

ORDINANCE NO. 10649 (N.S)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES TITLE 8, DIVISION 10, CHAPTER 1 TO DELEGATE AUTHORITY TO EXECUTE AGREEMENTS AND ADDITIONAL MINOR EDITS

The Board of Supervisors of the County of San Diego, State of California, ordains as follows:

Section 1. The Board of Supervisors intends by this ordinance to delegate authority to the Director, Department of Parks and Recreation (DPR), to execute Park Acquisition and Improvement Agreements with the private developers to provide for park facility construction, interim funding, and maintenance for Park Facilities and to take any future actions to administer these or similar agreements in accordance with the San Diego County Code of Regulatory Ordinances Title 8, Division 10, Chapter 1, Relating to Park Land Dedication and Payment of Fees.

Section 2. Section 810.101 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 810.101. DEFINITIONS.

Words used herein that are defined in Title 8, Chapter One of the Code of Regulatory Ordinances but not specifically defined in this Chapter shall have the same meaning as is ascribed to them in Title 8, Chapter One of the Code of Regulatory Ordinances. Any zoning matters referred to herein shall have the same meaning as is ascribed to them in the County of San Diego General Plan, Zoning Ordinance, and Subdivision Ordinance. Whenever the following words are used in this Chapter, they shall have the meaning ascribed to them in this Section.

- (a) "Approving Body" means the Planning Commission or the Board of Supervisors as applicable.
- (b) "Development" means any development as defined in California Government Code Section 66000, as it exists or may be amended (also known as the Mitigation Fee Act).
- (c) "Director", unless otherwise specified, means the Director of the Department of Parks and Recreation of the County of San Diego.
- (d) "Fee Rate Tables" means the fee rates by category as shown on the tables attached to the San Diego County Park and Recreational Facilities Development Impact Fee Study (Impact Fee Study), on file with the Department of Parks and Recreation, and any subsequent adjustments thereto.
- (e) "Local Park Planning Area" means the geographical area(s) depicted on the Local Park Planning Area map on file with the Department of Parks and Recreation. Local Park Impact

Areas coincide with the Community and Subregional Planning Area boundaries in Figure I-2 of the County of San Diego General Plan and as depicted on the Local Park Planning Area Map on file with the Department of Parks and Recreation.

- (f) "Park" or "Public Park" means a fully developed and improved land that is open to the public, operated and maintained by the County of San Diego or other public agency, and improved with both on-site and off-site improvements to the standards of the Department of Parks and Recreation for a local park, including PLDO Eligible Recreational Uses and all the improvements required by the Department of Parks and Recreation for acceptance of such improved land as a fully functioning local park without the necessity of further County improvements.
- (g) "Park Impact Fee" means the Park Improvement Impact Fee and/or the Park Land Acquisition Impact Fee.
- (h) "Park Improvement and Acquisition Agreement" means an agreement entered pursuant to Section 810.119 of this Chapter
- (i) "Park Improvement Impact Fee" means the fee collected by the County of San Diego pursuant to Section 810.111 (b) in connection with approval of a residential Development or Subdivision project for the purpose of defraying all, or a portion of, the cost of constructing park and recreational facilities needed to accommodate new residential development.
- (k) "Park Land Acquisition Impact Fee" means the fee collected by the County of San Diego pursuant to Section 810.111(a) in connection with approval of a residential Development for the purpose of defraying all, or a portion of, the cost of acquiring park land for park and recreational facilities needed to accommodate new County residents.
- (l) "PLDO Eligible Recreational Uses" means recreation facilities occurring on land restricted for park and recreation purposes designed to provide individual or group activities common to parks in San Diego County. PLDO Eligible Recreational Uses include adventure play areas, amphitheaters, bicycle parks, children's play areas, community gardens, community gather or event spaces, disc or Frisbee golf, dog parks or leash free areas, equestrian facilities, exercise areas or fitness stations, gymnasiums, improved overlooks, open lawn areas, picnic areas, plazas, recreation centers, skate parks, splash pads or wading pools, sport courts and fields, swimming pools, and trails outside of dedicated open space and County right-of-way. PLDO Eligible Recreational Uses do not include natural open space, nature study areas, open space buffer areas, steep slopes that are not improved with PLDO Eligible Recreational uses, golf courses, parking or staging areas, riding and hiking trails in open space preserves, trails conditioned pursuant to the County Trails Program, unimproved scenic overlooks, water courses, drainage areas, unenhanced stormwater facilities, water bodies (lakes, ponds, reservoirs), boating areas, archaeologically sensitive areas, group and individual usable open space as defined in the Zoning Ordinance, landscape corridors, pathways, environmental mitigation areas, land encumbered by easements, or other areas that preclude PLDO eligible recreational uses.

