

ORDINANCE NO. 1532

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO,
ADDING CHAPTER 3.33 AND REPLACING CHAPTERS 3.34, 3.36, 3.40,
3.44, 3.48, 3.52, 3.56, 3.60, 3.64, 3.68 AND 3.72 OF THE RIALTO
MUNICIPAL CODE RELATING TO DEVELOPMENT IMPACT FEES

The City Council of the City of Rialto hereby ordains as follows:

Section 1. Chapter 3.33 hereby is added to the Rialto Municipal Code to read as follows:

Chapter 3.33 DEVELOPMENT IMPACT FEES

Sections:

- 3.33.010 Intent and Purpose.**
- 3.33.020 Legislative Findings.**
- 3.33.030 Definitions.**
- 3.33.040 Establishment of Development Impact Fees.**
- 3.33.050 Imposition of Development Impact Fees.**
- 3.33.060 Notice of Imposition of Development Impact Fees.**
- 3.33.070 Payment of Development Impact Fees.**
- 3.33.080 Deposit and Use of Development Impact Fees.**
- 3.33.090 Exemptions.**
- 3.33.100 Fee Credit.**
- 3.33.110 Construction and Credit Agreements**
- 3.33.120 Appeal to City Administrator.**
- 3.33.130 Refunds.**
- 3.33.140 Annual Review of Development Impact Fee Funds.**
- 3.33.150 Parks and Recreation Development Impact Fee.**
- 3.33.160 Regional Traffic Development Impact Fee.**
- 3.33.170 Local Traffic Development Impact Fee.**
- 3.33.180 Street Median Development Impact Fee.**
- 3.33.190 General Municipal Facilities Development Impact Fee.**

- 1 **3.33.200 Library Facilities Development Impact Fee.**
- 2 **3.33.210 Law Enforcement Facilities Development Fee.**
- 3 **3.33.220 Fire Protection Facilities Development Fee.**
- 4 **3.33.230 Open Space Development Impact Fee.**
- 5 **3.33.240 Sewage Collection Facilities Development Impact Fee.**
- 6 **3.33.250 Sewage Treatment Facilities Development Impact Fee.**
- 7 **3.33.260 Domestic and Recycled Water Facilities Development Impact Fee.**
- 8 **3.33.270 Storm Drain Facilities Development Impact Fee.**
- 9 **3.33.280 Fair Share Mitigation Fee.**

10 **3.33.010 INTENT AND PURPOSE.**

11 The intent and purpose of this Chapter is to implement the goals, objectives, and policies of
12 the City of Rialto General Plan by ensuring that the City's standards for Public Facilities are
13 maintained when new development occurs within the City. By imposing fees that are reasonably
14 related to the impacts created by new development on the physical environment and the City's
15 Public Facilities, together with funding available from other City revenue sources, the City will be
16 able to provide the required Public Facilities to accommodate new growth and fulfill the goals,
17 objectives, and policies of the City's General Plan.

18 **3.33.020 LEGISLATIVE FINDINGS.**

19 A. The State of California, through enactment of the Mitigation Fee Act in Government
20 Code Sections 66000 *et. seq.*, has authorized the City to establish and Impose Development Impact
21 Fees.

22 B. The Imposition of development impact fees is a method of ensuring that new
23 development in the City bears its proportionate share of the cost of Public Facilities necessary to
24 accommodate such development, which thereby promotes and protects the public health, safety,
25 and welfare.

26 C. New development in the City increases the demand for Public Facilities and the
27 burdens on the City to secure the funds to pay the cost of those Public Facilities necessary to serve
28 such new development.

1 D. The fees Imposed pursuant to this Chapter shall be used to finance those Public
2 Facilities identified herein in furtherance of the goals and objectives of the City's General Plan,
3 various Facility Master Plans, Capital Improvement Plans, and the Nexus Reports described in
4 Section 3.33.030(N), as they may be amended from time to time (hereafter collectively called
5 "Nexus Reports").

6 E. Detailed studies of the impacts of new development in the City, along with an analysis
7 of the need for the additional Public Facilities, have been identified in the Nexus Reports.

8 F. The Nexus Reports, which are described, approved and incorporated herein by this
9 reference, demonstrate that the fees Imposed by this Chapter are derived from, based upon, and do
10 not exceed the actual costs of providing those Public Facilities necessary to accommodate the
11 impacts attributable to new development in the City.

12 G. The Nexus Reports also demonstrate the reasonable relationship between the need for
13 those Public Facilities and the impact of the types of development on which such fees are
14 Imposed, the required use of such fees in the type of development on which they are Imposed, and
15 the amount of such fees and the cost of the Public Facilities attributable to the development on
16 which they are Imposed.

17 **3.33.030 DEFINITIONS.**

18 The definitions set forth in this section shall govern the construction of this Chapter:

19 A. **Capital Improvement** means any physical amenity, capital investment, equipment,
20 facility or improvement constructed or to be constructed on public or private property.

21 B. **Capital Improvement Plan** means the City's plan(s) for Capital Improvements
22 adopted and revised, from time to time, by the City Council that describe Capital Improvements
23 including their capacity or size, location, cost and approximate construction time that are needed to
24 sustain Development Projects or to mitigate the impacts of such projects on the physical
25 environment or public infrastructure.

