

**DESERT SANDS
UNIFIED SCHOOL
DISTRICT**

**SCHOOL FACILITY
FEE HANDBOOK**

July 2006



Desert Sands Unified School District

47-950 Dune Palms Road La Quinta, CA 92253

Facilities Services (760) 771-8515 FAX (760) 771-8522

School/Developer Fees

Effective March 19, 2008

RESIDENTIAL: \$2.97/sq. ft.

COMMERCIAL: \$0.47/sq. ft.

Hours for Processing: 8:00 a.m. – 3:30 p.m.

Facilities Services is located on the 2nd floor of the
District Education Center
47-950 Dune Palms Road
La Quinta, CA 92253

760-771-8515

Cash, Cashier's Checks or Money Orders Only
(payable to Desert Sands USD)

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I. SCHOOL FACILITY FEES, IN GENERAL

Education Code Section 17620 authorizes a School District's Governing Board to levy a fee against new residential, commercial and industrial development within the district to fund the construction, reconstruction, or modernization of school facilities. Before it can charge a fee on any residential, commercial or industrial construction or reconstruction however, the School District's Governing Board must establish that (1) the need for school construction or reconstruction results from development; and (2) the level of the fee does not exceed the cost of construction or reconstruction necessary to meet this need. The fees may be used not only to fund the physical facilities themselves, but also to fund studies related to school construction and reconstruction and to pay certain personnel and fees. The fees may not be used for regular or deferred maintenance (as defined in Section 39618 of the Education Code), routine repair or asbestos work that is not related to regular school construction or reconstruction.

Pursuant to Education Code Section 17620 and Government Code section 65995, the Desert Sands Unified School District Board of Education has adopted "Resolutions Adopting School Facilities Fees".

II. DESCRIPTION OF QUALIFYING DEVELOPMENT

Development means any project undertaken for the purpose of development, including a project which requires the issuance of a permit for construction or reconstruction but not including one which requires a permit to operate.

A. Residential Development

Any structure, including a mobile or manufactured home, which is primarily used or intended for human habitation, as defined by the Uniform Building Code, as revised.

1. New Residential Development

Single Family Residences

Apartments and Condominiums

Mobile Homes: Mobile Homes are limited to the initial installation of a manufactured home or mobile home on any site which was not previously occupied and on which the construction of the pad or foundation system commenced after September 1, 1986. Mobile homes and mobile home parks have the meaning set forth in Sections 18007, 18008 and 18214 of the Health and Safety Code. Included are additions to mobile homes after a catastrophic loss.

In the case of residential development, Government Code Section 65995(b)(1) states that the **"assessable space"** includes all of the square footage within the perimeter of a residential structure.

Excluded are: carports

 detached accessory structures

 garages

 overhangs

 walkways

 patios

In the event that multiple permits for the same address are issued, and where any project for which a permit has been issued and construction has not been completed (i.e., final inspection made), the project shall be considered on-going and the square footage of all permits or applications for permit will be added together. If the cumulative total of square footage exceeds five-hundred (500) square feet, a fee will be due on the entire project.

2. New Senior Citizen Housing Development

The fee for all new senior citizen housing developments (as defined in Civil Code section 51.3), residential care facilities for the elderly (as defined in Health and Safety Code section 1569.2, subd. (k), multilevel facilities for the elderly (as defined in Government Code section 15432, subd. (d)(9), and senior-citizen only mobile home parks (as defined in the Federal Fair Housing Act Amendments of 1988) is the same as that for all new commercial and industrial development, except for the resident manager's or caretaker's unit which will be assessed at the current residential rate.

For the purpose of this policy, a senior citizen is a person 55 years of age or older.

The following requirements must be met prior to issuance of a building permit and the District's calculation of the developer fee for a senior citizen housing development:

- a) Execution of the Covenant and Restriction Agreement
- b) Appropriate recording/stamp of the Covenant and Restriction Agreement with the Riverside County Recorder.
- c) Current title report.

To be considered a residential care facility for the elderly, a multilevel facility for the elderly, or a senior-citizen only mobile home park, the developer must demonstrate to the District's satisfaction that the development meets the requirements for such development as set forth in applicable law.

3. New Migrant Worker Housing

No fee will be charged on the construction, reconstruction, or rehabilitation of agricultural migrant worker housing, owned by the State, and financed pursuant to Chapter 8.5 of Part 2 of Division 31 of the Health and Safety Code.

4. Remodeled Residential Development

Remodeled residential development will be charged a fee for the increased "assessable space" only if the net increase in the square footage within the perimeter of the residence is more than 500 square feet. Any fee charged, in the event that the net increase is more than 500 square feet, will be on the entire net increase in square footage. Pursuant to Education Code Section 17620, any "residential" remodeling addition of 500 square feet or less of assessable space is exempt from developer fees.

No fee will be charged on residential reconstruction after the original structure is damaged or destroyed due to a catastrophic loss or act of nature, such as fire, flood, earthquake, etc, so long as the reconstruction does not exceed the assessable square footage of the original building that is damaged or destroyed. If the reconstruction exceeds the assessable square footage of the original residence, that is damaged or destroyed, the increased square footage will be considered new construction, and a fee will be charged, as appropriate.

A fee will be charged on voluntary residential reconstruction where no catastrophic loss or act of nature is involved. This is because the District may be deemed ineligible for certain state funding if it fails to collect all developer fees to which it is legally entitled (Ed. Code Section 17075.10). Unlike catastrophic loss or reconstruction resulting from an act of nature, there is no statutory exception for voluntary reconstruction.

B. Commercial and Industrial Development

Commercial and industrial development includes any structure other than residential which is used for the production of income or to provide goods and services to the community. Examples include, but are not limited to, retail establishments, offices, manufacturing and industrial plants, service facilities, eating establishments, warehouses, medical offices, hotels and motels, and others which may be listed in the future.

With respect to new commercial and industrial development, Government Code Section 65995 states that a fee may be charged on all "chargeable covered and enclosed space." Such space includes all covered and enclosed space within the perimeter of the commercial or industrial structure, but does not include any incidental storage areas, garages, parking structures, enclosed walkways or utility or disposal areas.

1. Hotels, motels and other lodgings are considered a commercial building if the maximum term of occupancy for guests does not exceed 30 days. Any hotel or motel unit (room) with built-in kitchen facilities may be deemed residential if the District finds that the unit was developed for a tenant's continuous occupancy for periods exceeding 30 days. However, commercial and industrial development does not include any residential hotel as defined in Health and Safety Code Section 50519(b)(1).
2. Developers of buildings which do not meet the ordinary definitions of commercial or industrial development may present data showing the special characteristics of the proposed project at least 45 days prior to the anticipated issuance of the building permit and request a waiver or reduction of the fees. Any such waiver or reduction of the fees shall occur only after the school district staff has made written findings and the Board of Education has had an opportunity to review the developer's application.
3. Fees will not be levied on the remodel of any commercial or industrial structure, if the structure's use upon completion of the remodel remains substantially the same. However, if the remodel results in increased chargeable covered and enclosed space, the increased space will be considered new construction and a fee will be assessed.

C. Development Exempt from Developer Fees

Government Code Section 65995 prohibits a School District's Governing Board from charging fees on the construction of structures that are tax-exempt and used exclusively for religious purposes, structures used as private full-time day schools (as defined in Section 48222 of the Education Code), and structures owned and operated by a governmental entity.

1. Description of Exclusions to Developer Fees

- A. Retaining walls
- B. Fences
- C. Signs
- D. Flagpoles
- E. Swimming pools
- F. Sheds
- G. Garages
- H. Carports
- I. Agricultural buildings (non-commercial), churches, convalescent facilities.