- (m) "Private Park" means a local park that provides recreation including, but not limited to PLDO Eligible Recreational Uses, that is not maintained by the Department of Parks and Recreation or other public agency.
- (n) "Subdivision" means any subdivision as defined by in California Government Code Section 66410 et seq, as it exists or may be amended (also known as the Subdivision Map Act).

Section 3. Section 810.103 of the San Diego County Code of Regulatory Ordinances is hereby repealed and replaced to read as follows:

SEC. 810.103. REQUIREMENTS

As a condition of approval of any Subdivision tentative map or parcel map, the applicant shall dedicate land, pay fees in lieu thereof, or a combination of both, pursuant to the provisions of this Article for the purposes of developing new or rehabilitating existing park and recreational facilities to serve future residents of such Subdivision.

- (a) For Subdivisions containing more than fifty (50) parcels, and condominium, stock cooperative or community apartment projects (as those terms are defined in the California Civil Code) exceeding fifty (50) dwelling units, notwithstanding that the total number of parcels may be less than fifty (50), the dedication of land, payment of a fee in lieu thereof, or a combination of both shall be required.
- (b) For Subdivisions containing fifty (50) or fewer parcels, only the payment of Park In-Lieu Fees shall be required, unless the applicant offers to dedicate land in lieu of paying fees, in which event the Approving Body may elect to accept the land or require the payment of fees or a combination of both pursuant to Section 810.105.
- (c) If after recordation of the final map, there is an increase in the number of dwelling units or a change in the dwelling unit type which increases the number of persons served by the Subdivision, the applicant shall be required to dedicate additional park land, pay park in-lieu fees, or a combination of both, as determined by the Director.
- (d) Nothing in this Chapter shall be construed as to relieve the applicant from providing useable open space as defined and required by the Zoning Ordinance or by the provision of variance or permits granted pursuant to the Zoning Ordinance, nor shall any provisions of this Chapter be construed to require the County to accept land for park purposes which is determined by the Director to be unsuitable for park and recreation purposes.

Section 4. Section 810.104 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 810.104. EXEMPTIONS

The following projects shall be exempt from the park land dedication and Park In-Lieu Fee requirements of this Chapter:

- (a) Developments that do not require the subdivision of land;
- (b) Subdivisions that do not include any residential uses; and
- (c) Condominium projects or stock cooperatives which consist of the Subdivision of air-space in an existing apartment building which is more than five (5) years old and where no new dwelling units are added.
- (d) Accessory dwelling units permitted prior to January 1, 2024 and constructed pursuant to the provisions of the Zoning Ordinance on established lots with an existing single-family residence.

Section 5. Section 810.107 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 810.107. TIME OF LAND DEDICATION OR PAYMENT OF FEE.

