

ORDINANCE NO. 15-09

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA ADOPTING CODE AMENDMENT CO-15-04, AMENDING TITLE 13, CHAPTER XI, ARTICLE 5 AND CHAPTER XII RELATING TO PARK IMPACT FEES FOR MULTI-FAMILY RESIDENTIAL RENTER DEVELOPMENT (APARTMENTS) IN COSTA MESA**

THE CITY COUNCIL OF THE CITY OF COSTA MESA FINDS AND DECLARES AS FOLLOWS:

WHEREAS, Objective OSR-1A.1 of the Costa Mesa 2000 General Plan establishes the park land-to-population ratio of 4.26 acres for every 1,000 residents;

WHEREAS, California Government Code Section 66477 authorizes the legislative body of a City to require the payment of fees in-lieu of the dedication of land for park and recreation purposes;

WHEREAS, California Government Code Section 66000 authorizes the legislative body of a City to require the payment of development impact fees to defray all or a portion of the cost of public facilities related to a type of development as long as the benefit requirements are met;

WHEREAS, Chapter IX, Subdivisions, of Title 13 of the Costa Mesa Municipal Code sets forth provisions relating to the dedication of land and collection of park impact fees for park and recreation purposes on single family and multiple family residential development which are subdivided;

WHEREAS, Chapter XII, Special Fee Assessments, sets forth the parameters for applying certain development impact fees;

WHEREAS, the City Council reviewed the park fee formula and methodology related to calculating the park impact fees, including a review of historic parkland expenditures, review of historic housing trends, and consideration of population density standards;

WHEREAS, a duly noticed public hearing was held by the City Council on August 4, 2015 where public testimony was received for and against the fee methodology, amended park impact fees, and ordinance;

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, the City Council finds that the adoption of this ordinance is covered by CEQA General Rule Exemption [Section 15061(b)(3)] which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. A significant effect is defined as, "a substantial, or potentially substantial, adverse change in the physical conditions within the area," and the adoption of this Ordinance is therefore not subject to CEQA;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Costa Mesa hereby finds and determines that park fees shall be collected from all projects which meet Government Code Section 66477 and shall be applied to apartment projects in the City which do not require a residential subdivision (i.e. multi-family residences; renter) by applying development impact fees for park development and acquisition purposes based on California Government Code Section 66000.

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

**SECTION 1:** Title 13 of the Costa Mesa Municipal Code is hereby amended as described below.

A. Title 13, Chapter XI, Article 5, Section 13-250 is hereby amended to as follows:

**"Sec. 13-250. PURPOSE**

The purpose of this article is to establish the procedures for requiring park and recreational facilities in conjunction with residential developments ("PARK FEES").

Sections 13-251 through 13-261 relate to residential developments which require a subdivision and which shall be subject to State Government Code Section 66410 et seq. Section 13-261.1 through Section 261.8 refer to multi-family residential developments for renters ("apartments") which shall be subject to State Government Code Section 66000 et seq."

B. Title 13, Chapter XI, Article 5, Section 13-250.1 is hereby added as follows:

**"Sec. 13-250.1 SINGLE-FAMILY AND MULTI-FAMILY RESIDENTIAL DEVELOPMENT WITH SUBDIVISION"**

C. Title 13, Chapter XI, Article 5, Section 13-256 (h) is hereby amended to as follows:

"(h) In order that the fees levied pursuant to subsection (a) keep pace with the cost of land, the fee schedule described in subsection (a) shall be periodically adjusted on a biennial basis, or as specified by City Council by resolution. The fee schedule shall be adjusted using the methodology described in subsection (a) for establishing the fee schedule."

D. Title 13, Chapter XI, Article 5, Section 13-261 is hereby amended to include the following new sections:

**"Sec. 13-261.1 MULTI-FAMILY RESIDENTIAL DEVELOPMENT FOR RENTERS (APARTMENTS)"**

**Sec. 13-261.2 REQUIREMENT**

Every residential developer who creates a multi-family residential development for renter households ("apartments") shall be required to remit a park fee as established in this section for the purpose of providing park and recreational facilities to serve the future residents of the apartments.

**Sec. 13-261.3. APPLICATION**

The provisions of this article shall apply to all residential developments, which are not subdivided and subject to State Government Code Section 66000 et. seq.

**Sec. 13-261.4 RELATION OF LAND REQUIRED TO POPULATION DENSITY**

Consistent with the General Plan, it is hereby found and determined that the public interest, convenience, health, welfare and safety require that 4.26 acres of property for each 1,000 persons residing within the City be devoted to public park and recreational purposes.

