

ORDINANCE NO. 06-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA AMENDING CHAPTER III OF TITLE 15 OF THE COSTA MESA MUNICIPAL CODE RELATING TO DRAINAGE

WHEREAS, the City's Master Plan of Drainage has not been updated in many years and requires update to take into account new and projected development and new and upgraded drainage facilities and needs; and

WHEREAS, a comprehensive Master Plan of Drainage Update and a Drainage Fee Study have been prepared to identify needed drainage facility improvements throughout the City and estimate the costs thereof; and

WHEREAS, the City Council has determined that an update of the Master Plan of Drainage should be approved and the existing drainage facility and drainage fee provisions of the Municipal Code should be revised and updated to create a more appropriate fee structure for new development and construction; and

WHEREAS, the City's drainage fee has not been increased for over thirty years and is inadequate to meet the current and anticipated drainage needs of the City caused by new development, redevelopment and new construction;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council hereby adopts and approves the updated Master Drainage Plan attached hereto as Exhibit A.

Section 2. Chapter III of Title 15 of the Costa Mesa Municipal Code is hereby amended to read as follows:

Sec. 15-64. Master drainage plan identified.

The city has adopted and now has in effect a master drainage plan, which has been, after notice and public hearing, revised from time to time and which was adopted pursuant to Title 7, Chapter 3, Article 8, section 65450 et seq., California Government Code. The official copy of the current master drainage plan is on file in the offices of the city engineer at 77 Fair Drive, Costa Mesa, California, and any reference in this chapter to the master drainage plan shall be to the maps, plats, plans, specifications and other materials constituting said master drainage plan as on file at the above address. The terms of this chapter shall apply to all of the drainage facilities now in place within the city, as well as drainage facilities described and set forth in the master drainage plan and as may be required periodically by the city engineer.

Sec. 15-65. Drainage fees established.

Development of, or construction on, property within the city will require construction of

additional drainage facilities, as set forth in the Master Plan of Drainage and/or as may be identified periodically by resolution of the city council or as may be imposed as a condition of development approval by the city engineer. There is hereby established a drainage fee to be set periodically by resolution of the city council, which fee shall be tiered to take into account the intensity of development proposed for the property. The fee tiers shall be as follows: low-density residential; medium-density residential; high-density residential; and commercial/industrial. The drainage fee shall be imposed on a pro rata, per acre basis upon any parcel or other piece of property for which an owner, developer or other applicant has requested approval to develop or redevelop, or to construct or reconstruct any structure upon such property, prior to, and as a condition of, approval being granted for such development or construction. The funds collected hereunder shall be deposited in a separate fund which shall be known as the "Drainage Fee Fund". In the case of development of land subject to the Subdivision Map Act, the drainage fee shall be collected, deposited and expended in accordance with section 66483 through 66483.2 of the California Government Code, in addition to the provisions set forth below, and all other applicable laws of the state. In the case of any development, redevelopment, construction, or reconstruction not subject to the Subdivision Map Act, the drainage fee shall be collected, deposited and expended in accordance with sections 66000 through 66007 of the California Government Code, in addition to the provisions set forth below, and all other applicable laws of the state.

Sec. 15-66. Fee refund.

Refund of the fees set out in section 15-65 shall not be made once such fees have been paid in accordance with this chapter, except in the case where the applicant or developer abandons a subdivision or parcel map prior to final approval of such map by reason of some fortuitous event not within the control of such applicant or developer, and further providing that the city council first makes a finding that said refund is warranted and is authorized; and providing further that the city council may provide for a partial refund, retaining any amount which it finds will compensate the city for the processing of plans, engineering, inspections or other services performed on behalf of said applicant or developer, in accordance with section 66014 of the California Government Code.

Sec. 15-67. Required construction.

(a) Whenever a development is planned in a location where the master drainage plan or condition of approval calls for a storm drain and the applicant or developer is required to construct the storm drain upon a public right-of-way or on private property to be dedicated as a public right-of-way, the applicant or developer shall be required to post appropriate bonds to cover the estimated construction cost of the storm drain and submit copies of bid prices to the city engineer prior to construction. Any and all such bonds shall be exonerated upon acceptance of construction by the city engineer.

(b) If the city engineer determines that additional drainage facilities are required in order to adequately provide for drainage, the city engineer may require, as a condition of approval, the construction of those facilities for the detention of storm water or such other means as may be necessary to provide adequate drainage of a particular property without adversely affecting adjacent properties or the City's drainage system.

(c) Notwithstanding anything provided in this Section 15-67 or elsewhere in this Chapter III, any construction of drainage facilities required to be constructed prior to issuance of development approval shall be in addition to, and not in lieu of, imposition of the drainage fee applicable to that property. Subject to approval of the city engineer, any such required construction shall be located within the reasonable vicinity of the property subject to development approval, and nothing in this Section 15-67

or this Chapter III shall be read to require construction that is unrelated to providing adequate drainage for the subject property or mitigating additional drainage requirements created by the proposed development of the subject property.

Sec. 15-68. Use of Fund.

The money obtained through payment of drainage fees as provided for in this chapter may be used by the city to defray the cost of constructing storm drains and related facilities, and said funds shall be expended for repair, maintenance or installation of new drainage facilities, all to implement the master drainage plan, including repair, maintenance and upkeep of facilities already in place, whether or not those facilities are specifically included in the master drainage plan. The city may incur indebtedness for the construction of any drainage facility providing the sole source for repayment of such indebtedness shall be from the Drainage Fee Fund.

Sec. 15-69. Fees to connect to existing facilities.

Subject to the provisions of section 66013 of the California Government Code, applicants requesting connection with existing drainage facilities shall be required to pay the drainage fee as provided for in this chapter.

Sec. 15-70. Applicability of fees.

Drainage fees shall be imposed in the following cases:

(a) For low- and medium-density residential uses, any improvement, addition or major alteration to an existing structure or construction of an accessory structure, in any form, where the aggregate gross square footage of such improvement equals or exceeds fifty percent (50%) of the gross square footage of the structure as previously constructed.

(b) For high-density residential, commercial and industrial uses, any improvement, addition or major alteration to an existing structure or construction of an accessory structure, in any form, where the aggregate gross square footage of such improvement equals or exceeds fifty percent (50%) of the gross square footage of the structure as previously constructed, or any improvement, addition or major alteration to an existing structure or construction of an accessory structure, in any form, where the aggregate gross square footage of the improvement exceeds five thousand (5,000) gross square feet.

(c) In development of vacant land, construction of new structures, site redevelopment, or complete replacement of an existing structure or structures, regardless of the gross square footage of the previous or new structure.

Sec. 15-71. Deposit of fees.

Subject to the provisions of the Subdivision Map Act or sections 66000 through 66007 of the California Government Code, as applicable, a drainage fee paid in accordance with this chapter shall be deposited in the city treasury prior to the approval of the final tract or parcel map in the case of recorded map developments and at the issuance of a building permit in all other instances.

Sec. 15-72. Private facilities.

Fees provided for, and the expenditures to be made from, the Drainage Fee Fund are to be applicable to those facilities as provided for in the master drainage plan including previously existing drainage structures and easements or public rights-of-way. Drainage facilities necessary within any development by reason of requirements of the city or the Uniform Building Code shall be at the sole expense of the developer, and funds obtained as provided for in this chapter shall not be expended

therefor.

Section 3. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance 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 this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED AND ADOPTED this ____ day of _____, 2006.

Mayor

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 06-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____th day of _____, 2006, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the _____ day of _____, 2006, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2006.

City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa