

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ENACTING REGULATIONS FOR THE PAYMENT OF DRAINAGE FACILITIES FEES AND CITYWIDE PARK FEES, INCLUDING REVISIONS TO TITLES 9 AND 10 OF THE GARDEN GROVE MUNICIPAL CODE AMENDING CHAPTER 9.44 TO CODIFY THE REQUIREMENTS FOR PARKLAND DEDICATION AND FEES FOR NEW SUBDIVISIONS AND AMENDING CHAPTER 10.110 TO PROVIDE FOR UPDATES TO TRAFFIC MITIGATION FEES PURSUANT TO DEVELOPMENT IMPACT FEE STUDIES

**City Attorney Summary**

***This Ordinance enacts regulations for the payment of drainage facilities fees and citywide park fees for new development projects. The park fees are only applicable to new residential projects. The Ordinance further codifies more specific requirements for the dedication of parkland and/or the payment of an in-lieu fee applicable to new residential subdivisions and adds a provision to the traffic impact mitigation fee regulations allowing the fee to be adjusted pursuant to development impact fee studies. The ordinance does not set the amount of each fee. The regulations being codified by this Ordinance require that the City Council set the amount of the fees by Resolution.***

WHEREAS, State law authorizes the City to adopt development impact fees to mitigate the impacts to the City's infrastructure caused by development projects; and

WHEREAS, Willdan Financial Services has prepared a Development Impact Fee Study dated July 6, 2016, analyzing the level of fees required to support future development in the City through 2030 and determining the future development's share of the cost of public facilities and capital improvements for parks, transportation and drainage facilities required as a result of such development;

WHEREAS, Citywide Park Fees and In-Lieu Park Fees are required to provide funding for the development of City parks to accommodate the residents of development projects, which create a need for and demand upon park facilities, when developers of such projects do not develop park facilities and/or dedicate park land or sufficient amounts thereof;

WHEREAS, Citywide Park Fees and In-Lieu Park Fees are applied to development projects based upon the impacts that such projects have on park facilities and the need therefor;

WHEREAS, Transportation Facilities Fees provide funding for necessary improvements to the transportation system to accommodate development, which development creates a need for and demand upon the transportation system;

WHEREAS, Transportation Facilities Fees are applied to development projects based upon the impacts that such projects have on Transportation Facilities and the need therefor;

WHEREAS, Drainage Facilities Fees provide funding for necessary improvements to the drainage system to accommodate development, which development creates a need for and demand upon the drainage system;

WHEREAS, Drainage Facilities Fees are applied to development projects based upon the impacts that such projects have on drainage system facilities and the need therefor; and

WHEREAS, the implementation of the Willdan Financial Services fee study requires revisions to the Municipal Code to clarify the imposition of the fees to be set by Resolution of the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Chapter 9.44 of Title 9 of the Garden Grove Municipal Code is hereby revised in its entirety to read as follows:

## **CHAPTER 9.44**

### **MITIGATION FEES**

#### **Section 9.44.010 Fees for Development Projects**

The following fees are required to mitigate impacts to City infrastructure created by development projects.

- A. Traffic Impact Mitigation Fees pursuant to Chapter 10.110 of this Code.
- B. Water Assessment Fee pursuant to Chapter 14.24 of this Code.
- C. General Plan and Cultural Arts Fee pursuant to Chapter 3.48 of this Code.
- D. Drainage Facilities Fees pursuant to this Chapter.
- E. Park Fees pursuant to this Chapter.
- F. Parkway Tree Fee pursuant to Chapter 9.40 of this Code.

#### **Section 9.44.020 Drainage Facilities Fee**

New development generates storm water runoff by increasing the amount of land that is impervious to precipitation and such runoff must be controlled through

storm drain facilities. A Drainage Facilities Fee is hereby established to mitigate the costs of new or expanded storm drain facilities required as a result of new development. The fee shall be in such amounts as established by Resolution of the City Council.