26 C. **Certificate of Occupancy** means the official City certification that all or some discrete
27 portion of a building or structure is suitable for use or occupancy. For purposes of this Chapter,
28 Certificate of Occupancy shall have the same meaning as described in Sections 305 and 307 of the

1 Uniform Building Code, International Conference of Building Officials, 1985 edition or
2 subsequent version thereof.

3 D. **Chapter** means this Chapter 3.33. Chapter also means Chapters 3.34, 3.36, 3.40, 3.44,
4 3.48, 3.52, 3.56, 3.60, 3.64, 3.68 and 3.72 (hereafter called "Replaced Chapters") that have
5 authorized the Development Impact Fees described herein and the amounts thereof as established
6 by the various resolutions of the City Council.

7 E. **Construction and Credit Agreement** means an agreement between the City and a
8 Developer that obligates the Developer of a Development Project to construct a designated Public
9 Facility, or portion thereof, and that entitles the Developer to a credit toward the Development
10 Project's obligation to pay Development Impact Fees Imposed hereunder in an amount not to
11 exceed the cost to construct the Public Facility, or portion thereof, as determined by the Building
12 Official or City Engineer based upon proof of the Developer's actual construction costs.

13 F. **Developer** means any land owner or other person or entity undertaking development
14 of real property in the City.

15 G. **Development Agreement** means an agreement between the City and a Developer that
16 has a legal or equitable interest in real property for the development of such real property, as
17 authorized by Government Code Section 65854 *et al.*, and Rialto Municipal Code Chapter 18.79.

18 H. **Development Impact Fee** means a monetary exaction other than a tax or assessment
19 Imposed by the City as a condition of approval of a Development Project for the purpose of
20 defraying all or a portion of the cost of Public Facilities related to the Development Project.

21 I. **Development Project** means any project undertaken for the purpose of development
22 that requires the approval or conditional approval of the City and includes a project involving the
23 issuance of a permit for construction or reconstruction but does not include a permit to operate.

24 J. **Fee Credit** means the amount by which a Development Impact Fee Imposed or
25 collected hereunder is offset by the City due to the construction of a Public Facility by a Developer
26 but which does not exceed the cost of the public facility for which such fee was Imposed or
27 collected.

28 K. **Fee Deferral Agreement** means an agreement between the City and a Developer that

1 provides for deferral of the payment of one or more Development Impact Fees Imposed hereunder
2 for a maximum of three years or until close of an escrow pursuant to Government Code Section
3 66007(g), whichever is first to occur, from the date any such fee is payable hereunder.

4 L. ***Impose or Imposition*** means the action or decision of the City that burdens a
5 Development Project and its Developer with the requirement to pay one or more Development
6 Impact Fees hereunder as a condition of City approval or conditional approval of the Development
7 Project.

8 M ***In-Lieu Fee*** means a monetary extraction by the City Imposed on a Development
9 Project pursuant to an agreement with the Developer of that project under which the City would
10 receive a monetary payment “in-lieu” of the Developer’s obligation to construct a designated
11 Capital Improvement, other than any Public Facility for which a Development Impact Fee is
12 required hereunder, that is required as a condition of City approval of that project.

13 N. ***Nexus Reports*** means the City approved analyses, plans, reports, or studies that
14 demonstrate the reasonable relationship between use of Development Impact Fees and the type of
15 Development Project on which such fees are Imposed, the need for the Public Facilities for the
16 Development Project on which such fees are Imposed, the amount of such fees and the cost of the
17 Public Facilities attributable to the development on which such fees are Imposed and impact on the
18 City need for Public Facilities, which includes the following:

19 1. ***Development Impact Fee Update***, prepared by Willdan Financial Services,
20 Inc. (December, 2011), which analyzed the City Public Facilities requirements for general, police,
21 fire, library and park facilities and services and demonstrates the required reasonable relationships,
22 which is incorporated herein by this reference.

23 2. ***Development Impact Fee Justification Study***, prepared by David Taussig and
24 Associates, Inc. (February, 2011), which analyzed the City Public Facilities requirements for the
25 master planned storm drain facilities contained in the City’s adopted Storm Drain Master Plan, and
26 demonstrates the required reasonable relationships, which is incorporated herein by this reference.

27 3. ***Water and Wastewater Impact Fee Study***, prepared by Black and Veatch
28 Corporation (October 2002), which analyzed the City Public Facilities requirements for master

1 planned water and wastewater facilities and demonstrated the required reasonable relationships,
2 which is incorporated herein by this reference. However, these fees have been updated and
3 increased pursuant to the California Construction Costs Index by City Council Resolution No.
4 6069, approved on December 27, 2011.

5 4. ***Development Impact Fee Calculation Update Report for the City for Rialto,***
6 prepared by the Management Services Institute (September, 1997), which analyzed and updated
7 the fees determined in the *City of Rialto Development Impact Fee Report* prepared by the
8 Management Services Institute (April 1990) by demonstrating the required reasonable
9 relationships, which is incorporated herein by this reference.

10 O. ***Public Facilities*** mean and include Capital Improvements or other physical
11 improvements, described in this Chapter, in the Nexus Reports or in other plans, reports or studies,
12 which support the Development Impact Fees established and Imposed under this Chapter.

13 P. ***Residential Development Project*** means any Development Project undertaken for the
14 purpose of creating new residential dwelling units, or adding additional residential floor area
15 requiring City approval or issuance of a City building permit for construction.

