

# **DEVELOPER FEE INFORMATIONAL HANDBOOK**

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San Bernardino City Unified School District  
Developer Fee Informational Handbook

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## ARTICLE I. PURPOSE

### Section 1.1 Objective

The purpose of the San Bernardino City Unified School District (District) Developer Fee Informational Handbook (Handbook) is to define allowable uses of the collected fees; identify use priorities; provide guidelines for setting developer fee rates; describe collections and projections development; and describe statutory and District exemptions, the appeals process, and periodic reporting. This Handbook aims to offer direction to all operational units within the District that may be impacted by it.

## ARTICLE II. BACKGROUND

### Section 2.1 Statutory

Education Code Section 17620(a)(1) authorizes the governing board of any school district to levy a fee, charge, dedication, or other requirements against any construction within the boundaries of a district to fund the construction or reconstruction of school facilities. Developer fees are a type of statutory fee levied on residential and/or commercial/industrial construction, which helps to minimize the impact of the construction on school facilities.

## ARTICLE III. USES

### Section 3.1 Authorized Uses

Generally, developer fees may be utilized for any project that provides additional capacity to District schools to accommodate an increase in students within the District and/or provide reconstructed/modernized school facilities to ensure schools are safe and can be occupied, and that the District can maintain existing levels of service for students and has facilities in place to accommodate additional students from residential developments, including projects for which the District has previously incurred debt obligations.

Education Code Section 17620(a)(5) allows the District to use the collected fees for performing any study or making findings and determinations required under subdivisions (a), (b), and (d) of Government Code Section 66001, or in preparing the school facilities need analysis (SFNA) described in Government Code Section 65995.6.

The administrative costs incurred for the collection of fees may not exceed an amount of three (3) percent of the fees collected in that fiscal year. (*See* Gov't. Code section 17620(a)(5).) The Business Services Division determines the appropriate usage of the fees for administrative costs.

## Section 3.2 Unauthorized Uses

Education Code section 17620(a)(3) does **not** permit the use of developer fees for the following:

1. The regular maintenance and routine repair of school buildings and facilities.
2. The inspection, sampling, analysis, encapsulation, or removal of asbestos-containing materials, except where incidental to school facilities construction or reconstruction, for which the expenditure of fees or other consideration collected is not prohibited.
3. The purpose of district deferred maintenance funds as described in Education Code section 17582, including, but not limited to, major repair or replacement of plumbing, heating, air-conditioning, electrical, roofing, and floor systems; the exterior and interior painting of school buildings; the inspection, sampling, and analysis of building materials to determine the presence of asbestos-containing materials; the encapsulation or removal of asbestos-containing materials; the inspection, identification, sampling, and analysis of building materials to determine the presence of lead-containing materials; and the control, management, and removal of lead-containing materials.

## ARTICLE IV. SETTING FEES

### Section 4.1 Setting Developer Fee Rates

Developer fees are assessed against residential and commercial or industrial storage within the District's boundaries. Residential construction fees also apply to both home remodeling and rebuilding. The maximum fees for the Level 1 residential rate and commercial/industrial rate are determined by the State Allocation Board (SAB). Government Code section 65995(b)(3) requires the SAB to adjust the Level 1 fee at its January meeting every even-numbered year according to adjustment for inflation outlined in the statewide cost index for Class B construction. Developer fee rates on residential construction are higher than those for commercial/industrial construction, as residential construction has a greater impact on school facility needs.

Per Government Code section 66001(a), the local agency shall do the following before imposing a developer fee as a condition of approval of a development project:

- a. Identify the purpose of the fee.
- b. Identify the use of the fee.
- c. Determine a reasonable relationship between the fee's purpose and use; and
- d. Determine a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

### Section 4.2 Alternative School Facilities Fee

School districts may assess higher residential fees (Level 2 or Level 3) annually when certain criteria related to hardship or overcrowding have been met. (*See* Ed. Code section 17620 and Gov't. Code sections 65995.5, 65995.6, and 65995.7.)

## Section 4.3 Assessable and Chargeable Space

When obtaining a building permit, it is typically the responsibility of the issuing city or county to calculate the square footage of residential or commercial/industrial construction for developer fee payment. For the determination of chargeable fees to be paid to the appropriate school district in connection with any commercial or industrial construction under the jurisdiction of the Office of Statewide Health Planning and Development, the architect of record shall determine the chargeable covered and enclosed space within the perimeter of a commercial or industrial structure. (Gov't. Code sections 65995(b)(1) and 65995(b)(2)).

For residential construction, fees are assessed per square foot of “**assessable space**”, which is defined as the square footage within the perimeter of a residential structure but excluding any carport, walkway, garage, overhang, patio, enclosed patio, detached accessory structure, or similar area.

For commercial/industrial construction, fees are assessed per square foot of “**chargeable covered and enclosed space**”, which includes the covered and enclosed space within the perimeter of the structure but excludes any storage areas incidental to the principal use of the construction, garage, parking structure, unenclosed walkway, or utility or disposal area.

The amount of “**assessable space**” & “**chargeable covered and enclosed space**” is the **net amount by individual permit**.

## ARTICLE V. COLLECTING AND PROJECTING FEES

### Section 5.1 Collection of Fees

The District’s Facilities Planning & Development Department collects developer fees for construction projects within the District’s boundaries.

### Section 5.2 Projection of Fees

The Facilities Planning & Development Department projects developer fee income based upon master planning documents available from local planning jurisdictions.