### **Section 9.44.030 In-Lieu Park Fees (Quimby)**

#### **A. Park Dedication and In-Lieu Fee Requirement for Subdivisions.**

In accordance with Government Code 66477, every residential subdivider who creates a subdivision shall be required to dedicate land, pay a fee in lieu thereof, or do a combination of both, as established in this section for the purpose of providing park and recreational facilities to serve future residents of the subdivision. Said park and recreational facilities shall be reasonably accessible for use by the future inhabitants of said subdivision.

#### **B. 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 two (2) acres of land for each 1,000 persons residing within the city be devoted to public park and recreational purposes.

#### **C. Population Density.**

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

1. Single-family residential. Detached single-family homes where there is no more than one (1) dwelling unit on a lot.

2. Multiple-family residential. Apartments, common interest developments, townhouses and similar multiple-family residential developments, including detached single-family homes where there is more than one (1) dwelling unit on a lot.

#### **D. Amount of Land to be Dedicated.**

The amount of land required to be dedicated by a subdivider pursuant to this section shall be based on the following formula:

$$A = 2(DF \times DU)/1,000$$

Where:

A - Is the area in acres required to be dedicated as park sites.

- 2 - Is the number of acres for park area per 1000 persons required by the General Plan.
- DF - Is the population density factor established by Resolution of the City Council pursuant to subdivision (C), as applicable to the proposed development.
- DU - Is the number of dwelling units proposed for the development. 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 and this Title for the property at the time the tentative or parcel map is filed with the City.

E. Amount of Fee In Lieu of Land Dedication.

1. Where there is no public park or recreation facility required or provided within or for the proposed subdivision, or where the subdivision contains 50 lots or fewer, the subdivider shall pay a fee in lieu of land dedication reflecting the value of land required for park and recreation purposes in accordance with the schedule of fees as adopted by Resolution of the City Council. This fee shall reflect the amount of land that would otherwise be required to be dedicated under subdivision (D) multiplied by the estimated cost of land acquisition within the City.

2. Nothing in this section shall prohibit the dedication and acceptance of land for park and recreation purposes in subdivisions of 50 lots or fewer, where the subdivider proposes the dedication voluntarily and the land is accepted by the City Council.

3. When a common interest development project, stock cooperative, or community apartment project exceeds 50 dwelling units, the City may elect to require dedication of land notwithstanding that the number of lots may be 50 lots or fewer.

4. For subdivisions in excess of 50 lots, the City Council may elect to accept a fee in lieu of land dedication. The amount of such a fee shall be based upon the fair market value of land which would otherwise be required for dedication. The fair market value shall be determined by an M.A.I. appraisal acceptable to the City and at the expense of the developer. If more than one year elapses between the date of the appraisal and recording of the final map, the City shall have prepared a new appraisal and shall invoice the subdivider for the cost of the appraisal.

5. If the subdivider objects to the amount of the in-lieu fee required pursuant to this section, an appeal may be made to the City Council pursuant to Chapter 2.60 of this Code.

6. The fee collected shall be deposited and held in appropriate accounts to be expended only for the purpose of developing new or rehabilitating existing

neighborhood or community park or recreation facilities to serve the subdivision on which the fee is charged.

F. Credits.

1. When park and recreational facilities, including equipment, are provided by the subdivider to dedicated land, the value of the recreational facilities or equipment as determined by the City Council, upon the recommendation of the Community Services Director, shall be a credit against the fees to be paid or land to be dedicated pursuant to this section; provided that the recreational facilities or equipment have been made or installed with the prior approval and to the satisfaction of the Community Services Director.

2. Credit shall not be allowed for single purpose commercial recreation facilities whether dedicated or in private ownership.

3. No credit shall be given for private park open space in any subdivision.

G. Time for Payment of Fees and Dedication of Land.

At the time of approval of the tentative tract map or parcel map, the City shall determine the amount of land to be dedicated, and/or the amount of fees to be paid by the subdivider. At the time the final tract or parcel map is submitted to the City Council for approval, the subdivider shall dedicate the land and/or pay required in-lieu fees.