16 **3.33.040 ESTABLISHMENT OF DEVELOPMENT IMPACT FEES.**

17 The Development Impact Fees established under this Chapter shall be in the amounts
18 determined by the existing resolutions of the City Council and such subsequent resolutions
19 that the City Council may adopt from time to time. The amounts of such Development
20 Impact Fees shall be increased annually on July 1st of each year based on the State of
21 California Construction Cost Index (CCCI) increase for the previous calendar year as
22 determined on March 1st of each year. Such Development Impact Fee amounts also shall be
23 reviewed and revised every five years, based on the current estimated costs of the proposed
24 Public Facilities, as required by the Mitigation Fee Act, contained in California Government
25 Code Section 66000 *et. seq.*

26 **3.33.050 IMPOSITION OF DEVELOPMENT IMPACT FEES.**

27 Unless otherwise specified in this Chapter, every Development Project and each Developer
28 thereof shall be obligated to pay the Development Impact Fees established pursuant to this Chapter

1 as a condition of the approval of the Development Project by the Planning Commission,
2 Development Review Committee or City Council, as applicable.

3 **3.33.060 NOTICE OF IMPOSITION OF DEVELOPMENT IMPACT FEES.**

4 At the time of the approval or conditional approval of a Development Project, or within
5 fifteen (15) days from the date of approval, the City shall give written notice to each Developer of
6 the Development Impact Fees Imposed on the Development Project and the amount of each
7 Development Impact Fee so Imposed, as well as a description of any dedication, reservation or
8 other exaction Imposed on such Development Project as a condition of its approval. The notice
9 also shall state that the Developer may protest the Imposition of any such fee, dedication,
10 reservation or other exaction and that the ninety (90) day approval period in which the Developer
11 may submit a protest has begun.

12 **3.33.070 PAYMENT OF DEVELOPMENT IMPACT FEES.**

13 A. Development Impact Fees Imposed by the City under this Chapter on a Residential
14 Development Project shall be paid on the date of the final inspection but before the Certificate of
15 Occupancy is issued or the date the Certificate of Occupancy is issued but before its issuance,
16 whichever occurs first, unless otherwise modified by a Construction In-Lieu Agreement,
17 Development Agreement or Fee Deferral Agreement. The terms "final inspection" or "Certificate
18 of Occupancy" have the same meaning as described in Sections 305 and 307 of the Uniform
19 Building Code, International Conference of Building Officials, 1985 edition.

20 B. If a Residential Development Project contains more than one dwelling, the
21 Development Impact Fees Imposed upon said Development Project hereunder shall be paid on a
22 pro rata basis for each dwelling when it receives its final inspection or Certificate of Occupancy,
23 whichever occurs first. However, the City Council may, by resolution, determine that the
24 Development Impact Fees for a Residential Development Project shall be paid on a pro rata basis
25 when a certain percentage of the dwellings have received their final inspection or Certificate of
26 Occupancy, whichever occurs first, or on a lump-sum basis when the first dwelling in a
27 Development Project receives its final inspection or Certificate of Occupancy, whichever occurs
28 first.

1 C. Development Impact Fees Imposed by the City under this Chapter on a non-
2 Residential Development Project shall be paid on the date of issuance of the first building permit
3 for such non-Residential Development Project but before the building permit is issued unless
4 otherwise modified by a Construction In-Lieu Agreement, Development Agreement or Fee
5 Deferral Agreement.

6 D. Utility service fees shall be collected at the time an application for utility service is
7 received by the City.

8 E. Notwithstanding the foregoing times for the payment of Development Impact Fees,
9 the City Council also may require, by resolution, the payment of Development Impact Fees for a
10 Development Project at an earlier time if (i) it determines that the fees will be collected for public
11 improvements or facilities for which an account has been established and funds appropriated and
12 for which the City has adopted a proposed construction schedule or plan prior to final inspection or
13 issuance of the Certificate of Occupancy or (ii) the fees are to reimburse the City for expenditures
14 previously made. For purposes of this section, "appropriated" means authorization by the City
15 Council to make expenditures and incur obligations for specific purposes.

16 F. If any Development Impact Fee required to be paid under this Chapter by a
17 Residential Development Project, or Developer thereof, is not fully paid prior to issuance of a
18 building permit for construction of any portion of the Residential Development Project
19 encumbered thereby, the City Administrator may require the Developer, owner or lessee, if the
20 lessee's interest appears of record, to execute a contract with the City to pay the fee or applicable
21 portion thereof as a condition of issuance of a building permit, which contract shall comply with
22 Government Code Section 66007(c)(2).

23 G. Development Projects that involve any change or modification of existing residential,
24 commercial, or industrial building or property that would increase the existing density, intensity,
25 use, occupancy or vehicular trips shall pay any and all existing or additional Development Impact
26 Fees prior to the issuance of a Certificate of Occupancy or a building permit.

27 H. The City Administrator may negotiate a Fee Deferral Agreement with a Developer of
28 a Development Project, subject to City Council approval, where the deferral of one or more

1 Development Impact Fees established and Imposed hereunder is necessary or desirable to achieve
2 a goal important to the City or the Development Project. The Fee Deferral Agreement shall
3 describe each Development Impact Fee, the amount of each fee to be deferred, the cost to prepare
4 the agreement and to administer the collection of the deferred fees, the time and manner of
5 payment, the interest payable thereon, the security for the deferred fee, the consideration to the
6 City for such deferral and such other terms deemed necessary by the City Administrator.

7 **3.33.080 DEPOSIT AND USE OF DEVELOPMENT IMPACT FEES.**

8 A. A separate capital facility fund for each Development Impact Fee established
9 hereunder and named after each such fee hereby is created. All Development Impact Fees
10 Imposed and collected hereunder shall be deposited into the corresponding capital facility fund in
11 a manner that avoids any commingling of any such fee with other Development Impact Fees or
12 other City revenues and funds. Each separate capital facility fund so created also shall retain the
13 interest earned on the money deposited therein.

