

ORDINANCE NO. 08-**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA ADDING CHAPTER XV OF TITLE 13 OF THE COSTA MESA MUNICIPAL CODE RELATING TO THE LIBRARY IMPACT FEE.**

WHEREAS, the City Council of the City of Costa Mesa ("City") finds that new residential development projects on formerly vacant land and construction of additional residential units on already developed land within the City will result in additional growth, thereby placing additional burdens on library facilities, infrastructure and services, which demand and need exceeds the revenue generated by fees exacted from the residential development projects; and

WHEREAS, the imposition of development impact fees is one method of ensuring that development bears a proportionate share of the cost of public facilities and services necessary to accommodate such development in order to promote and protect the public health, safety and welfare; and

WHEREAS, a study conducted in 2000 found that the square footage of the City's existing library facilities was 24,640 square feet less than that of an average California City of comparable population base; and

WHEREAS, the library impact fees established by this ordinance are based upon the need for new library facilities and materials resulting from new residential development projects within the City; and

WHEREAS, the library facilities and anticipated future residential development projects referenced herein are based upon an analysis of existing and projected land use and zoning; and

WHEREAS, imposition of fees to finance library facilities required by new residential development is necessary in order to avoid adversely impacting existing library facilities.

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

Section 1. Chapter XV of Title 13 of the Costa Mesa Municipal Code is hereby added as follows:

Sec. 13-305 Definitions.

The following words, phrases and terms used in this chapter shall have the meaning indicated below:

Building means any structure having a roof and walls and built and maintained for the support, shelter or enclosure of persons, animals, chattel or property of any kind.

Building permit means an official document or certificate issued by the Building Official authorizing performance of a specific activity.

City means City of Costa Mesa.

Developer means the legal or beneficial owner or owners of a lot or of any land included in a proposed residential development project, including the holder of an option or contract to purchase or other persons having an enforceable proprietary interest in such land, who is legally responsible for payment of a library impact fee under and pursuant to this chapter.

Library facility means and includes library buildings and improvements, print and audiovisual materials, furniture, fixtures, technology and equipment.

Library impact fee means a monetary exaction, other than a tax or special assessment, which is established by Resolution of the City Council under this chapter and is charged by the City of Costa Mesa to an applicant in connection with approval of a new residential development project for the purpose of defraying all or a portion of the cost of library facilities related to the residential development project.

New residential unit means construction of a residential unit on land that has been vacant prior to such construction or construction of any new or additional residential unit on land that was developed prior to such construction, except as may be specifically exempted.

Owner means any person, agent, firm or corporation having a legal or equitable interest in the property.

Person means a natural person, his/her heirs, executors, administrators or assigns, and also includes a firm, partnership, joint venture, corporation, estate, trust, receiver, syndicate, or any other group or combination acting as a unit, its or their successors or assigns, or the agent of any of the aforesaid.

Residential development project means any project undertaken for the purpose of developing real property with one or more dwelling units involving the issuance of a permit for construction of a structure including, a single family residence, a multi-family residence, a subdivision, dormitory-style housing, fraternity and sorority houses, room and board facilities, mobile homes, manufactured structures, and structures moved into the City.

Residential unit means a building of permanent character placed in a permanent location which is designed or used for residential occupancy and which includes mobile homes placed on a foundation system.

Sec. 13-306. Library impact fee established.

A library impact fee is hereby established to finance the cost of the library facilities and improvements required by new residential development. The specific amount of the fee shall be set and revised periodically by City Council resolution.

(a) *Limited use of fees.* The revenues raised by payment of this impact fee shall be placed in a separate and special account and revenues, along with any interest earnings on that account, and used solely to pay for the city's future construction or acquisition of facilities, improvements or expansion of existing facilities, furniture, fixtures, technology, material and equipment purchases or to reimburse the city for those identified facilities and equipment funded by the city with monies advanced by the city from other sources.

(b) *Calculation of fees.* The Development Services Director or his/her designee shall be responsible for calculating the required fees for each residential development. The calculation shall be made at the time of application for the building permit.

(c) *Payment of fees.* The fee shall be due and payable concurrently with the application for a building permit. No building permit shall be issued and no person shall commence construction of any new residential unit in the City without the library impact fee due the City first having been paid.

(b) *Fee refunds.* A refund may be made when a building permit expires and no extensions have been granted for a development for which the funds have been collected and the development project has not been constructed.

(c) *Fee adjustments.*

(1) A developer of any project subject to the library impact fee may apply to the city council for an adjustment of the fee. The developer shall have the burden of proving that either the amount of fee charged is disproportionate or not reasonably related to the impact of the project on the library facility. The application shall be made in writing and filed with the city clerk no later than:

a. Ten (10) days prior to the public hearing on the development permit application for the project; or

b. If no development permit is required, at the time of the filing of the request for a building permit.

(2) The application shall state in detail the factual basis for the claim of adjustment. The city council shall consider the application at the public hearing on the permit application or at a separate hearing held within sixty (60) days after the filing of the fee adjustment application. The decision of the city council shall be final. If an adjustment is granted, any change in use or increase in building intensity within the project shall require reconsideration of the fee adjustment.

Sec. 13-307. Exemptions.

Development projects which fall within any of the categories listed below shall be exempt from the provisions of this article:

- a. Any residential construction that does not increase the number of permanent housing units on the lot where the construction takes place, such as remodeling or rebuilding an existing residential unit.
- b. Granny units.
- c. Accessory apartments.

Sec. 13-308 Controlling state law.

The provisions of this chapter and any resolution adopted pursuant hereto shall at all times be subject and subordinate to the provisions of Chapter 5 (commencing with Section 66000), Division 2, of Title 7 of the California Government Code, as the same presently exists or may hereafter be amended from time to time, to the extent the same are applicable. In the event of any conflict between the provisions of this chapter and state law, the latter shall control.

Section 2. 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 3. 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 4. 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 _____, 2008.

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. 08-___ was introduced and considered section by section at a regular meeting of said City Council held on the _____ day of _____, 2008, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the _____ day of _____, 2008, 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 _____, 2008.

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