

Chapter 21.90

GROWTH MANAGEMENT

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21.90.010 Purpose and intent.

(a) It is the policy of the city to:

- (1) Provide quality housing opportunities for all economic sectors of the community;
- (2) Provide a balanced community with adequate commercial, industrial, recreational and open space areas to support the residential areas of the city;
- (3) To implement the provisions of Proposition E adopted by the citizens of Carlsbad on November 4, 1986, to require that public facilities and improvements meeting city standards are available concurrently with the need created by new developments and to limit the number of residential dwelling units which can be approved or constructed in the city;
- (4) Balance the housing needs of the region against the public service needs of Carlsbad residents and available fiscal and environmental resources;
- (5) Encourage infill development in urbanized areas before allowing extensions of public facilities and improvements to areas which have yet to be urbanized;
- (6) Ensure that all development is consistent with the Carlsbad general plan;

- (7) Prevent growth unless adequate public facilities and improvements are provided in a phased and logical fashion as required by the general plan;
 - (8) Control of the timing and location of development by tying the pace of development to the provision of public facilities and improvements at the times established by the city-wide facilities and improvements plan.
- (b) The city council of the city has determined despite previous city council actions, including but not limited to, amendments to the land use, housing, and parks and recreation elements of the general plan, amendments to city council Policy No. 17, adoption of traffic impact fees, and modification of park dedication and improvement requirements, that the demand for facilities and improvements has outpaced the supply resulting in shortages in public facilities and improvements, including, but not limited to, streets, parks, open space, schools, libraries, drainage facilities and general governmental facilities. The city council has further determined that these shortages are detrimental to the public health, safety and welfare of the citizens of Carlsbad.
 - (c) This chapter is adopted to ensure the implementation of the policies stated in subsection (a), to eliminate the shortages identified in subsection (b), to ensure that no development occurs without providing for adequate facilities and improvements, to regulate the pace of development thereby ensuring a continued supply of housing over a period of years and to continue the quality of life for all economic sectors of the Carlsbad community.
 - (d) This chapter will further the policies, goals and objectives established herein by requiring identification of all public facilities and improvements required for development, by prohibiting development until adequate provisions for the public facilities and improvements are made by developers of projects within the city, and by giving development priority to areas of the city where public facilities and improvements are already in place (infill areas).
 - (e) This chapter replaces the temporary moratorium on processing and approval of development projects imposed by City Council Ordinance No. 9791. (Ord. 9829 § 1, 1987; Ord. 9808 § 1, 1986)

21.90.020 Definitions.

- (a) Whenever the following terms are used in this chapter they shall have the meaning established by this section unless from the context it is apparent that another meaning is intended:
 - (1) "City-wide facilities and improvements plan" means a plan prepared and approved according to Section 21.90.090 identifying those facilities and improvements required on a city-wide basis to serve the projected population of the city as established by the general plan and providing an outline and budget for financing certain facilities and improvements which will be provided by the city.
 - (2) "Development" means any use to which land is put, building or other alteration of land and construction incident thereto.
 - (3) "Development permit" means any permit, entitlement or approval, whether discretionary or ministerial, issued under Titles 20 or 21 of this code and any legislative actions such as zone changes, general plan amendments, or master plan approval or amendment.
 - (4) "Facilities" means any schools, parks, open space, or recreational areas or structures providing for fire, library, or governmental services, identified in a facilities management plan.
 - (5) "Improvement" includes traffic controls, streets and highways, including curbs, gutters and sidewalks, bridges, overcrossings, street interchanges, flood control or stormdrain facilities, sewer facilities, water facilities and lighting facilities.
 - (6) "Local facilities management plan" means a facilities management plan defined by Section 21.90.120 for a local facilities management zone which is established according to Section 21.90.100. (Ord. 9808 § 1, 1986)

21.90.030 General prohibition—Exceptions.

- (a) Unless exempted by the provisions of this chapter, no application for any building permit or development permit shall be accepted, processed or approved until a city-wide facilities and improvements plan has been adopted and a local facilities management plan for the applicable local facilities management zone has been submitted and approved according to this chapter.
- (b) No zone change, general plan amendment, master plan amendment or specific plan amendment which would increase the residential density or development intensity established by the general plan in effect on the effective date of this chapter shall be approved unless an amendment to the citywide facilities management plan and the applicable local facilities management plan has first been approved.
- (c) The classes of projects or permits listed in this subsection shall be exempt from the provisions of subsection (a). Development permits and building permits for these projects shall be subject to any fees established pursuant to the city-wide facilities and improvement plan and any applicable local facilities management plan.
 - (1) Redevelopment projects;
 - (2) Projects consisting of the construction or alteration of a single dwelling structure for a family on a lot owned by the family intending to occupy the structure, or not to exceed one nonowner-occupied house per individual for one or more lots owned prior to July 20, 1986;
 - (3) Building permits and final maps for projects identified in Section 2(F) of Ordinance No. 9791 (projects for which construction had commenced and were designated on the map marked Exhibit A to Ordinance No. 9791 "as developing");
 - (4) Building permits for projects for which all required development permits were issued or approved on or before January 21, 1986. If all required development permits were issued for a portion of the project only, the exemption shall apply to that portion;
 - (5) Building permits for projects for which all required development permits were issued or approved before July 20, 1986, and for which building permits could have been issued under Ordinance No. 9791. If all required development permits were issued for a portion of the project only, the exemption shall apply to that portion;
 - (6) Commercial and industrial projects with approved development permits or with a complete application on file with the city prior to June 11, 1986, for such permits. New permits for commercial and industrial projects located within an area that has been previously approved for such uses may also be processed and approved;
 - (7) Projects by nonprofit entities for structures and uses for youth recreational, educational or guidance programs such as boys and girls clubs or private schools;
 - (8) Zone changes or general plan amendments necessary to accomplish consistency between the general plan and zoning, to implement the provisions of the local coastal plan or which the city council finds will not increase the public facilities or services and which are initiated by the city council or planning commission;
 - (9) Public utility facilities and improvement projects without accommodations for permanent employees are exempt from the provisions of this chapter unless the city council determines they are of sufficient size and scale to impact public facilities;
 - (10) Adjustment plans;
 - (11) Development permits for minor subdivisions located in the northwest quadrant of the city as defined in Ordinance No. 9791. Building permits for commercial or industrial construction on lots in such subdivisions may be approved. Residential building permits will not be approved for lots in such subdivisions unless otherwise exempt under this chapter except one permit for a nonowner-occupied lot may be approved for each such subdivision;

- (12) The conversion of existing mobile home parks to condominiums or similar forms of ownership whereby the mobile home park will remain substantially the same in appearance following such conversion;
 - (13) Master plans or general plan amendments in connection with master plans which do not increase the residential density or the overall development intensity or facility needs established by the existing general plan provided a local facilities management plan must be prepared, processed and approved concurrently with the master plan.
- (d) The provisions of this subsection apply to final maps and other development permits for projects with a tentative map approved July 20, 1986, which are not included in the exemptions listed in subsection (c).
- (1) If a tentative map or tentative parcel map was approved on or before January 21, 1986, then, after approval of the city-wide facilities plan, a final map or parcel map may be processed and approved before the adoption of a local facility management plan. The expiration period for those tentative maps shall be tolled until the city-wide plan is adopted. The expiration of any development permits issued in conjunction with those maps shall be tolled until the applicable local facilities management plan is approved or, two years after the date the city-wide plan is approved, whichever occurs first.
 - (2) If a tentative map or tentative parcel map was approved after January 21, 1986, and before July 20, 1986, but the approval of final map or parcel map was prohibited by Ordinance No. 9791, then approval of final maps and parcel maps is prohibited until after preparation of the applicable local facilities management plan. The expiration period of those tentative maps and tentative parcel maps, and any other development permits issued in conjunction with the maps shall be tolled until the local facilities management plan is approved, or two years after the date the city-wide facilities and improvements plan is approved, whichever occurs first.
- (e) The exemption for projects listed in subsection (c)(3), (4), (5), and (6) shall expire on July 20, 1988. After that date all development permits for those projects shall be fully subject to the provisions of this chapter. The exemptions for projects listed in subsection (c)(3), (4), (5), and (6) shall apply only so long as the facilities and improvements required as a condition to the issuance of final development permits have been installed or are being installed pursuant to a secured agreement. Any breach of such secured improvement agreement shall subject any remaining building permits for the project to the provisions of subsection (a).
- (f) Final or parcel maps for projects listed in subsection (c)(3), (4), (5), (6) and (7) which comply with all the requirements of the Subdivision Map Act and Title 20 of this code which were filed with the city before July 20, 1986, may be approved by the city council, or city engineer as appropriate, after July 20, 1986. Upon approval, those projects shall be subject to the exemption of subsection (c).
- (g) The city council may authorize the processing of and decision making on building permits and development permits for a project with a master plan approved before July 20, 1986, subject to the following restrictions:
- (1) The city council finds that the facilities and improvements required by the master plan are sufficient to meet the needs created by the project and that the master plan developer has agreed to install those facilities and improvements to the satisfaction of the city council.
 - (2) The master plan developer shall agree in writing that all facilities and improvement requirements, including, but not limited to, the payment of fees established by the city-wide facilities and management plan and the applicable local facilities management plan shall be applicable to development within the master plan area and that the master plan developer shall comply with those plans.
 - (3) The master plan establishes an educational park and all uses within the park comprise an integral part of the educational facility.

- (4) Building permits for the one hundred twenty-nine unit residential portion of Phase I of the project may be approved provided the applicant has provided written evidence that an educational entity will occupy Phase I of the project which the city council finds is satisfactory and consistent with the goals and intent of the approved master plan.
- (5) Prior to the approval of the final map for Phase I the master plan developer shall have agreed to participate in the restoration of a significant lagoon and wetland resource area and made any dedications of property necessary to accomplish the restoration.
- (h) After making the findings in paragraph (1) the city council may authorize the processing of and decisionmaking on master plans subject to the requirements of paragraph (2). After the grant of the easement required by subparagraph (h)(2)(iv) the tentative map for Phase I of the project, the site plan for the commercial development and the local coastal plan amendment may also be processed and approved. If such approvals are granted and, subject to all other provisions of this code, grading and building permits for construction of the golf course and first phase of the commercial portions of the project may be processed and approved.

The processing and approval of all other developments and building permits within the master plan shall not occur until after the city-wide facilities plan and the local facilities management plan have been adopted by the city council.

- (1) (i) That the master plan will provide all necessary public facilities for the project and will cure any facilities deficits in the area affected by the project;
- (ii) That the approval will not prejudice the preparation of the city-wide facilities plan and will improve the level of public facilities and services in the area;
- (iii) That by the dedication of land and the construction of public improvements the project will make a significant contribution to the public facilities needs of the city and provide for the preservation or enhancement of significant environmental resources.
- (2) (i) The master plan shall include all of the information required by and implementing the provisions of Sections 21.90.090 and 21.90.110 for the area covered by the master plan;
- (ii) The applicant shall agree in writing that all facilities and improvement requirements, including, but not limited to, the payment of fees established by the citywide facilities and improvement plan and the applicable local facilities management plan shall be applicable to development within the master plan area and that the master plan developer shall comply with those requirements;
- (iii) The master plan applicant shall agree to participate in the restoration of a significant lagoon and wetland resource area;
- (iv) Prior to any processing on the master plan the applicant shall grant an easement over the property necessary for the lagoon restoration and the right-of-way necessary for the widening of La Coasta Avenue and its intersection with El Camino Real. (Ord. NS-63 § 1, 1989; Ord. 9837 § 1, 1987; Ord. 9808 § 1, 1986)

21.90.031 Tolling of time for consideration of applications submitted before the effective date of this chapter.

After approval of the city-wide facilities and improvement plan and the applicable local facilities management plan, applications for development permits which were accepted as complete before the effective date of this chapter shall have processing priority in relationship to the acceptance date. Until the approval of the plans all applicable time limits for processing the development permits shall be tolled. (Ord. 9808 § 1, 1986)

21.90.032 Tolling of expiration of previously issued development permits.

If a discretionary development permit, other than a development permit issued in conjunction with a subdivision map, issued prior to July 20, 1986, has an expiration period within which building permits must be is-

sued and the issuance of building permits for the project is prohibited by this chapter then the expiration period shall be tolled until the applicable local facilities management plan is approved, or two years after the date the citywide plan is approved, whichever occurs first. (Ord. 9808 § 1, 1986)

21.90.033 Extensions of prior approvals prohibited.

After approval of an applicable local facilities management plan an extension of the expiration date of any development permit shall not be granted unless the extension is found to be consistent with the plan. The decisionmaking body considering an extension may condition the extension upon compliance with the citywide plan and applicable local facilities management plan. (Ord. 9808 § 1, 1986)