14 B. The Development Impact Fees deposited in each such separate capital facility fund
15 established hereunder shall be expended exclusively for the purpose for which each fee was
16 collected as set forth in this Chapter and as established by the various fee resolutions adopted
17 hereunder. Development Impact Fees shall not be expended to maintain, repair or operate such
18 Public Facilities, or to pay costs attributable to existing deficiencies in such Public Facilities.

19 C. Prior to the expenditure of funds from any capital facility fund established hereunder,
20 the Director of Public Works shall demonstrate that the Public Facility to be constructed is listed in
21 a Nexus Report or Resolution establishing a Development Impact Fee and obtain written approval
22 from the City Administrator, or designee, for the expenditure of a specified amount for that
23 particular Public Facility.

24 **3.33.090 EXEMPTIONS.**

25 Any claim of exemption from the obligation to pay any Development Impact Fee
26 established and Imposed hereunder shall be made in writing at the time of submission of an
27 application for approval of a Development Project; and failure to request an exemption shall
28 constitute a waiver of the right to such an exemption. The Development Projects described in

the following subsections shall be exempt from payment of such Development Impact Fees:

(a) Alterations of an existing building where there are no increases in the existing density, use, occupancy or increases in vehicular trips, or any other impacts over and above those produced by the existing use;

(b) Replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use, provided that no additional impacts will be produced over and above those produced by the original use;

(c) Units reserved for occupancy by lower income households included in a Residential Development Project proposed by a nonprofit housing Developer in which at least 49 percent of the total units are reserved for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable rent, as defined in Section 50053 of the Health and Safety Code. However, the Development Impact Fees otherwise due, shall become immediately due and payable when the Residential Development Project no longer meets the criteria of this Section. In addition, any exemption provided by this section shall not apply to those fees levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.

3.33.100 FEE CREDITS.

A. If as a condition of approval of a Development Project or in accordance with a Construction and Credit Agreement or Development Agreement, a Developer constructs a Public Facility identified in a Nexus Report for which a Development Impact Fee is Imposed, then the Developer shall be eligible to receive a Fee Credit toward the Development Impact Fee Imposed on the Development Project for the same type of Public Facility so constructed. However, the Fee Credit toward any Development Impact Fee will be granted to a Developer only where: (1) the Public Facility is constructed in accordance with plans approved by the Building Official or City Engineer and for which a building permit has been issued, (2) the Public Facility is inspected and approved by the Building Official or City Engineer, (3) the Developer and City enter into a Construction and Credit Agreement or Development Agreement and (4) the Developer submits a written request for credit toward a particular Development Impact Fee together with evidence of

1 the cost to construct the Public Facility to the Building Official or City Engineer no later than three
2 months from the date of the inspection and approval of the Public Facility. The amount of the Fee
3 Credit shall be determined, in the sole discretion, of the Building Official or the City Engineer
4 based upon the evidence of the costs to construct the Public Facility. However, the amount of the
5 Fee Credit shall not exceed the amount of the Development Impact Fee Imposed for the same type
6 of Public Facility as the one constructed by the Developer. The Developer shall not be entitled to
7 reimbursement for any excess in the costs to construct the Public Facility over the amount of the
8 Developer's obligation to pay the Development Impact Fee for the type of Public Facility
9 constructed, unless a separate Reimbursement Agreement is approved by the City Council.

10 B. A Fee Credit may be provided before completion of a specified Public Facility upon
11 approval of a Construction and Credit Agreement containing adequate assurances to the City by
12 the Developer that the standards set out herein will be met and the Developer posts adequate
13 security for the costs to construction the Public Facility. The Developer shall post security in the
14 form of a performance bond, irrevocable letter of credit, or escrow agreement approved by the
15 City Attorney and in the amount determined by the City Administrator. If a Public Facility
16 consisting of a traffic improvement project will not be constructed within one year of the
17 Construction and Credit Agreement, the amount of the security shall increase by ten percent
18 compounded for each year of the term of the Construction and Credit Agreement.

19 C. A Fee Credit toward any Development Impact Fee shall not be awarded for any right-
20 of-way dedication or Capital Improvement that are specific to the Development Project and that
21 are separate and apart from any City wide impacts of the Development Project. Likewise, Fee
22 Credits shall not be awarded for project specific measures Imposed to mitigate the environmental
23 impacts under the California Environmental Quality Act (CEQA).

24 D. For the purpose of awarding a Fee Credit to a Developer for the dedication of right-of-
25 way that is not specific to the Development Project, the value thereof shall be determined by either
26 of the following methods: (i) One hundred fifteen percent of the most recent assessed value of the
27 right-of-way by the San Bernardino County Assessor, or (ii) at the option of the Developer, by the
28 fair market value of the right-of-way established by a private M.A.I. appraiser acceptable to the

1 City. However, the Fee Credit for the value of the right-of-way shall be awarded only after the
2 conveyance of the right-of-way to the City at no cost and acceptance thereof by the City.

3 E. Any Developer whose Development Project is located within a Community Facilities
4 District (CFD) subject to the assessments thereof and who pays such assessments shall receive a
5 Fee Credit toward the Development Impact Fees Imposed under this Chapter to the extent that the
6 assessments of such CFD are committed to fund Public Facilities within the CFD which otherwise
7 would be funded by such Development Impact Fees. The City Council shall set the amounts of
8 any Fee Credits at the time of the formation of the CFD.

