

ORDINANCE NO. 9828 (NEW SERIES)

**AN ORDINANCE AMENDING TITLE 8, DIVISION 10, CHAPTER 1 OF
THE SAN DIEGO CODE OF REGULATORY ORDINANCES RELATING
TO PARK LANDS DEDICATION OR PAYMENT OF IN LIEU FEES**

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

Section 1. The Board of Supervisors finds and determines that it needs to amend Title 8, Division 10, Chapter 1 of the San Diego Code of Regulatory Ordinances relating to the park lands dedications or payment of in lieu fees to more accurately reflect the cost of acquiring and constructing park facilities.

Section 2. Section 810.102 of the Regulatory Code is hereby amended to read as follows:

Words used herein that are defined in Title 8, Division One of the Code of Regulatory Ordinances but not specifically defined in this Chapter shall have the same meaning as is given to them in Title 8, Division 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 Zoning Ordinance. Whenever the following words are used in this Chapter, they shall have the meaning ascribed to them in this section.

“Active Recreational Uses” means recreation facilities occurring on level or gently sloping land (maximum 10%) restricted for park and recreation purposes in a planned development which are designed to provide individual or group activities of an active nature common to local parks in San Diego County, including, but not limited to, open lawn, sports fields, court games, swimming pools, children's play areas, picnic areas, recreation buildings, dance slabs, and recreational community gardening. Active Recreational Uses do not include natural open space, nature study areas, open space for buffer areas, steep slopes, golf courses, riding and hiking trails, scenic overlooks, water courses, drainage areas, water bodies (lakes, ponds, reservoirs), marinas and boating areas, parking areas, and archaeology areas.

“Approving Body” means the Planning Commission or the Board of Supervisors as the case may be.

“Development” means a subdivision, mobilehome park or construction or installation of a dwelling. Development does not include: (1) Subdivisions created

for industrial or commercial purposes, (2) 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 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, (3) Recreational Trailer Parks, Temporary Trailer Parks, or Travel Trailer Parks as those terms are defined in the Mobilehome Parks Act; (4) Condominium projects or stock cooperatives, as defined in Title 8, Division One of the Code of Regulatory Ordinances, which consist of the subdivision of air-space in an existing apartment building which is more than five (5) years old when no new dwelling units are added.

“Director”, unless otherwise specified, means the Director of the Department of Planning and Land Use of the County of San Diego.

“Dwelling” means a building or portion thereof used for residential purposes, including one-family, two-family and multiple dwellings, and shall also mean mobilehome, and mobilehome sites or spaces in mobilehome parks.

“Dwelling Unit” means one or more rooms in a dwelling or multiple dwelling or apartment hotel used for occupancy by one family (including servants and employees of such family) for living or sleeping purposes, and having only one (1) kitchen.

“Family” means an individual, or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons, excluding servants, who are not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

“Neighborhood and Community Park or Recreational Purposes” means local parks as defined in the Recreation Element of the San Diego County General Plan-1990 including mini parks (playlots and vest pocket parks), neighborhood parks, and community parks; and shall also mean the types of facilities common to local parks when they occur in a regional park and are available to serve the recreational needs of residents within the local park service radius as defined in the standards for park and recreation facilities in the Recreation Element.

“Recreational Community Gardening” means the land and facilities in a planned development for the cultivation of plant material, not for sale, by persons other than, or in addition to, the owner of such land.

Section 3. Section 810.103 of the Regulatory Code is hereby amended to read as follows:

As a condition of approval of any Development, the applicant shall dedicate land, pay fees in lieu thereof, or a combination of both, pursuant to the provisions of this Chapter for neighborhood and community park or recreational purposes to serve future residents of such Development, except as follows:

(a) In the event that subsequent development occurs with respect to property for which fees have been paid, land dedicated, or a combination of both, additional fees or dedication shall be required only for additional lots or dwelling units which were not included in computing the prior fee or dedication requirement;

(b) Prior to the issuance of any building permit or other permit for development under the jurisdiction of the Director, the applicant shall pay to the Director the fees prescribed in Section 810.106 or shall present a written statement from the Director certifying that the requirements of this Chapter have been satisfied with respect to the development for which permits are sought;