21.90.040 Compliance with this chapter.

- (a) No development permit shall be approved unless the approving authority finds that the permit is consistent with the city-wide facilities and improvements plan and the applicable local facilities management plan. To ensure consistency the approving authority may impose any condition to the approval necessary to implement the plans.
- (b) No building permit shall be issued unless the fees required by this chapter, and any applicable local facilities management plan fees are first paid, and the permit is consistent with the applicable local facilities management plan. As a condition to the issuance of any building permit pursuant to Section 21.90.030(C) the applicant shall agree to pay the appropriate fees within thirty days of the date each fee is established.
- (c) The requirements of this chapter are imposed as a condition of zoning on the property to ensure implementation of and consistency with the general plan and to protect the public health, safety and welfare by ensuring that public facilities and improvements will be installed to serve new development prior to or concurrently with need. (Ord. 9808 § 1, 1986)

21.90.045 Growth management residential control point established.

In order to ensure that residential development does not exceed those limits established in the general plan, the following growth management control points are established for the residential density ranges of the land use element.

Allowed Dwelling Units Per Acre

| General Plan Density Ranges | Growth Management Control Point |
|-----------------------------|---------------------------------|
| RL 0—1.5 | 1.0 |
| RLM 0—4.0 | 3.2 |
| RM 4.0—8.0 | 6.0 |
| RMH 8.0—15.0 | 11.5 |
| RH 15.0—23.0 | 19.0 |
| R-30 23.0—30.0 | 25.0 |

No residential development permit shall be approved which density exceeds the growth management control point for the applicable density range unless the following findings are made:

- 1. The project will provide sufficient additional public facilities for the density in excess of the control point to ensure that the adequacy of the city's public facilities plans will not be adversely impacted; and
- 2. There have been sufficient developments approved in the quadrant at densities below the control point to cover the units in the project above the control point so that approval will not result in exceeding the quadrant limit; and
- 3. All necessary public facilities required by this chapter will be constructed or are guaranteed to be constructed concurrently with the need for them created by this development and in compliance with the adopted city standards.

For the purposes of this section the term "quadrant" means those quadrants established by the intersections of El Camino Real and Palomar Airport Road as set forth in the map amending the General Plan and as required by Proposition E adopted November 4, 1986. (Ord. CS-206 § II, 2013; Ord. 9829 § 2, 1987)

21.90.050 Establishment of local facilities management fee.

- (a) A local facilities management fee is established to pay for improvements or facilities identified in a local facilities management plan which are related to new development within the zone and are not otherwise financed by any other fee, charge or tax on development, or are not installed by a developer as a condition of a building permit or development permit. The fee may also be used to pay for that portion of the facilities or improvements identified in the city-wide facilities and improvements plan attributed to development within the local zone which are not financed by other means. The facilities management fee shall be paid before the issuance of a building permit. The amount of the fee shall be determined based upon the estimated cost of the facility or improvement designated as necessary to accommodate additional development within the applicable local facilities management zone plus the estimated cost of facilities and improvements identified in the city-wide facilities and improvement plan attributable to the local zone. The fee shall be fairly apportioned among the new development.
- (b) The fee required by this section is in addition to any other means of financing facilities or improvements identified by a local facilities management plan or any other tax, fee, charge or improvement requirement which may be imposed on the development of property under the provisions of state law, this code or city council policy.
- (c) The amount of the fee for a local facilities management zone shall be set by city council resolution after a public hearing, published notice of which shall be given according to Section 21.54.060.A.2 and Government Code Section 54992.
- (d) As a condition of any building or development permit application submitted after the effective date of this chapter the applicant shall agree to pay the fee established by this section at the time a building permit is issued.
- (e) The fee established by this section shall be levied at the time of issuance of a building permit. (Ord. CS-178 § CXXV, 2012; Ord. 9808 § 1, 1986)

21.90.060 Special provisions for building permits issued during temporary moratorium.

Applicants for projects for which building permits were issued after January 21, 1986, and before July 20, 1986, shall pay the fee established by Section 21.90.050 within thirty days after the amount of the fee is determined by the city council. Payment shall be made according to the agreement executed by the applicant pursuant to Section 3 of Ordinance No. 9791. (Ord. 9808 § 1, 1986)