9 **3.33.110 CONSTRUCTION AND CREDIT AGREEMENTS.**

10 A. The City Administrator may require a Construction And Credit Agreement with a
11 Developer or may negotiate a Construction And Credit Agreement requested by a Developer,
12 subject to City Council approval, where the need to construct a particular Public Facility for which
13 a Development Impact Fee has been established is necessary or desirable prior to the construction
14 of the Development Project. The Construction And Credit Agreement shall describe the Public
15 Facility to be constructed, the plans and specifications for its construction, the time of completion
16 of the Public Facility, the permits and inspections required by the Building Official or City
17 Engineer and such other terms deemed necessary by the City Administrator. Upon notice of
18 completion of such facility by the Developer, the Building Official or the City Engineer shall
19 inspect the Public Facility and determine whether it conforms to the plans and specifications and
20 building codes. From the date of written notice of acceptance of the Public Facility to the
21 Developer from the Building Official or City Engineer, the Developer may submit proof of its
22 construction costs to the Building Official or City Engineer no later than three months from the
23 date of the written notice of acceptance; and the Developer's failure to submit such costs within
24 said period shall constitute a waiver of the Developer's right to seek a Fee Credit hereunder. The
25 amount of the Fee Credit shall be determined, in the sole discretion, of the City Building Official
26 or the City Engineer based upon the evidence of the costs to construct the Public Facility
27 submitted by the Developer. However, the amount of the Fee Credit shall not exceed the amount
28 of the Development Impact Fee Imposed for the same type of Public Facility as that constructed by

1 the Developer. The Developer shall not be entitled to reimbursement for any excess in the costs to
2 construct the Public Facility over the amount of the Developer's obligation to pay the
3 Development Impact Fee for the type of Public Facility constructed.

4 B. Except as provided in subparagraph (a), a Fee Credit against any Development Impact
5 Fee payable by a Developer hereunder will not be awarded unless: (i) the construction is
6 completed and formally accepted in writing by the City or state, whichever is applicable, (ii) a
7 suitable maintenance and warranty bond for such construction is received and approved in writing
8 by the City and (iii) all design, construction, inspection, testing, bonding, and acceptance
9 procedures are in strict compliance with the then current applicable City building, construction and
10 engineering standards.

11 **3.33.120 APPEAL TO CITY ADMINISTRATOR.**

12 A Developer may appeal to the City Administrator the decision of the Building Official or
13 City Engineer about the amount of credit granted toward a Developer's obligation to pay a
14 Development Impact Fee arising from the Developer's construction of a Public Facility. The
15 Developer shall file its appeal by submitting a written statement to the City Clerk within ten (10)
16 days of the date of written notice of the decision of the Building Official or City Engineer. The
17 written appeal shall contain the Developer's grounds for appeal. The Developer's failure to raise
18 any ground in the written appeal shall constitute a waiver of any ground not stated in the written
19 appeal. Within fifteen (15) days of the filing of a timely and substantive appeal, the City
20 Administrator shall set a hearing on the appeal no later than fifteen (15) days from the date of the
21 filing of the appeal with the City Clerk. Within fifteen (15) days following the completion of the
22 hearing on the appeal, the City Administrator shall issue a written decision on the appeal and mail
23 it to the Developer. The decision of the City Administrator shall be final at the time it is mailed to
24 the Developer.

25 **3.33.130 REFUNDS.**

26 If a building permit for a Development Project expires without commencement of
27 construction of such project, the Developer shall be entitled to a refund, without interest, of all
28 Development Impact Fees paid as a condition of its issuance, except that the City shall retain ten

1 percent (10%) of the Development Impact Fees to offset its costs of collection and refund.
2 However, a Developer must submit a written request for such refund to the City Administrator
3 within thirty (30) calendar days of the expiration of such building permit; and the failure to submit
4 said written request shall constitute a waiver of the Developer's right to request and receive a
5 refund.

6 **3.33.140 ANNUAL REVIEW OF DEVELOPMENT IMPACT FEE FUNDS.**

7 A. No later than six months following the end of each City fiscal year, the City
8 Administrator or a designee shall prepare a report for the City Council containing the information
9 required by Government Code Section 66007(b)(1) and make the report available to the public.
10 The City Council shall review said report at its next regularly scheduled meeting not less than
11 fifteen (15) days after the date that the report was made available to the public. Notice of the time
12 and place of the meeting, including the address where the report may be reviewed, shall be mailed
13 to any person who files a written request to the City Clerk for mailed notice of the meeting.

14 B. Every five years after the first deposit of Development Impact Fees hereunder, the
15 City Council shall make the findings required by Government Code Section 66001(d) with respect
16 to that portion of each separate capital facility fund remaining unexpended, whether committed or
17 uncommitted.

18 **3.33.150 PARKS AND RECREATION DEVELOPMENT IMPACT FEES.**

19 **3.33.150.010 Fund Established.**

20 A Parks and Recreation Development Impact Fund is established for the costs of providing
21 park and recreation facilities necessary to accommodate new Residential Development Projects,
22 including any required acquisition of land.

23 **3.33.150.020 Imposition of Park and Recreation Development Impact Fee.**

24 A Parks and Recreation Development Impact Fee shall be Imposed on all Residential
25 Development Projects, new manufactured or mobile homes located in the City and any other
26 substantial expansion of an existing residential development in the City, as a condition of City
27 approval, in order to fund the provision of park land and recreation facilities necessary to serve
28 such Development Project and mobile homes at established City service level standards within a

reasonable period of time.