(c) The replacement on the same parcel by the owner of a dwelling or dwellings destroyed by fire or other calamity, provided that the application for a building permit to replace such dwelling is filed with the Director within six (6) months after destruction of the dwelling;

(d) An accessory apartment or accessory living quarters as defined by the County Zoning Ordinance;

(e) Any farm employee housing or farm labor camp project for which (1) a complete application for an Administrative Permit or a Minor Use Permit was filed between July 13, 1990, and January 13, 1991 pursuant to Ordinance No. 7769 (N.S.); or was filed between April 5, 1991 and October 5, 1991, pursuant to Ordinance No. 7876 (N.S.); or was filed between October 31, 1991 and June 30, 1993, pursuant to Ordinance No. 8087 (N.S.); or was filed between July 30, 1993 and June 30, 1994, pursuant to Ordinance No. 8272 (N.S.); or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8437 (N.S.); or was filed between September 15, 1995 and June 30, 1998, pursuant to Ordinance No. 8575 (N.S.); or was filed between May 14, 1999 and June 30, 2004, pursuant to Ordinance No. 9021 (N.S.); or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9647 (N.S.) and (2) the application was approved; or

(f) Any farm employee housing or farm labor camp project for which (1) Section 17021.5 or Section 17021.6 of the California Health and Safety Code is applicable; (2) the Agricultural Commissioner has issued a certificate of active agricultural enterprise; (3) the housing is not the subject of an active code enforcement action; (4) the applicant has entered into the contract required by Section 6156 u.11 or Section 6906 d. of the Zoning Ordinance; and (5) the

application was filed between July 30, 1993, and June 30, 1994, pursuant to Ordinance No. 8272 (N.S.); or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8437 (N.S.); or was filed between September 15, 1995 and June 30, 1998, pursuant to Ordinance No. 8575 (N.S.); or was filed between May 14, 1999 and June 30, 2004, pursuant to Ordinance No. 9021 (N.S.); or was filed between July 1, 2004 and June 30, 2009 pursuant to Ordinance No. 9647 (N.S.).

Section 4. Section 810.105 of the Regulatory Code is hereby amended to read as follows:

(a) Only the payment of fees shall be required for Developments containing fifty (50) or fewer parcels, unless the applicant offers to dedicate land in lieu of paying the fees, in which event the Approving Body, may elect to accept the land or require the payment of fees or a combination of both. Evaluation of satisfaction of the land dedication requirement by any proposed dedication of land shall be based on the amount of land proposed for dedication, and not on the value of the land.

(b) For Developments containing more than 50 parcels, the Approving Body shall determine whether to require dedication of land, payment of a fee in lieu thereof, or a combination of both, and in making such determination, the Approving Body shall consider the following factors:

(1) Conformity of lands offered for dedication with the Recreation Element of the General Plan.

(2) The topography, soils, soil stability, drainage, access, location and general utility of land in the development available for dedication.

(3) The size and shape of the Development and land available for dedication.

(4) The amount, usability, and location of publicly owned property available for combination with dedicated lands in the formation of local park and recreation facilities.

(5) Any additional recreation facilities that are to be privately owned and maintained by future residents of the Development.

(c) Grading and drainage improvements may be required for the County to accept land to be dedicated for a public park, in addition to grading, drainage improvements, irrigation and planting required pursuant to Title 8, Division 7 of the Code of Regulatory Ordinances or other authority. As a condition of a permit for

development or of a subdivision map resolution, where applicable, the Parks and Recreation Department shall review and approve the grading plans for parcels of land to be dedicated for public park purposes pursuant to this Chapter, shall review and approve improvement plans for parcels to be dedicated for public park purposes pursuant to this Chapter, and shall review improvement plans for lots adjacent to such parcels in the development. The applicant or developer shall construct off-site street improvements and utilities to serve the dedicated park at the time improvements are constructed for the areas surrounding the park in the Development.

(d) The improvements described in section 810.105(c) shall not be eligible for credit against the amount of land dedicated or the fee in lieu of land paid, pursuant to the provisions of Section 810.108.1 of this Chapter.