21.90.070 Finding of health, safety and welfare necessary for the fees imposed by Sections 21.90.050 and 21.90.060.

- (a) The city council declares that payment of the fee established and imposed by Sections 21.90.050 and 21.90.060 and installation of the facilities and improvements identified in a facilities management plan are necessary to achieve the policies established in Section 21.90.010 and to implement the city's general plan. If the fees are not paid or the facilities or improvements are not installed the public health, safety and welfare will suffer because there will be insufficient facilities and improvements to accommodate any new development. This finding is based upon City Council Policy No. 17, City Council Ordinance No. 9791, and the evidence presented at the public hearings on the ordinance adopting this chapter.
- (b) If any condition imposed as a condition of a development permit or building permit pursuant to this chapter is protested then the permit shall be suspended during the period of the protest.
- (c) This section is adopted pursuant to Government Code Section 65913.5. (Ord. 9808 § 1, 1986)

21.90.080 Performance standard.

The city council shall adopt general performance standards for each facility or improvement listed in Section 21.90.090(b) or 21.90.110(c). Specific performance standards for city-wide facilities shall be adopted as part of the city-wide facilities and improvement plan. Specific performance standards for each zone shall be adopted as part of the local facilities management plan. If at any time after preparation of a local facilities management plan the performance standards established by a plan are not met then no development permits or building permits shall be issued within the local zone until the performance standard is met or arrangements satisfactory to the city council guaranteeing the facilities and improvements have been made. (Ord. 9808 § 1, 1986)

21.90.090 City-wide facilities and improvements plan.

- (a) To implement the city's general plan by securing provision of facilities and improvements, and to ensure that development does not occur unless facilities and improvements are available, the city council shall adopt by resolution a city-wide facilities and improvements plan. The plan shall: Identify all facilities and improvements necessary to accommodate the land uses specified in the general plan and by the zoning; specify size, capacity and service level performance standards for the identified facilities and improvements; establish specific time tables for acquisition, installation and operation of the facilities and improvements correlated to projected population growth, facility and improvement performance standards, and projected nonresidential development; identify the financing method or methods for each facility and improvement; and establish a facility and improvement budget for those facilities or improvements which will be constructed or financed by the city. The plan shall encourage infill development and reduce the growth-inducing impact of premature extension of facilities or improvements to undeveloped areas by establishing priorities for facility and improvement installation or financing.
- (b) The city-wide facilities and improvement plan shall show how and when the following facilities and improvements will be installed or financed as specified in subsection (c):
 - (1) Major sewage transmission systems and sewage treatment plants;
 - (2) Major water transmission lines;
 - (3) Major area-wide drainage facilities;
 - (4) Prime and major arterials; freeway interchanges, bridges or overcrossings;
 - (5) Fire facilities;
 - (6) Governmental administration facilities;
 - (7) Parks and other recreational facilities;
 - (8) Libraries.
- (c) The plan shall include the following information with regard to each facility and improvement listed in subsection (b):
 - (1) An inventory of present and future requirements for each facility and improvement based upon the performance standard established for each facility and improvement. Cost estimates shall be included. The inventory shall be consistent with the general plan and zoning for the area;
 - (2) A phasing schedule establishing the timing for installation or provisions of facilities or improvements in relationship to the amount of development activity (e.g. number of dwelling units, number of square feet of commercial space within the service area of the facility or improvement) and the facility and improvement performance standards;
 - (3) A financing plan establishing various methods of funding the facilities and improvements identified in the plan. The plan shall identify those facilities and improvements which would otherwise be provided as a requirement of processing a development project (i.e. requirements imposed as a condition of a development permit) or provided by the developer in order to establish consistency with the general plan or Titles 18, 20 or 21 of this code, and those facilities and improve-

ments for which new funding methods which shall be sufficient to ensure sufficient funds are available to construct or provide facilities or improvements when required by the phasing schedule.