3.33.150.030 Use of Funds.

Funds collected from Parks and Recreation Development Impact Fee shall be used for the following purposes:

A. Acquisition of additional property for park and recreation facilities;

B. Design and construction of recreational facilities, including turf, landscaping, buildings, structures and other amenities for park and recreation purposes and master plans;

C. Furnishing of buildings or Public Facilities for park and recreational purposes;

D. Purchasing of equipment and vehicles for park and recreational purposes;

3.33.160 REGIONAL TRAFFIC DEVELOPMENT IMPACT FEE.

3.33.160.010 Fund Established.

A Regional Traffic Development Impact Fund is established for costs of the designing, upgrading or improving the regional traffic network. In order to implement the goals and objectives of the circulation element of the City's General Plan, to mitigate traffic impacts caused by new development in the City, and to comply with requirements of Measure I-2010 - 2040 and the San Bernardino Associated Governments' (SANBAG) Regional Nexus Study, as may be modified from time to time, certain thoroughfares and intersections within the City must be widened, constructed, improved, and/or modified to accommodate growth in the City.

3.33.160.020 Imposition of Regional Traffic Impact Fee.

A Regional Traffic Development Impact Fee shall be Imposed on all Development Projects, including any substantial improvements to a building, structure or property that result in an increase in the number of vehicle trips generated, as determined by a traffic study approved by the City.

3.33.160.030 Use of Funds.

Funds collected from Regional Traffic Development Impact Fee shall be used for the design and construction of regional traffic improvements, including the widening of arterials, intersections, installation of traffic signals, grade crossings, and freeway interchanges as identified in the City's approved list of Regional Traffic Improvements, adopted by the City Council and

1 contained in the SANBAG Regional Nexus Study, as both are amended from time to time.

2 **3.33.170 LOCAL TRAFFIC DEVELOPMENT IMPACT FEE.**

3 **3.33.170.010 Fund Established.**

4 A Traffic Development Impact Fund is established for the cost of designing, upgrading or
5 improving the City's local traffic network.

6 **3.33.170.020 Imposition of Local Traffic Development Impact Fee.**

7 A Traffic Development Impact Fee shall be Imposed on all Development Projects or any
8 substantial improvements to a building, structure or property or change of use that results in an
9 increase in the number of vehicle trips generated by the Development Project, as may be
10 determined by a traffic study provided to the City and paid for by the Developer.

11 **3.33.170.030 Use of Funds.**

12 Funds collected from the Traffic Impact Fee shall be used for the following purposes:

13 A. Acquisition of additional property or right-of-way for Public Facilities to
14 accommodate increased traffic demands; or

15 B. Design and construction of Public Facilities such as traffic lanes, traffic control
16 devices, bike lanes and other traffic improvements necessary to accommodate new development
17 and maintain acceptable operations of the local traffic network to the City's adopted standards and
18 master plans.

19 **3.33.180 STREET MEDIAN DEVELOPMENT IMPACT FEE.**

20 **3.33.170.010 Fund Established.**

21 A Street Median Development Fund is established for the costs of designing, upgrading or
22 improving street medians and related improvements along major arterials in the City necessary or
23 desirable to accommodate new development.

24 **3.33.180.020 Imposition of Street Median Development Impact Fee.**

25 A Street Median Development Impact Fee shall be Imposed on all Development Projects to
26 fund improvements and pay for the Development Project's proportionate share of the costs for the
27 design, upgrading or construction of raised medians and related improvements along major
28 arterials in the City attributable to that Development Project.

1 **3.33.180.030 Use of Funds.**

2 Funds collected from Street Median Development Impact Fee shall be used for the
3 design, upgrade, enhancement, and/or construction of raised medians and related
4 improvements along major arterials and other regional roadways, including but not limited to
5 landscaping, hardscaping, special markers, entrance signs, monument signs, and other related
6 improvements, which are located at major entrances or exits to neighborhoods and the City.

7 **3.33.190 GENERAL MUNICIPAL FACILITIES DEVELOPMENT IMPACT FEE.**

8 **3.33.190.010 Fund Established.**

9 A General Municipal Facilities Development Fund is established for the costs of providing
10 general municipal facilities and services within the City, including any required acquisitions of
11 land, necessary or desirable to accommodate a new Development Project.

12 **3.33.190.020 Imposition of General Municipal Facilities Development Impact Fee.**

13 A General Municipal Facilities Development Impact Fee shall be Imposed on all
14 Development Projects.

15 **3.33.190.030 Use of Funds.**

16 Funds collected from General Municipal Facilities Development Impact Fee shall be used
17 for the following purposes:

- 18 A. Acquisition of additional property for general municipal facilities;
19 B. Design and construction of buildings for general municipal services and master plans;
20 C. Furnishing of buildings or facilities for general municipal facilities services;
21 D. Purchasing of equipment and vehicles for general municipal facilities services;

22 **3.33.200 LIBRARY FACILITIES DEVELOPMENT IMPACT FEE.**

23 **3.33.200.010 Fund Established.**

24 A Library Facilities Development Fund is established for costs of constructing and
25 improving library facilities within the City, including any required acquisitions of land, necessary
26 or desirable to accommodate new development.

27 **3.33.200.020 Imposition of Library Facilities Development Impact Fee.**

28 A Library Facilities Development Impact Fee shall be Imposed on all Development

1 Projects.

2 **3.33.200.030 Use of Funds.**

3 Funds collected from Library Facilities Development Impact Fee shall be used for the
4 following purposes:

5 A. Acquisition of additional property for library facilities;

6 B. Design, engineering and construction of buildings for library services and master
7 plans;

8 C. Furnishing of buildings or facilities for library facilities services;

9 D. Purchasing of books, computers, equipment and vehicles for library facilities services.

10 **3.33.210 LAW ENFORCEMENT FACILITIES DEVELOPMENT IMPACT FEE.**

11 **3.33.210.010 Fund Established.**

12 A Law Enforcement Services Development Fund is established for the costs of law
13 enforcement facilities, equipment and training necessary or desirable to accommodate
14 Development Projects.

