

Colton Joint Unified School District

Dr. Frank Miranda, Ed.D., Superintendent

Rick Jensen, Assistant Superintendent, Business Services Division

Owen Chang, Director, Facilities, Planning & Construction

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If the District does not collect all the developer fees it is deemed legally entitled to, the District may be considered ineligible to receive certain state funding. (Cal. Code Regs., tit. 2, § 1859.81 subd. (c))

2. Where can the District charge developer fees?

Education Code § 17620(a)(1) permits school districts to levy fees against any construction within their boundaries.

District boundaries include parts of unincorporated San Bernardino and Riverside Counties and the Cities of San Bernardino, Grand Terrace, Rialto, Colton, and Fontana.

3. How/when are the fees levied?

Residential:

Developer fees are charged:

- A. On new residential construction, pursuant to Education Code section 17620 subdivision (a)(1)(B).
- B. On any residential additions over 500 square feet, pursuant to Education Code section 17620, subdivision (a)(1)(C)(i).

Accessory Dwelling Unit (“ADU”) are charged residential fees. An ADU is defined as “an attached or a detached residential living unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence.” (Gov. Code 65852.2, subd. (j)) (Fees are assessed against all new ADU square footage in the same manner as with other new residential construction. Renovations to existing ADUs are only assessed fees if they are greater than 500 square feet. The following examples illustrate the application of fees, exemptions, and credits to ADUs:

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2) Fees can only be charged if no manufactured home or mobilehome was previously on the site

3) The pad or foundation system was constructed after September 1, 1986.

(Ed. Code, § 17625 subd. (a).) Fees cannot be charged on additions. (§ 17625 subd. (c)(3).) If the mobilehome or manufactured home is replaced by a permanent residential structure on the lot, the fees paid will count towards the fees due for the permanent structure. (§ 17625 subd. (d).) Note that fees assessed on factory homes are not subject to the regulations above. They will be assessed fees consistent with ordinary residential construction. The major difference between manufactured/mobile homes and factory homes is that factory homes are assembled on site. (See Health & Saf. Code, § 19971.)

Areas excluded from fees covered or uncovered walkways, garages, overhangs or patios, enclosed patios, detached accessory structures or similar areas (Gov. Code, § 65995 subd. (a)(1)), exclusively religious facilities, exclusively private full day schools, owned and operated federal facilities, owned and operated state facilities, owned and operated local agency facilities (§ 65995 subd. (d)), construction to make a residential dwelling more accessible to a disabled person (requires a statement from a doctor) (Ed. Code, § 17620 subd. (a)(C)(ii); Rev. & Tax. Code, § 74.3.), reconstruction of a structure destroyed in a disaster (Ed. Code, § 17626), replacement of a manufactured home on the original pad, replacement of a mobile home on the original pad (Ed. Code, § 17625 subd. (b)(3).), and spaces that are covered or enclosed for agricultural purposes (Ed. Code, § 17622).

Commercial/industrial development:

Fees can be charged for new commercial and industrial construction, pursuant to Education Code section 17620 subdivision (a)(1)(A). Chargeable space does not include the square footage of any structure on the site as of the date the first building permit is issued. (§ 17620 subd. (a)(A).) Note that senior housing and care facilities are charged commercial/industrial fees, not residential. (Gov. Code, § 65995.1 subd. (a).) Additionally, hotels, motels, tourist homes or

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other lodging with a maximum 30 day stay for guests are charged the commercial rate. (Gov. Code, § 65995 subd. (d).)

Assessable space excludes storage areas incidental to the development, garages, parking structures, unenclosed walkways, or utility or disposal areas. (Gov. Code, § 65995 subd. (b)(2).)

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District does not make findings in accordance with Government Code section 66001 subdivision (e) or if the District concludes that the initial assessment of fees was excessive.

To obtain a refund pursuant to section 17624, fill out and submit the District's refund application form, along with accompanying documentation demonstrating that the project was cancelled. The District will withhold \$50 from the original amount paid as an administrative fee. For other refunds, please use the protest procedures set out in Government Code section 66020.

9. Is there a time limit on refunds on school fees?

Yes. Civil Code section 338 subdivision(a) provides that the statute of limitations for refunds is three years from the date the refund becomes available.

However, with respect to refunds pursuant to Government Code section 66001, the statute of limitations is one year. County of El Dorado v. Superior Court, 12 Cal.4th 1003, 1007 (1997) (EMP & ENRENSRENNSSNETIONRE@REN
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