- (d) The city manager shall prepare and present the plan to the city council not later than one year from the effective date of the ordinance codified in this chapter.
- (e) Amendments to this city-wide facilities and improvements plan shall be initiated by action of the planning commission or city council. (Ord. 9808 § 1, 1986)

21.90.100 Local facilities management zones.

- (a) The city council shall divide the city into facilities management zones.
- (b) The boundaries of the zones shall be established based upon logical facilities and improvements planning, construction and service relationships to ensure the economically efficient and timely installation of required facilities and improvements. In establishing zone boundaries the city council shall also be guided by the following considerations:
 - (1) Service areas or drainage basins;
 - (2) Extent to which facilities or improvements are in place or available;
 - (3) Ownership of property;
 - (4) Boundaries of existing zoning master plans;
 - (5) Boundaries of pending zoning master plans;
 - (6) Boundaries of potential future zoning master plan areas;
 - (7) Boundaries of approved tentative maps;
 - (8) Public facilities relationships, especially the relationship to the city's planned major circulation network;
 - (9) Special district service territories;
 - (10) Approved fire, drainage, sewer, or other facilities or improvement master plans.
- (c) The zones shall be established by resolution after a public hearing notice of which is given pursuant to Section 21.54.060.A.2 of this code. (Ord. CS-178 § CXXVI, 2012; Ord. 9808 § 1, 1986)

21.90.110 Contents of local facility management plans.

- (a) A local facilities management plan shall be prepared for each facility zone and shall cover the entire zone.
- (b) The plan shall consist of maps, graphs, tables and narrative text and shall be based upon the general plan and zoning applicable within the local zone at the time of plan approval. The local facilities management plan shall be consistent with the city-wide facilities and improvements plan and shall implement the city-wide facilities and improvements plan within the zone.
- (c) The facilities management plan shall show how and when the following facilities and improvements necessary to accommodate development within the zone will be installed or financed as specified in subsection (d):
 - (1) Sewer systems;
 - (2) Water;
 - (3) Drainage;
 - (4) Circulation;
 - (5) Fire facilities;
 - (6) Schools;

- (7) Parks and other recreational facilities;
 - (8) Open space.
- (d) The plan shall be consistent with and implement the city-wide facilities management plan and general plan and shall include the following information with regard to each facility and improvement listed in subsection (c):
- (1) An inventory of present and future requirements for each facility and improvement based upon the performance standard established for each facility. Because improvement requirements for certain facilities and improvements may overlap zone boundaries a discussion of the need for coordination and a proposed coordination plan for facilities extending from one zone to another shall be included. Cost estimates shall be included. It must be shown that development in the zone will not reduce the facilities or improvements capabilities or create facilities or improvements shortages in other zones or reduce service capability in any zone below the performance standard which is established pursuant to Section 21.90.080. The growth-inducing impact of the out-of-zone improvements shall be assessed.
 - (2) A phasing schedule establishing the timing for installation or provisions of facilities or improvements in relationship to the amount of development activity (e.g. number of dwelling units, number of square feet of commercial space, etc.) for the facilities management zone. The phasing schedule shall ensure the development of one area of the zone will not utilize more than the area's pro rata share of facility or improvement capacity within that zone unless sufficient capacity is ensured for other areas of the zone at the time of the first development. The phasing schedule shall include a schedule of development within the zone and a market data and cash flow analysis for financing of facilities and improvements for the zone. The phasing schedule shall identify periods where the demand for facilities and improvements may exceed the capacity and provide a plan for eliminating the shortfall. In those situations when demand exceeds capacity and it is not feasible to increase the capacity prior to development, no development shall occur unless a time schedule for and a means of increasing the capacity is established in the plan.
 - (3) A financing plan establishing various methods of funding the facilities and improvements identified in the plan fairly allocating the cost to the various properties within the zone. The plan shall identify those facilities and improvements which would otherwise be provided as a requirement of processing a development project (i.e. requirements imposed as a condition of a development permit) or provided by the developer in order to establish consistency with the general plan or Titles 18, 20 or 21 of this code, and those facilities and improvements for which new funding methods which shall be sufficient to ensure sufficient funds are available to construct or provide facilities or improvements when required by the phasing schedule. Where facilities or improvements are required for more than one zone, the phasing plan shall identify those other zones and the plan for each zone shall be coordinated. Coordination, however, shall not require identical funding methods.
 - (4) A list or schedule of facilities requirements correlated to individual development projects within the zone.
- (e) The local facilities management plan shall establish the proportionate share of the cost of facilities and improvements identified in the city-wide facilities and improvement plan attributable to development of property on the local facilities management zone. (Ord. 9808 § 1, 1986)

21.90.120 Local facilities management plan preparation.

- (a) A local facilities management plan may be prepared by the city or by the property owners within the zone according to the procedures established by this section.
- (b) The city council, upon its own initiative, may by resolution direct the city manager to prepare a facilities management plan for any zone. The city council may assess the cost of preparing the plan to the own-

ers within the zone after a hearing ten days written notice of which is given to the property owners within the zone. The cost shall be spread pro rata according to acreage and development potential.