(e) Proposals to dedicate land in lieu of fees or to do a combination of both shall be subject to review and approval by the Director of the Department of Parks and Recreation prior to review by the approving body. Applicants proposing to dedicate land in lieu of fees or to do a combination of both shall submit a proposal, including a scaled plot plan including any proposed improvements, specifying the location and amount of land proposed for dedication, any proposed improvements, and proposed timing of proposed dedication and construction of improvements.

Section 5. Section 810.106 of the Regulatory Code is hereby amended to read as follows:

(a) The Recreation Element of the General Plan sets forth a standard of 15 acres per 1,000 population for local parks. It is intended that one-fifth of this requirement or 3 acres per 1,000 population be provided by new development pursuant to the provisions of this Chapter unless the amount of existing neighborhood and community park acreage (developed or undeveloped) in the unincorporated areas of the County exceeds this standard.

(b) The amount of land to be dedicated, or in lieu fee to be paid, shall be based upon the Local Park Planning Area boundaries described in section 810.106(f) and Table 1 which are derived from average occupancy figures to result in a rate of dedication equivalent to 3 acres per 1,000 population or a rate of in lieu fee payment equivalent to the approximate land value and park development costs of a 3 acre park per 1,000 population.

(c) The in lieu fees, as shown in Table 1, shall be phased between years 2007 and 2009 and shall remain the same thereafter, subject to adjustments in accordance with sections 810.106(d) or 810.106(e) and are specified by area as shown in Table 2.

(d) The in lieu fees will be adjusted annually, starting in April 2008, and each April thereafter. The amount of the fee shall be based on the one-year change (from February to February) in the Los Angeles Construction Cost Index as determined by *Engineering News Record* published by McGraw-Hill Publishing Company, or any successor thereof. Adjustments shall not exceed 3%. Adjustments to the fees based upon the Construction Cost Index shall be automatic and shall not require further action of the Board of Supervisors. The fee adjustment shall become effective April 20 of each year.

(e) The Board of Supervisors may adjust the amount of the fee beyond the automatic adjustment set forth in section 810.106(d) where necessary to reflect changes in cost of construction, cost of land, and population and housing statistics, and upon other sound engineering, financing and planning information. Adjustments to the fees under section 810.106(e) shall be made in accordance with the notice and hearing requirements of Government Code section 66018.

(f) The Local Park Planning Area boundaries shall coincide with the Assessor's Map Book and Page Index (TABLE 2), as delineated on the companion Local Park Planning Area (LPPA) Map, and as follows:

(1) Due to the two-mile scale of the LPPA Map, irregularities may occur between the LPPA Map and the Assessor's Map Book and Page Index. If this happens, the boundaries of the Assessor's Book and Page Index (TABLE 2) shall take precedence over the LPPA Map.

(2) The boundaries established by this Index shall not be affected or changed by any subsequent changes to the Assessor's Books and/or Pages.

(3) If there are no Pages listed for a Book for a given LPPA, then all of the Pages within the Book are included in the boundaries of that specific LPPA.

TABLE 1

FEES

TABLE 1 - 3 ACRES PER 1,000 POPULATION

Local Park Planning Area	In Lieu Fee to be paid Per Dwelling Unit or Lot, Whichever is greater			Sq. Ft. to be Dedicated Per Dwelling Unit or Lot, Whichever is Greater
	April 2007	April 2008*	April 2009 and Thereafter*	
Alpine	\$1,840	\$2,880	\$3,921	355.55
Anza Borrego	\$1,161	\$1,922	\$2,684	284.88
Bonsall	\$1,866	\$2,932	\$3,999	352.84
Carlsbad	\$2,413	\$4,026	\$5,639	373.74
Central Mountain	\$1,542	\$2,285	\$3,028	326.7
Crest	\$1,815	\$2,830	\$3,846	367.21
Escondido	\$1,907	\$3,015	\$4,123	373.74
Fallbrook	\$1,900	\$3,001	\$4,102	393.35
Jamul	\$1,798	\$2,796	\$3,794	390.73
Lakeside	\$1,839	\$2,878	\$3,917	364.6
Lincoln Acres	\$2,712	\$4,624	\$6,537	373.74
Mountain Empire	\$1,347	\$2,294	\$3,241	351.53
Oceanside	\$2,438	\$4,076	\$5,714	373.74
Otay	\$2,478	\$4,156	\$5,835	373.74
Palomar/Julian	\$1,233	\$2,067	\$2,901	303.18
Pauma	\$1,986	\$3,173	\$4,360	426.02
Ramona	\$1,852	\$2,904	\$3,956	395.96
San Dieguito	\$2,991	\$4,982	\$6,974	369.82
San Marcos	\$2,153	\$3,506	\$4,860	373.74
Spring Valley	\$2,339	\$3,879	\$5,419	395.96
Sweetwater	\$2,750	\$4,700	\$6,651	380.28
Valle de Oro	\$2,299	\$3,799	\$5,299	360.68
Valley Center	\$1,819	\$2,838	\$3,858	380.28
Vista	\$2,413	\$4,026	\$5,639	373.74