## ARTICLE VI. EXEMPTIONS

Certain construction projects are statutorily exempt from the payment of developer fees. These exemptions are as follows:

### Section 6.1 Statutory Exemptions

1. Accessory Dwelling Units (ADUs)
  - a. Pursuant to Education Code Section 17620, ADUs under 500 square feet are not subject to school impact fees. (*See also* California Housing and Community Development’s ADU Handbook (July 2022).)
2. Agricultural (Gov’t. Code section 65995.1(b)) (Ed. Code section 17622(a))

- a. Agricultural migrant worker housing projects financed by the Director of Housing and Community Development and owned by the State and comply with the Special Housing Program for Migratory Workers.
  - b. Greenhouse or other agricultural space unless the District complies with both subdivisions (b) and (c) of Ed. Code section 17622.
3. Canceled and Expired Permits (Ed. Code section 17624)
  - a. Construction for which the building permit expires, without the commencement of construction, shall be repaid or reconveyed less applicable administrative costs.
  - b. California Code of Civil Procedure section 338 allows for a three-year limitation period to request a refund for expired or canceled building permits, starting from the date the refund becomes available (i.e., date of expiration/cancellation of the building permit).
4. Demolition (Voluntary) (Ed. Code section 17620(a)(1)(A) and (C))
  - a. Developer fees are applicable only to the total resulting increase in assessable space for residential developments and chargeable and enclosed space for commercial/industrial redevelopments.
  - b. No demolition credit or partial refund for the demolition of exempt structures (i.e., garages, detached storage, etc.).
5. Detached Accessory Structure (Gov't. Code section 65995(b)(1))
  - a. Assessable space does not include any carport, covered or uncovered walkway, garage, overhang, patio, enclosed patio, or similar areas.
6. Natural Disaster Replacement (Ed. Code section 17626)
  - a. The rebuilding of a home damaged by a natural disaster, such as fire, flood, earthquake, landslide, mudslide, or tidal wave, is exempt up to the original square footage.
  - b. See Section 6.2 for additional eligibility criteria.
7. Exclusive Religious Use (Gov't. Code section 65995(d))
  - a. Facilities that are used exclusively for religious purposes. Property is to be owned and operated by a church, and property is used for exclusively religious worship, and property is deemed exempt from property taxation under the laws of the state.
8. Government Facilities (Gov't. Code section 65995(d))
  - a. Facilities that are owned and occupied by one or more agencies of the federal, state, or local government.
9. Less than 500 square feet. (Ed. Code section 17620(C)(i))
  - a. Fees can only be levied for additions to an existing residential property that exceeds five hundred square feet of assessable space.

10. Parking Structures. (Gov't. Code section 65995(b)(2))
  - a. Fees are not chargeable on parking garages incidental to the principal use of a dwelling.

11. Private School Development (Gov't. Code section 65995(d); Ed. Code section 48222)
  - a. Any facility used exclusively as a private full-time day school for K-12 students.

### Section 6.2 Board Authorized Exemptions Eligibility

There are no Board Authorized Exemptions beyond statutory exemptions.

## ARTICLE VII. REDUCED RATE

### Section 7.1 Reduced Rate Residential Developments

Certain residential development projects may statutorily qualify for the reduced commercial/industrial rate.

1. Senior Citizen Housing (Gov't. Code section 65995.1(a))
  - a. New residential construction dedicated for senior citizen development, as defined in Civil Code section 51.3, or
  - b. New residential care facility for the elderly, as defined in Health & Safety Code section 1569.2.

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

1. Execution of the Restrictive Covenant and Agreement.
  2. Appropriate recording/stamp of the Restrictive Covenant and Agreement with the County of San Bernardino Recorder.
  3. Current grant deed or quitclaim deed.
2. Short-Term Housing (Gov't. Code section 65995(d))
    - a. This includes, but is not limited to, any hotel, inn, motel, tourist home, or other lodging for which the maximum term of occupancy for guests does not exceed thirty (30) days. This does not include any residential hotel (building with 6 or more guest rooms used as the primary residence).

## ARTICLE VIII. ACCESSORY DWELLING UNITS (ADUS)

### Section 8.1 Accessory Dwelling Units

The state of California recognizes the significance of ADUs as a housing option and aims to ensure that homeowners have the freedom to create these units without unnecessary restrictions.



## ARTICLE IX. REQUESTS, PROTESTS, AND APPEALS

### Section 9.1 Requests for Refunds

Requests for a refund of the Developer Fees paid are processed by the Facilities Planning & Development Department and must be accompanied by proof of payment, and proof of permit cancellation.

Refunds for developer fees are given in the form of a check. Refunds will be payable to the entity who originally paid the developer fee, unless otherwise mandated by law.

### Section 9.2 Appeals: District Process

Pursuant to Section 66020 of the California Government Code and other applicable law, you have a period of ninety (90) days from the date of payment of school fees, mitigation payments or other to protest the validity thereof. This ninety (90) day period commences upon such payment of performance of any other requirement, as provided in Section 66020. Any such protest must be in writing and received by the District's Facilities Planning & Development Office within ninety (90) calendar days of the date of the School District Certification above.

## ARTICLE X. REPORTING

### Section 10.1 Financial Reporting

Government Code sections 66001 and 66006 require local agencies, including school districts collecting developer fees, to provide an annual accounting of fees collected, including the beginning, and ending balances, interest and other income, identifications of improvements, approximate dates for the commencement of incomplete improvements, expenditures by project, interfund transfers and loans, and the amount of refunds made, plus a report every fifth fiscal year containing information on ending balances. This information must be reviewed by the Board and made available to the public no later than 180 days after the end of the fiscal year.

EXHIBIT A

Local Planning Agencies

Exhibit A  
Local Planning Agencies

City of San Bernardino  
City of Highland  
County of San Bernardino