**Section 9.44.040 Citywide Park Fees**

Every residential developer who creates a residential development not subject to Chapter 9.40 (Subdivisions) of this Code shall be required to remit a park fee as established by Resolution of the City Council for the purpose of providing citywide park and recreational facilities. The provisions of this section shall apply to all residential developments, which are not subdivided and subject to Government Code Section 66000 et seq.

SECTION 2: Section 9.40.140(C) of Chapter 9.40 of Title 9 of the Garden Grove Municipal Code is hereby revised to read as follows (deletions in ~~strikethrough~~, additions in **bold**):

C. Parks and Recreation **Facilities** Dedication ~~Facilities~~.

~~1. Dedication of Park Land Required.~~ The subdivider shall dedicate land, or pay a fee in lieu thereof, or a combination of both, as a condition of approval, for the

purpose of providing parks and recreational facilities for future inhabitants of said subdivision **as provided for in Section 9.44.030.**

~~2. Relationship to General Plan. The amount and location of land to be dedicated shall be determined by the City Council according to the standards and principles contained in the recreation element of the General Plan, and any amendments thereto, and said park and recreation facilities shall be reasonably accessible for use by the future inhabitants of said subdivision.~~

~~3. Fee in Lieu of Dedication. In lieu of such park land dedication, the City Council, at its option may require payment of a fee or a combination of dedication and fee. Said dedication and fee shall be established by the City Council by resolution.~~

SECTION 3: Section 10.110.020 of Chapter 10.110 of Title 10 of the Garden Grove Municipal Code is hereby revised to read as follows (deletions in ~~strikethrough~~, additions in **bold**):

#### 10.110.020 Establishment of a Transportation Improvement Program

An analysis of the need for public transportation roadway improvements required by new development was conducted and is set forth in a study entitled "Revised Transportation System Improvement Program," which is on file in the office of the City Traffic Engineer. Said study sets forth the relationship between new developments, the needed improvements, and the estimated costs of those improvements. **Additional traffic and transportation facilities studies or development impact fee studies may be conducted from time to time to update and support the resolution establishing the facilities and fees required to provide for the transportation roadway improvements required by new development.**

SECTION 4: Section 10.110.030 of Chapter 10.110 of Title 10 of the Garden Grove Municipal Code is hereby revised to amend subdivision (F) and add subdivision (G) to read as follows (deletions in ~~strikethrough~~, additions in **bold**):

F. CREDIT FOR CERTAIN STREET WIDENING IMPROVEMENTS. ~~The traffic impact mitigation fee street widening improvements costs include certain items that may be constructed by a developer whose project is located on an arterial highway as indicated in Tables II and III of the "Revised Transportation System Improvement Program."~~ If the City Traffic Engineer determines that the developer is constructing eligible street widening improvements **included in the most current Transportation Facilities Study or Development Impact Fee Study** (right-of-way dedication is not an eligible credit), the developer shall receive credit against the traffic impact mitigation fee. In no case shall the credit exceed the traffic impact mitigation fee **applicable to the project.**

**G. CREDIT FOR PRIOR OR EXISTING PROJECTS.** In order for a developer to receive credit towards the traffic impact mitigation fee for a prior or existing project, the establishment of the use of the prior or existing project must have been operational after January 1, 1991. The determination of the credit will be based on the most current Transportation Facilities Study or Development Impact Fee Study applicable at the time the credit is requested. In no case shall the credit exceed the traffic impact mitigation fee applicable to the project for which the credit is requested.

SECTION 5: Subdivision (C) of Section 10.110.050 of Chapter 10.110 of Title 10 of the Garden Grove Municipal Code is hereby deleted as follows (deletions in strikethrough):

~~C. Small traffic generators such as walk-in sandwich shops/coffee shops that do not increase restaurant type business in the center over 20% of the total floor space in the existing center.~~

SECTION 6: If any section, subsection, subdivision, sentence, clause, phrase, word, 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 hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 7: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect 30 days after adoption.