilities impact fees required by Section 29.5.2 or 29.5.3 must pay the amount of the fee that is in effect when the fee becomes due as provided in Section 29.5.2(A) for residential fire facilities impact fees or Section 29.5.3(A) for non-residential fire facilities impact fees. The amount of the fee is the amount specified by resolution of the City Council, as amended from time to time. The fee imposed on a development project for which vested rights have been acquired through a vesting tentative subdivision map shall be the fee in effect at the time the rights became vested, plus any adjustment for inflation made between that date and the date the fee becomes due.

SECTION 29.5.8 PERIODIC ADJUSTMENT TO FEE AMOUNT.

The amount of the fire facilities impact fee may be annually adjusted for inflation as specified in the resolution which adopts the fee amount or by the periodic preparation of a new Fire Facilities Plan and required studies prepared and adopted pursuant to the Mitigation Fee Act.”

SECTION 3 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 4

The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance to be published or posted as required by law.

INTRODUCED and APPROVED the 19th day of December, 2006.

ADOPTED and PASSED this _____ day of January, 2007.

APPROVED AS TO FORM:
JOHN FELLOWS III, City Attorney

Mayor Frank Scotto
ATTEST:

by _____
Ronald T. Pohl, Assistant City Attorney

Sue Herbers, City Clerk

Ordinance Summary

TORRANCE CITY COUNCIL ORDINANCE NO. 3688

On January 29, 2007, the City Council of the City of Torrance adopted Ordinance No. 3688 to adopt fire facilities impact fees by adding Article 5 of Chapter 9 of Part I of Division 2 to the Torrance Municipal Code. The new ordinance states that the City Council has approved the fire facilities impact fee ordinance to authorize the City to require developers to mitigate fire facilities impacts caused by their developments and to pay a fire facilities impact fee that will be used to mitigate those impacts by constructing fire facilities pursuant to the most current Fire Facilities Plan.

****City Clerk to add a paragraph stating that copies of the ordinance are available at the City Clerk's office and stating the names of the City Council members that voted in favor and those that voted against. ****