**Sec. 13-261.5 POPULATION DENSITY**

For the purposes of this section, population density shall be established by resolution of the City Council, utilizing the following classifications:

- (a) **Apartments.** Any building (or portion thereof) or collection of buildings which provide two or more self-contained dwelling units not designated for separate ownership. Specifically, where the units are for rent and are not legally subdivided for homeownership.
- (b) **Determination of the number of dwelling units.** The total number of dwelling units shall be determined by the number of units proposed for construction. When the actual number of units is unknown, the number of the units shall be based on the maximum number of units which are permitted by the General Plan for the property at the time the tentative or parcel map is filed with the City.

### **Sec. 13-261.6 PARK FEE FORMULA FOR APARTMENTS**

The amount of park fee required pursuant to this section shall be based on the following formula:

$$\text{FEE} = 4.26 (\text{A.D.F.} \times \text{D.U.} \times \text{P.C.}) / 1,000$$

Definition of terms:

- FEE – The maximum cost to be appraised for fee payment
- 4.26 - Number of acres per 1000 persons.
- A.D.F.- Apartment density factor obtained from Section 13-261.5 POPULATION DENSITY as applicable to the proposed development.
- D.U. - Number of dwelling units.
- P.C. - Proportionate cost is the sum of the weighted cost of park land acquisition per acre of land and cost of construction per acre of land.

### **Sec. 13-261.7. AMOUNT OF PARK FEE FOR APARTMENTS**

- (a) The park impact fee for apartments must meet all benefit requirements for State Government Code Section 66000 as follows:
  - (1) Identifies the purpose of the fee;
  - (2) Identifies the use to which the fee is applied;
  - (3) Shows a reasonable relationship between the use of the fee and the type of development project on which the fee is imposed;

- (4) Demonstrates a reasonable relationship between the need for the public facilities and the type of development projects on which the fee is imposed; and
  - (5) Demonstrates a reasonable relationship between the amount of the fee and the cost of the public facilities or portion of the public facilities attributable to the development on which the fee is imposed.
- (b) Nothing in this section shall prohibit the dedication and acceptance of land for park and recreation purposes where the developer proposes the dedication voluntarily and the land is accepted by the City Council at their discretion. When land dedication is provided, it shall be accomplished in accordance with the provisions of the Subdivision Map Act and applicable local ordinances.
- (c) If the developer objects to the amount of the fee pursuant to this section, an appeal may be made to the City Council by filing an application of appeal with the City Clerk and payment of an appeal processing fee as determined by the City Council. A notice of appeal shall be filed with the City Clerk within 7 days of payment of the fee. The developer shall have the burden of proof in contesting the amount of the fee. Within 30 days of receipt of the notice of appeal, a public hearing on the appeal shall be held by the City Council, and the decision shall be final and conclusive in determining the amount of the fee.
- (d) The fee shall be paid to the Development Services Department and shall be deposited and held in appropriate trust accounts and may be expended therefrom only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreation facilities to serve the development on which the fee is charged. Upon receipt of the fee, the Development Services Department shall issue a receipt, and the receipt shall be presented as proof of payment of the fee prior to the issuance of any permit for buildings and structures pursuant to this Zoning Code.
- (e) In order that the fees levied pursuant to subsection (a) keep pace with the cost of land, the fee schedule described in subsection (a) shall be periodically adjusted on a biennial basis, or as specified by City Council by resolution. The fee schedule shall be adjusted using the methodology described in subsection (a) for establishing the fee schedule.
- (f) Upon application to the Development Services Department, the payment of the fee may be deferred where the department makes the following findings:
- (1) The developer has entered into a fee agreement with written evidence of adequate security to assure payment of the fee at a date prior to the issuance of a certificate of occupancy, and in a form approved by the City Attorney; and

(2) The deferral of the fee shall not adversely impact the development of new or the rehabilitation of existing neighborhood or community park or recreational facilities to serve the development.

**Sec. 13-261.8 PROCEDURE, CREDIT**

- (a) **Procedure.** When fees are required, the same shall be deposited with the Development Services Department prior to issuance of building permits.
- (b) **Credit.** Credit shall be granted for dwelling units demolished as a part of the development. This credit shall be limited to the number of units existing at the time of the approval of the project and shall not be transferred to other developments. A second dwelling unit legally established in conjunction with and subordinate to a primary dwelling unit in an R1 zone (i.e. accessory apartment, granny unit, granny flat, or in-law apartment) shall not be subject to the park fee."

E. Title 13, Chapter XII is hereby amended to include the new section:

**"Sec. 13-265.1. Purpose for Special Fee Assessments**

It is the purpose of this chapter to identify and describe special fee assessments. The establishment and collection of certain development impact fees are intended to defray the costs of related impacts. Refer to Article XI, Section 13-261.1, for special fee assessments related to park fees for apartments."

**SECTION 2: INCONSISTENCIES.** 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 or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

**SECTION 3: SEVERABILITY.** If any provision of clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

**SECTION 4: PUBLICATION.** This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the

date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

**PASSED AND ADOPTED this 4th day of August 2015.**

---

STEPHEN M. MENSINGER

Mayor of the City of Costa Mesa