1. No fee may be levied on an agricultural building unless the Board of Education makes the finding that the amount of the fee is reasonably related and limited to the needs of the community for elementary or high school facilities caused by the development. Agricultural building means any greenhouse or other space that is covered or enclosed for agricultural purposes.
2. The amount of the fee may not exceed the estimated cost of providing for the construction or reconstruction of school facilities necessitated by the development from which the fees are to be collected.
3. The Board of Education may charge a fee on a new covered and enclosed agricultural building such as greenhouse if it finds that the fee bears a reasonable relationship to the community's need for new school facilities caused by the agricultural development and that the fee does not exceed the cost of the facility's construction or reconstruction. In addition, the Board of Education will consider the relationship between any resulting increase in the number of employees, the size and use of the structure and the cost of construction. The Board of Education will not charge a fee on any agricultural building if the number of employees associated with the development will not increase or if housing has been provided for all additional employees, and a fee has previously been assessed against such housing under Section 17620. In developing this finding, the Board shall consult with the County Agricultural Commissioner, or other appropriate public agency.

J. Other

1. In addition, no fee will be levied on the construction of any buildings which would be exempt from taxation pursuant to subsections (a) through (g), inclusive, of Section 3 and Subsections (b) and (c) of Section 4 of Article XIII of the California Constitution. Such buildings include churches, public facilities owned by public entities, dormitories at a college or seminary, libraries or museums that are free and open to the public, buildings used exclusively for educational purposes by a public entity or a non profit institution of higher education, buildings used exclusively for religious worship and hospitals or institutions for charitable purposes owned and used by nonprofit entities.
2. No fee will be charged on the reconstruction of any commercial or industrial structure which is damaged or destroyed due to a catastrophic loss, such as fire, flood, earthquake, etc.

III. CERTIFICATE OF COMPLIANCE

The procedure for collecting school facility fees is as follows:

- Step I. The developer must complete a City or County Building Permit application form. If the developer plans to demolish an existing structure, a separate permit is required. The City or County staff collects all fees due the City or County and completes and signs the Building Permit application form to confirm that payment of fees due the City or County has been made. The City or County also calculates the development's chargeable covered and enclosed space or assessable square footage. The Desert Sands Unified School District reserves the right to verify the chargeable square footage.
- Step II. The developer is provided information concerning the Desert Sands Unified School District School Facility Fee requirements and instructed to go the Desert Sands Unified School District Facilities Services Department for calculation and payment of the appropriate school facility fee.
- Step III. The developer must provide the Desert Sands Unified School District Facilities Services Department with the following:
 - a. The Building Permit application form completed and signed by the City or County.
 - b. A cashier's check, certified check, money order, or cash.
- Step IV. The Facilities Services Department confirms the appropriate school facility fee based upon the criteria approved by the Board of Education.
- Step V. After compliance with all of the requirements listed above, a Certificate of Compliance form is issued to the developer which must be returned to the City or County. Thereafter, the City or County will issue a completed Building Permit.

IV. SCHOOL FACILITY FEE APPEAL PROCESS FOR COMMERCIAL AND INDUSTRIAL DEVELOPERS

Commercial and industrial developers who wish to appeal a fee may use the following procedure:

- A. Submit a written appeal to the Assistant Superintendent, Business Services. Any request must be made within 10 days of the fees' payment. Any request must include grounds for the appeal. Grounds include, but are not limited to the following:
 - 1. Inaccuracy of including the project within the category pursuant to which the fee was imposed; or
 - 2. The employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project.

- B. Within 45 days of filing an appeal, the developer must provide evidence supporting the asserted grounds for appeal, showing that the imposition of the fee was improper.
- C. The Assistant Superintendent, Business Services will review the evidence and make a determination no later than 45 days from the date the developer submits all evidence.
- D. If the appeal is denied by the Assistant Superintendent, Business Services, the developer may appeal the decision in writing to the Board of Education. The matter will then be placed on the agenda so that the Board can conduct a hearing.
- E. After it has considered all evidence submitted, including a recommendation by the Superintendent, the Board shall either approve or deny the appeal. The Board may modify the amount of the fee levied if it determines such action is appropriate.

V. NEXUS-JUSTIFICATION FOR IMPOSING SCHOOL FACILITY FEES

The reader is referred to the *Residential Development School Fee Justification Study for Desert Sands Unified School District* and the *Commercial/Industrial Development School Fee Justification Study for Desert Sands Unified School District*, February, 2006.