15 **3.33.210.020 Imposition of Law Enforcement Services Development Impact Fee.**

16 A Law Enforcement Services Development Impact Fee shall be Imposed on all
17 Development Projects.

18 **3.33.210.030 Use of Funds.**

19 A Law Enforcement Services Development Impact Fees shall be used for the following
20 purposes:

21 A. Acquisition of additional property for law enforcement facilities;

22 B. Design and construction of buildings for law enforcement services and master plans;

23 C. Furnishing of buildings or facilities for law enforcement services;

24 D. Purchasing of equipment and vehicles for law enforcement services;

25 E. Costs of six months of training for police officer trainees either at an academy or
26 assigned to a department training officer.

27 **3.33.220 FIRE PROTECTION FACILITIES DEVELOPMENT FEE.**

28 **3.33.220.010 Fund Established.**

1 A Fire Protection Services Development Fund is established for the costs of fire protection
2 facilities and equipment necessary or desirable to accommodate Development Projects.

3 **3.33.220.020 Imposition of Fire Protection Services Development Fee.**

4 A Fire Protection Services Development Fee shall be Imposed on all Development
5 Projects.

6 **3.33.220.030 Use of Funds.**

7 Funds collected from Fire Protection Services Development Impact Fee shall be used for
8 the following purposes:

- 9 A. Acquisition of additional property for fire protection facilities;
- 10 B. Design and construction of buildings for fire protection services and master plans;
- 11 C. Furnishing of buildings or facilities for fire protection services;
- 12 D. Purchasing of equipment and vehicles for fire protection services;
- 13 E. Costs of six months of training for fire protection trainees either at an academy or
14 assigned to a department training officer.

15 **3.33.230 OPEN SPACE DEVELOPMENT IMPACT FEE.**

16 **3.33.230.010 Fund Established.**

17 An Open Space Development Fund is established for the costs of acquisition of open
18 space, as well as the design, engineering, construction and installation of any infrastructure for the
19 use of such open space by the public, necessary or desirable to accommodate new development.

20 **3.33.230.020 Imposition of Open Space Development Impact Fee.**

21 An Open Space Development Impact Fee shall be Imposed on all Development Projects
22 that result in a decrease in the amount of available public open space in the City.

23 **3.33.230.030 Use of Funds.**

24 Funds collected from Open Space Development Impact Fee shall be used for the following
25 purposes:

- 26 A. Preparation or development of an open space master plan or other special studies,
27 including but not limited to habitat conservation plan(s) as necessary, to identify and designate
28 appropriate open space and habitat areas for preservation of threatened or endangered species, and

1 other studies determined to be necessary by the City;

2 B. Acquisition of real property, easements or other rights for the development of
3 additional open space areas;

4 C. Design, engineering, construction and installation of improvements or facilities for the
5 use, access and preservation of open space areas;

6 D. Establishment and endowment of on-going biological or cultural monitoring or
7 interpretive programs necessary to maintain the viability of habitat conservation areas.

8 **3.33.240 SEWAGE COLLECTION FACILITIES DEVELOPMENT IMPACT FEE.**

9 **3.33.240.010 Fund Established.**

10 A Sewage Collection Facilities Development Fund is established for the costs of designing,
11 constructing and improving the sewage collection facilities within the City, including any required
12 acquisition of land, necessary or desirable to accommodate Development Projects.

13 **3.33.240.020 Imposition of Sewage Collection Facilities Development Impact Fee.**

14 A Sewage Collection Facilities Development Impact Fee shall be Imposed on all
15 Development Projects.

16 **3.33.240.030 Use of Funds.**

17 Funds collected from Sewage Collection Facilities Development Impact Fee shall be used
18 for the following purposes:

19 A. Acquisition of additional property for sewage collection facilities and right-of-ways;

20 B. Design and construction of buildings, facilities, infrastructure and pipelines for sewage
21 collection services and master plans;

22 C. Furnishing of buildings, pumps, lift stations or facilities for sewage collection
23 services;

24 D. Purchasing of equipment and vehicles for sewage collection services;

25 **3.33.250 SEWAGE TREATMENT FACILITIES DEVELOPMENT IMPACT FEE.**

26 **3.33.250.010 Fund Established.**

27 A Sewage Treatment Facilities Fund is established for the costs of providing the sewage
28 treatment facilities within the City necessary or desirable to accommodate Development Projects,

including any required acquisition of land.

3.33.250.020 Imposition of Sewage Treatment Facilities Development Impact Fee.

A Sewage Treatment Facilities Development Impact Fee shall be Imposed on all Development Projects.

3.33.250.030 Use of Funds.

Funds collected from Sewage Treatment Facilities Development Impact Fee shall be used for the following purposes:

A. Acquisition of additional property for sewage treatment facilities and right-of-ways;

B. Design and construction of buildings, facilities, infrastructure for sewage treatment facilities and master plans;

C. Furnishing of buildings or facilities for sewage treatment services;

D. Purchasing of equipment and vehicles for sewage treatment services;

3.33.260 DOMESTIC AND RECYCLED WATER FACILITIES DEVELOPMENT IMPACT FEE.

3.33.260.010 Fund Established.

A Domestic and Recycled Water Facilities Development Fund is established for the costs of providing production, storage and distribution facilities within the City necessary to accommodate new development, including any required acquisition of land.

3.33.260.020 Imposition of Domestic and Recycled Water Facilities Development Fee.

A Domestic and Recycled Water Facilities Development Impact Fee shall be Imposed on all Development Projects.