*Does not include annual inflation increase per Section 810.106(d).

TABLE 2**ASSESSOR'S MAP BOOK AND PAGE INDEX
LOCAL PARK PLANNING AREA BOUNDARIES**

The following Local Park Planning Areas are defined by the following Assessor's Map Book and Page Index, or as otherwise updated by the County Assessor.

SAN DIEGUITO	223; 254; 255; 256; 257; 259; 262; 264; 265; 266; 267; 268, 269; 298; 302; 303; 305; 312; 313; 678
ALPINE	402; 403; 404; 405, pages 01, 12; 406, pages 01, 02, 03, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 20, 21, 22, 27; 520, pages 03, 05, 06, 08, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32; 521, pages 03, 04, 05, 06, 07, 12, 13, 14; 522, page 07; 523, pages 01, 02, 03, 04, 05, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21; 524
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CENTRAL MOUNTAIN	405, pages 04, 05, 06, 09, 10, 11, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35; 406, pages 04, 16, 18, 23, 24, 25; 407; 408; 409; 410; 411; 412; 523, pages 06, 07; 525; 526; 527
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SWEETWATER	570; 574; 585, pages 03, 04, 07, 08, 09, 10, 11, 12, 13, 14, 15, 17; 589; 590; 591; 592; 593; 594; 595
VALLEY DE ORO	491; 492; 493; 495; 496; 497; 498; 499, pages 51, 52; 500; 501; 502; 506, pages 01, 02; 514; 515, pages 02, 03, 04, 06, 07, 08, 09, 10, 17; 517, pages 02, 03, 04, 05, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29; 518, pages 01, 02, 03, 08, 09, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22; 519, pages 01, 02, 27, 28, 29, 32, 33, 34, 35; 580, pages 02, 03, 04
VALLEY CENTER	127, pages 20, 21, 22, 36, 37, 45, 52, 55; 128; 129; 133, pages 08, 11, 20, 22, 23, 24, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44; 172, pages 03, 04, 08, 09, 12, 24, 25, 27; 185; 186; 188; 189; 190
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ANZA-BORREGO	117; 118; 119; 120; 139; 140; 141; 142; 197; 198; 199; 200; 201; 202; 251; 252; 253; 295; 296; 297; 337; 338; 339
MOUNTAIN EMPIRE	413; 414; 528; 529; 603; 604; 605; 606; 607; 608; 609; 610; 611; 612; 613; 614; 651; 652; 653; 654; 655; 656; 657; 658; 659; 660; 661

Section 6. Section 810.107 of the Regulatory Code is hereby amended to read as follows:

(a) – (c) [No change.]

(d) If the Development in question is other than a subdivision and fees alone are to be paid or fees are to be paid in combination with the dedication of land, the fees shall be deposited with the Director, or such other officer as may be charged with the responsibility for issuing the permit in question, and fee title to the land shall be conveyed to the County, prior to the issuance of a building permit, permit to construct a mobilehome park, or, if neither is required, prior to issuance of such other permit as may be required to authorize the replacement, construction or installation of a dwelling. Title to land dedicated to the County shall be conveyed by grant deed to the County free of encumbrances, 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 Parks and Recreation Department.

(e) If the Development in question is a subdivision and fees are to be paid in combination with the granting of credit for the provision of private recreation facilities pursuant to Sec. 810.108, the subdivider shall satisfy all of the requirements of Sec. 810.108 and shall deposit the fees with the Clerk of the Board of Supervisors prior to recordation of the final map.