- (a) If land is to be dedicated, whether within or outside the subdivision, approval of the tentative map shall be subject to the following condition:
 - (1) Fee title to the land shall be conveyed by grant deed to the County, other governmental agency or other entity responsible for operation and maintenance of parks and recreation facilities, as approved by the County, that is free and clear of all encumbrances, including utility easements and underlying drainage systems, except those which, in County's opinion, will not interfere with the use of land for park and recreational purposes and which the Department of Parks and Recreation agrees to accept, as evidenced by a Phase I and/or II Environmental Site Assessment and a California Land Title Association policy provided by the applicant or developer and subject to approval of the Director. The applicant shall convey fee title to the County prior to approval of the final map and the grant deed shall be recorded immediately following the recordation of the final map. The applicant shall provide all fees and instruments required to convey fee title to the land plus title insurance in favor of the County; or
 - (2) Enter into a secured Park Acquisition and Improvement Agreement pursuant to Section 810.119 of this Chapter.
- (b) If Park In-Lieu Fees are to be paid, such fees shall be collected on a per dwelling unit basis prior to the issuance of a building permit or such other permit for development required to authorize the construction or installation of a dwelling. The applicant shall pay the fees prescribed in Section 810.108 or shall present a written statement from the Director of Parks and Recreation certifying that the requirements of this Article have been satisfied with respect to the development for which permits are sought. The obligation to pay Park In-Lieu Fees shall be noted on both the tentative map and the final map.

- (c) Notwithstanding the provisions of this Subsection to the contrary, the payment of Park In-Lieu Fees in connection with residential Subdivisions may be deferred and paid prior to or at the time of scheduling a final building inspection, if the applicant executes an agreement with the County for a fee deferral. Applicants choosing to execute an agreement with the County for a fee deferral, shall pay the PLDO fee amount in effect at the time of PLDO fee payment. In the event the County, for any reason, fails to collect any or all PLDO fees prior to final inspection, such fees shall remain the obligation of the applicant and/or the property owner

Section 6. Section 810.112 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 810.112. PARK IMPACT FEE EXEMPTIONS

The following uses shall be exempt from both the Park Land Acquisition Impact Fee and the Park Improvement Impact Fee, unless otherwise stated:

- (a) Any residential Development that involves the Subdivision of land and pays the Park In-Lieu Fee is exempt from the Park Land Acquisition Impact Fee.
- (b) Any Development that does not require a County building permit.
- (c) Any nonresidential Development.
- (d) The replacement on the same parcel by the owner of a dwelling or dwellings destroyed by fire, flood, earthquake, or other calamity, provided that the application for a building permit to replace such dwelling is filed with the Director within two (2) years after destruction of the dwelling and is filed by the homeowner impacted by the calamity.
- (e) Rehabilitation, replacement, or reconstruction of residential structures that were lawfully constructed.
- (f) Transient habitation resort services for which occupancy is limited to 90 days for any person in any 12 month period pursuant to Sections 6400 through 6449, inclusive, of the Zoning Ordinance, or camping, cabin or motel units which are not to be used as primary residences and which are to be constructed within and primarily to serve Federal, State or County parks or forest.
- (g) Recreational Trailer Parks, Temporary Trailer Parks, or Travel Trailer Parks, as those terms are defined in the Mobilehome Parks Act.
- (h) Condominium projects or stock cooperatives which consist of the Subdivision of air-space in an existing apartment building which is more than five (5) years old where no new dwelling units are added.
- (i) Any farm employee housing or farm labor camp project.

- (j) Accessory dwelling units permitted prior to January 1, 2024 and constructed pursuant to the provisions of the Zoning Ordinance on established lots with an existing single-family residence.

Section 7. Section 810.113 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 810.113. CREDIT FOR PARK LAND ACQUISITION IMPACT FEE.