3.33.260.030 Use of Funds.

The Domestic and Recycled Water Facilities Development Fund shall be used for the following purposes:

A. Acquisition of additional property for water pumping, treatment, processing, purification, holding, and distribution facilities, including associated right-of-ways;

B. Design and construction of buildings, facilities, infrastructure and pipelines for water pumping, treatment, purification, holding and distribution of water throughout the City and master

1 plans;

2 C. Furnishing of buildings or facilities for water holding, pumping, treatment,
3 purification and distribution;

4 D. Purchasing of equipment and vehicles for the servicing of water holding, pumping,
5 treatment, purification and distribution facilities.

6 **3.33.270 STORM DRAIN FACILITIES DEVELOPMENT IMPACT FEE**

7 **3.33.270.010 Fund Established.**

8 A Storm Drain Facilities Development Fund is established for the costs of providing storm
9 water flow and retention facilities within the City necessary to accommodate new development,
10 including any required acquisition of land.

11 **3.33.270.020 Imposition of Domestic and Recycled Water Facilities Development Fee.**

12 A Storm Drain Facilities Development Impact Fee shall be Imposed on all Development
13 Projects.

14 **3.33.270.030 Use of Funds.**

15 The Storm Drain Facilities Development Fund shall be used for the following purposes:

16 A. Acquisition of real property for right-of-way and Public Facilities for storm drain
17 purposes including special studies, engineering designs, plans and other retention or detention
18 basins, treatment facilities and pipelines;

19 B. Design and construction of Public Facilities consisting of retention basins, detention
20 basins, treatment infrastructure and pipelines for storm drains and master plans.

21 **3.33.280 FAIR SHARE MITIGATION FEE.**

22 **3.33.280.010 Fund Established.**

23 A Fair Share Mitigation Fund is established for the fair share fees, which are the estimated
24 proportional costs to mitigate a Development Project's impact to less than significant under the
25 California Environmental Quality Act, or the proportionate amount of benefit a Development
26 Project may have derived from the construction of a public improvement such as a traffic signal,
27 roadway, water line, or sewer line, by the City or another Developer, or the proportionate amount
28 of burden a Development Project may place on Public Facilities over and above the burden offset

1 by the obligation to pay the usual Development Impact Fees.

2 **3.33.280.020 Imposition of Fair Share Impact Mitigation Fee.**

3 The specific amount of the Fair Share Mitigation Impact Fee may be Imposed on a
4 Development Project through the completion of a special study funded by the Developer of a
5 Development Project, such as a traffic impact analysis, unless the fair share fee has been
6 determined within Specific Planning Areas by adoption of a Resolution of the City Council, and
7 shall be adjusted as provided in the resolution setting the specific amount of the Fee.

8 **3.33.280.030 Use of Funds.**

9 Fair Share Mitigation Impact Fees collected shall be used for the site specific public
10 improvements for which the funds were collected and paid.

11 Section 2. Chapters 3.34, 3.36, 3.40, 3.44, 3.48, 3.52, 3.56, 3.60, 3.64, 3.68, and 3.72 of
12 the Rialto Municipal Code are retained as the basis of the City's Development Impact Fees
13 existing on the effective date of this ordinance but they shall cease to be codified thereafter.
14 Chapter 3.33 shall govern the administration of all Development Impact Fees and the amounts or
15 rates of all such Development Impact Fees from the effective date of this ordinance.

16 Section 3. Compliance with California Environmental Quality Act. The City Council
17 finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA")
18 pursuant to Section 15060(c)(2) since the activity governed by such Ordinance will not result in a
19 direct or reasonably foreseeable indirect physical change in the environment) and the activity is
20 not a project as required by Section 15060(c)(3) and defined in Section 15378 of the State CEQA
21 Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for
22 resulting in physical change to the environment, directly or indirectly. Further, if the activity is
23 deemed a project this City Council finds that this Ordinance is exempt pursuant to Section
24 15061(b)(3) of the State CEQA Guidelines.

25 Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of
26 this ordinance is held invalid by any court of competent jurisdiction, such determination shall not
27 affect the validity of the remaining portions of this ordinance. The City Council declares that it
28 would have enacted this ordinance and each other section, subsection, sentence, clause or phrase

1 hereof irrespective of any such determination of invalidity.

2 **PASSED, APPROVED AND ADOPTED** this **10th** day of **September**, 2013.

3
4 
5 DEBORAH ROBERTSON, Mayor

6
7 ATTEST:

8 
9 BARBARA McGEE, City Clerk

10
11 APPROVED AS TO FORM

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13 JIMMY L. GUTIERREZ, City Attorney
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1 **STATE OF CALIFORNIA**)
2 **COUNTY OF SAN BERNARDINO**)ss
3 **CITY OF RIALTO**)

4 I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing
5 Ordinance No. 1532 was duly passed and adopted at a regular meeting of the City Council
6 of the City of Rialto held on the 10th day of September, 2013.

7 Upon motion of Councilmember Baca Jr., seconded by Councilmember
8 Palmer, the foregoing Ordinance No. 1532 was duly passed and adopted.

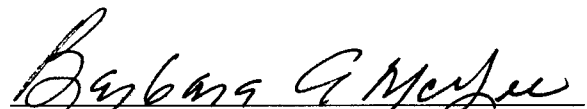
9 Vote on the Motion:

10 AYES: Mayor Robertson, Council Members: Palmer, Baca Jr., O'Connell, Hirtz

11 NOES: None

12 ABSENT: None

13 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of
14 Rialto, this 16th day of September, 2013.

15 
16 Barbara A. McGee, City Clerk