(f) If the Development in question is other than a subdivision and fees are to be paid in combination with the granting of credit for the provision of private recreation facilities pursuant to Sec. 810.108, the applicant shall satisfy the requirements of Sec. 810.108 and shall deposit the fees with the Director, or such other officer as may be charged with the responsibility for issuing the permit in question, prior to the issuance of a building permit, permit to construct a mobilehome park, or if neither is required, prior to issuance of such other permit as may be required to authorize the replacement, construction or installation of a dwelling.

Section 7. Section 810.107.1 of the Regulatory Code is hereby amended to read as follows:

Any fee paid pursuant to the provisions of this Chapter may be refunded or partially refunded under the following circumstances:

(a) Upon written application for refund following the withdrawal of the application for approval of the Development; provided that, for a subdivision such withdrawal must occur prior to recordation of the final map, and for all other

developments, such withdrawal must occur prior to the commencement of actual construction as defined in Section 1018 of the Zoning Ordinance.

(b) In the event that the acreage of the Development site, or the number of dwelling units, or the acreage of land to be dedicated, or the acreage of private recreation area(s), or any combination thereof, changes through the subdivision or major use permit processes, thereby reducing the requirements for the development under this Chapter, and the applicant has paid the higher originally calculated fee, the Director, or such other officer having jurisdiction over the development, upon review and concurrence by the Parks and Recreation Department, shall refund to the applicant, the amount specified in the action taken by the Director or the approving body authorizing such decrease of the requirements, not to exceed the amount originally deposited.

Section 8. Section 810.108.1 of the Regulatory Code is hereby amended to read as follows:

In the event that an applicant for a development permit dedicates land for a public park pursuant to Section 810.107, the Approving Body may, pursuant to Sections 810.105 and 810.106, allow a credit therefor against up to 100% of the requirement for land dedication or fee payment required by this Chapter. Credit shall be granted against the payment of fees or the dedication of land required pursuant to this Chapter for the value of improvements to such park, together with any fixed equipment located thereon, installed or constructed by the applicant, provided that such credit shall not exceed the value of improvements normally authorized by the County for similar parks. A credit for dedication of a public park shall be granted only for a public park that provides active recreational uses as defined in Section 810.102 for residents within the local park planning area.

Section 9. Section 810.109 of the Regulatory Code is hereby amended to read as follows:

The land, fees, or combination thereof required for development approval pursuant to this Chapter are to be used only for the purpose of developing new, or rehabilitating existing, park or recreation facilities which are in accordance with the principles and standards contained in the Recreation Element of the General Plan, and which will serve residents of a Local Park Planning Area, the boundaries of which are defined in Section 810.106 and TABLE 2 of this Chapter, which includes the development from which the fees were derived. Developing new park or recreation facilities include, but are not limited to, the acquisition of land for neighborhood or community park or recreational purposes as defined herein.

Section 10. Section 810.112 of the Regulatory Code is hereby amended to read as follows:

Subject to the provisions of Section 810.103, the provisions of this Chapter apply to any application for development. The tables of fees and land dedication requirements in Section 810.106, in effect on the date the application for development is accepted as complete, shall apply to the proposed project. For subdivision projects that include the dedication of land for public parks or the granting of credit for private recreation facilities, the fee rates in effect when the subdivision map is filed shall apply. For development projects requiring the dedication of land, granting of credit, or the payment of fees prior to the issuance of a building permit, permit to construct a mobilehome park, or if neither is required, prior to issuance of such other permit as may be required to authorize the replacement, construction or installation of a dwelling, the fee rates in effect when the appropriate permit is applied for shall apply. All changes made in the proposed project, during the approval process, shall be subject to the requirements of Section 810.106 in effect on the date of the change.

Section 11. The Ordinance shall take effect and be in force 60 days after the date of its passage, and before the expiration of 15 days after its passage, a summary shall be published once with the names of the members voting for and against the same in the San Diego Daily Transcript, a newspaper of general circulation.

Section 12. Operative Date. This Ordinance shall be operative on April 20, 2007.

PASSED, APPROVED AND ADOPTED this 7th day of February, 2007