- (c) All owners within the zone may jointly submit a facilities management plan.
- (d) For zones in which joint submission of a facilities management plan is shown to be not feasible any owner or group of cooperating owners within the zone may petition the city council to allow the owner or group of owners to prepare the plan. After a meeting for which ten days' prior written notice has been given to the property owners within the zone, the city council may permit the owner or group of owners to prepare and submit the plan. A limit based on the estimated cost of the plan shall be determined at the time of the hearing. The actual cost shall be determined when the plan is adopted and shall be assessed pro rata based on acreage and development potential to property within the facilities management zone. The assessment shall be collected by the city at the time any application for a development project within the zone is submitted. The owner or owners who prepared the plan shall be reimbursed for the cost of the plan less the owner's or owners' pro rata share. No reimbursement shall be made unless the plan is approved. Cost of preparation shall not include interest.
- (e) As an option to preparation by the owner or group of owners as provided in subsection (d), the city council may decide to direct the city manager to prepare the facilities management plan. The cost of preparation shall be advanced to the city by the requesting owner or owners, assessed to all the owners and reimbursed as provided in subsection (d). (Ord. 9808 § 1, 1986)

21.90.125 Facilities management plan processing.

- (a) Facilities management plans shall be reviewed according to the following procedure:
 - (1) A completed facilities management plan complying with this chapter, and accompanied by a processing fee submitted to the planning director for processing. If the planning director determines that the plan complies with the provisions of Section 21.90.110 the director shall set a facilities management plan for public hearing before the planning commission within sixty days of receipt of a complete application.
 - (2) The hearing shall be noticed according to the provisions of Section 21.54.060.A.2. A staff report containing recommendation on the plan shall be prepared and furnished to the public, the applicant, and the planning commission prior to the hearing.
 - (3) The planning commission shall hear and consider the application for a facilities management plan and shall by resolution prepare recommendations and findings for the city council. The action of the commission shall be filed with the city clerk, and a copy shall be mailed to the owners within the facility zone.
 - (4) When the planning commission action is filed with the city clerk, the clerk shall set the matter for public hearing before the city council. The hearing shall be noticed according to the provisions of Section 21.54.060.A.2.
 - (5) The city council shall hear the matter, and after considering the findings and recommendations of the planning commission, may approve, conditionally approve or deny a facilities management plan. The city council may include in the resolution adopting the facilities management plan any fees or facilities improvement requirements which it deems necessary to impose on development projects within the zone in order to implement the city-wide facilities and improvement plan and the local facilities management plan.
- (b) A facilities management plan may be amended following the same procedures for the original adoption.
- (c) A local facilities management plan shall be considered a project for the purposes of Title 19 of this code. Environmental documents should be processed concurrently with the plan. (Ord. CS-178 § CXXVII, 2012; Ord. CS-164 § 10, 2011; Ord. 9808 § 1, 1986)

21.90.130 Implementation of facilities and improvements requirements.

- (a) To ensure that the provisions of this chapter and the general plan are met, the following shall apply:
- (1) Except as otherwise provided in this chapter no development permit shall be approved unless the map or permit is consistent with the local facilities management plan and unless provision for all facilities and improvements related to the development project are provided or funded.
 - (2) No building permit shall be issued unless all applicable fees, including, but not limited to, public facilities fees, bridge and thoroughfare fees, traffic impact fees, facilities management fees, school fees, park-in-lieu fees, sewer fees, water fees, or other development fees identified in the city-wide facilities and improvements plan and local facilities management plan and adopted by the city council have first been paid or provision for their payment has been made to the satisfaction of the city council.
- (b) The city-wide facilities and improvement plan and the local facility management plan process is part of the city's ongoing planning effort. It is anticipated that amendments to the plans may be necessary. Adoption of a facilities management plan does not establish any entitlement or right to any particular general plan or zoning designation or any particular development proposal. The city-wide facilities and improvements plan and the local facilities management plans are guides to ensure that no development occurs unless adequate facilities or improvements will be available to meet demands created by development. The city council may initiate an amendment to any of the plans at any time if in its discretion it determines that an amendment is necessary to ensure adequate facilities and improvements.
- (c) If at any time it appears to the satisfaction of the city manager that facilities or improvements within a facilities management zone or zones are inadequate to accommodate any further development within that zone or that the performance standards adopted pursuant to Section 21.90.100 are not being met he or she shall immediately report the deficiency to the council. If the council determines that a deficiency exists then no further building or development permits shall be issued within the affected zone or zones and development shall cease until an amendment to the city-wide facilities and improvements plan or applicable local facilities management plan which addresses the deficiency is approved by the city council and the performance standard is met.
- (d) The city planner shall monitor the development activity for each local facilities management zone and shall prepare an annual report to the city council consisting of maps, graphs, charts, tables and text and which includes a developmental activity analysis, a facilities and improvements adequacy analysis, a facility revenue/expenditure analysis and recommendation for any amendments to the facilities management plan. The content of the annual report shall be established by the city council.
- (e) The city council shall annually review the city-wide facilities and improvements plan at the time it considers the city's capital improvement budget. (Ord. 9808 § 1, 1986)