- (a) In the event that an applicant subject to the Park Land Acquisition Impact Fee seeks to dedicate land for parks, the Approving Body may allow a credit for up to 100% of the Park Land Acquisition Impact Fee payment required by this Chapter, if the public park land dedication amount is greater than 0.4 contiguous acres. For public park land dedication amounts less than 0.4 contiguous acres, only fees will be accepted, unless otherwise approved by the Director or Approving Body.
- (b) Credit for land dedication against the Park Land Acquisition Impact Fee payment required by this Chapter shall only be granted for lands that conform with Sections 810.105 and 810.107 of this Chapter and are approved by the Director and Approving Body.
- (c) Fee credit for land dedication of public parks may be provided at a one-to-one ratio based on conversion of Park Land Acquisition Impact Fee to actual park acres.
- (d) The Director may grant fifty percent (50%) credit for private park land dedication against the Park Land Acquisition Impact Fee payment required by this Chapter for private park land, not to exceed fifty percent (50%) of the total requirement for Park Improvement Impact Fee payment, if the requirements of Section 810.108 of this Chapter have been or will be met prior to issuance of any building permits for Developments and prior to approval of the final map for Subdivisions.
- (e) Credit shall only be granted for park land that meets the criteria set forth in this Article and the Department of Parks and Recreation Park Design Manual.
- (f) Private usable open space as defined and required by the Zoning Ordinance; improvements described in Sections 810.105(b) of this Chapter; trails and pathways dedicated pursuant to County Trails Program; environmental mitigation areas or open space dedicated pursuant to Resource Protection Ordinance, Biological Mitigation Ordinance or local, state, or federal laws; other open areas that preclude PLDO Eligible Recreational Uses; and yards, court areas, setbacks, landscape areas, and other open areas required to be maintained by the Zoning Ordinance, Building Code, and other ordinances and regulations shall not be eligible for credit against the Park Land Acquisition Impact Fee requirement, unless otherwise approved by the Director or Approving Body.

Section 8. Section 810.115 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 810.115. LIMITATIONS ON USE.

- (a) The Park In-Lieu Fee paid pursuant to this Chapter shall only be used for the purpose of acquiring park land, developing new, or rehabilitating existing park or recreation facilities.
- (b) The Park Land Acquisition Fee paid pursuant to this Chapter shall only be used for the purpose of acquiring new parkland.
- (c) The Park Improvement Impact Fee paid pursuant to this Chapter shall only be used for the purpose of developing new, or expansion of existing park or recreation facilities.
- (d) Park Impact Fees and Park In-Lieu Fees shall not be used to provide recreational services, programming or operations and maintenance of parks and recreational facilities.

Section 9. Section 810.119 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 810.119. PARK ACQUISITION AND IMPROVEMENT AGREEMENT.

- (a) Applicants receiving credit against Park Impact Fees pursuant to the provisions of this Chapter shall enter into a secured Park Acquisition and Improvement Agreement with the County or another governmental agency or other entity responsible for operation and maintenance of parks and recreation facilities, as approved by the County, prior to approval of the final map for a Subdivision or prior to issuance of a building permit for a Development to provide for park facility construction, interim funding, and maintenance for Park Facilities.
- (b) The secured Park Acquisition and Improvement Agreement shall comply with the requirements for improvement security as specified in the Subdivision Map Act at Government Code Section 66499 et seq., the County Subdivision Ordinance at County Code Section 81.407 et seq. for Subdivision projects, and the Department of Parks and Recreation Park Design Manual adopted by the Director.
- (c) In those instances where the applicant and County or another governmental agency or other entity responsible for operation and maintenance of parks and recreation facilities, as approved by the County, enter into secured Park Acquisition and Improvement Agreement, the Director or designee is authorized to execute secured Park Acquisition and Improvement Agreement with applicants and to take any future actions to administer these or similar agreements as may be necessary to secure the construction, operation, and maintenance of the improvements.

Section 10. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in a newspaper of general circulation published in the County of San Diego.

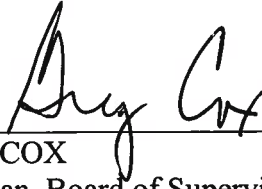
Meeting Date: 1/29/2020 (01)

This Ordinance was introduced and read on the 15th day of January, 2020 and PASSED, APPROVED AND ADOPTED this 29th day of January, 2020.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY: Erik Schraner, Senior Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 29th day of January, 2020.



GREG COX
Chairman, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Fletcher, Desmond
ABSENT: Gaspar

ATTEST my hand and the seal of the Board of Supervisors this 29th day of January, 2020.

ANDREW POTTER
Clerk of the Board of Supervisors

By 
Joana Santiago, Deputy



Ordinance No.: 10649 (N.S.)
Meeting Date: 1/29/2020 (1)