21.90.140 Obligation to pay fees or install improvements required by any other law.

Nothing in this chapter shall be construed as relieving a builder, developer or subdivider from any public improvement requirement, dedication requirement or fee requirement which is imposed pursuant to Titles 13, 18, 20 or 21 of this code or pursuant to any city council policy. (Ord. 9808 § 1, 1986)

21.90.150 Implementing guidelines.

The city council may adopt any guidelines it deems necessary to implement this chapter. (Ord. 9808 § 1, 1986)

21.90.160 Exclusions.

- (a) Development proposals which consist of facilities, or structures constructed by a city, county, special district, state, or federal government or any agency, department, or subsidiary thereof for governmental purposes are excluded from the provisions of this chapter. This exclusion shall not apply to development proposals to which a possessory interest tax would be applicable.

- (b) Tentative maps the application for which was accepted before August 6, 1985, may be approved without complying with the plans adopted pursuant to this chapter but any other development permits or building permits for the project shall be subject to the requirements of the plans. The tentative map shall be subject to Section 21.90.030. (Ord. 9808 § 1, 1986)

21.90.170 Council actions, fees, notice.

- (a) Whenever this chapter requires or permits an action or decision of the city council, that action or decision shall be accomplished by a resolution.
- (b) The city council shall establish application and processing fees for the submission and processing of facilities management plans and for any other request made under Sections 21.90.100, 21.90.120 or 21.90.140.
- (c) Whenever written notice is required to be given to property owners under this section the notice shall be mailed by first class mail to the owners shown on the last equalized assessment roll. (Ord. 9808 § 1, 1986)

21.90.180 Public facility reductions.

Notwithstanding any previous sections of this chapter, the city council shall not materially reduce or delete any public facilities or improvements without making a corresponding reduction in residential density unless such a reduction or deletion of public facilities is ratified by a vote of the citizens of Carlsbad. (Ord. 9829 § 4, 1987)

21.90.185 Residential dwelling unit caps.

Notwithstanding any previous sections of this chapter, the number of residential dwellings to be approved or constructed after November 4, 1986, shall not exceed the following: Northwest quadrant 5,844; Northeast quadrant 6,166; Southwest quadrant 10,667; Southeast quadrant 10,801, without an affirmative vote of the citizens of Carlsbad. (Ord. 9829 § 4, 1987)

21.90.190 Severability.

If any section, subsection, sentence, clause or phrase of the ordinance codified in this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance codified in this chapter. The city council declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any part thereof be declared invalid or unconstitutional. (Ord. 9808 § 1, 1986)

21.90.195 Fee deferral.

Notwithstanding anything in this chapter and any resolution of the city council to the contrary, all fees subject to this chapter for any residential development that consists of five or more dwelling units and all new commercial, office, and industrial buildings or building additions shall only be paid prior to building permit issuance, or, at the request of the applicant, deferred until all work required for final inspection has been completed and all department approvals required for final inspection have been obtained by the applicant.

The amount of the fees shall be based on the fees in effect at the time of the request for the final inspection, not the time of building permit issuance.

In the event that the city, for any reason, fails to collect any or all fees prior to final inspection, such fees shall remain the obligation of the developer and/or the property owner. (Ord. CS-271 § V, 2015; Ord. CS-200 § V, 2013)