

## **Chapter 13.30 CSD AND PARKS AND RECREATION IMPACT MITIGATION FEES**

### **13.30.010 Definitions.**

For purposes of this chapter, the following definitions shall apply:

- A. "Impacted District": Means a district which (1) has adopted a resolution declaring the district to be impacted by new development such that additional mitigation is necessary to provide funding for new parks and recreation capital facilities and equipment to serve such new development, and; (2) has adopted a plan.
- B. "Developer": Means the individual(s), partnership or corporation submitting a development permit application or application for building permit for new development.
- C. "District": Means a community services district, a recreation and park district or other public entity authorized by law to provide public recreation by means of parks.
- D. "District Service Area": Means the area within district boundaries including any territory annexed to the District subsequent to the date of this ordinance.
- E. "New Development": Means the creation of a lot or parcel capable of accepting construction of a single family or multi-family dwelling unit(s), or the construction of a new single family home or multi-family dwelling unit(s). New development shall include the placement/installation of a mobile home at its initial location within the district service area but shall not include replacement of an existing single family dwelling unit or multi-family dwelling unit(s) destroyed by fire, flood or other natural disasters.
- F. "Non-residential Development": Means the construction of buildings or facilities not designed for or intended to be used for residential dwelling, including hotels, motels, or boarding houses, with a maximum stay duration of thirty (30) days or less.
- G. "Plan": Means a parks and recreation capital facilities and equipment plan duly adopted by the district, as annually amended, which shows the impact of new development upon the district and which indicates the approximate location, size, time of availability and estimates of cost for the plan to be financed with a fee established hereunder.
- H. "Residential Development": Means single family or multi-family dwelling unit(s), or a lot or parcel capable of accepting construction of a single family or multi-family dwelling unit(s). (Ord. 4404, 1995)

### **13.30.020 Purpose.**

The board of supervisors, in order to provide for mitigation of the impacts on park and recreation facilities and services within an impacted district caused by new development finds and declares as follows:

- A. A development impact mitigation fee is needed in order to finance capital facilities improvements and equipment acquisition to provide park and recreation services necessitated by new development within an impacted district.
- B. A development impact mitigation fee for capital facilities and equipment to provide park and recreational services is consistent with the county's general plan.
- C. This board of supervisors has considered, in accordance with Government Code section 65913.2 the effects of such development impact fee with respect to housing needs as established in the housing element of the county general plan.
- D. The development impact fee established by the chapter is in addition to any other fees, charges, dedications, or taxes required by state law or county ordinance as a condition of development not limited to but including Quimby Act fees/dedications; provided, however, credit shall be allowed as required by state law pursuant to Government Code section 66477(l), or other applicable statute. (Ord. 4404, 1995)

### **13.30.030 Establishment and Administration of a Parks and Recreation Capital Facilities and Equipment Impact Mitigation Fee.**

- A. An impacted district may request in writing that the board of supervisors adopt a parks and recreation capital facilities and equipment development impact mitigation fee. The impacted district shall submit a request to the board of supervisors for the establishment of a specific fee and shall provide all information necessary to identify the purpose of the fee, identify the use to which the fee is to be put, describe the reasonable relationship between the fee and the new development, and describe how there is a reasonable need for the new capital facilities and equipment from the impact of new development.
- B. Upon request from an impacted district to adopt a fee, the board of supervisors shall hold a noticed public hearing to consider imposition of said fee and shall receive public comment thereon. The chief administrative officer and the county auditor shall review the request and the amount of the proposed fee, and make recommendations as to its amount.
- C. Based upon its consideration and review of the totality of the circumstances, the board of supervisors may establish by resolution a parks and recreation capital facilities and equipment impact mitigation fee within the district service area of an impacted district. Any such fee shall be adopted by the board of supervisors in accordance with chapter 5, division 1 of title 7 of the Government Code, commencing with section 66000 at seq., as amended from time-to-time. (Ord. 4404, 1995)

### **13.30.040 Administration of Fee.**

- A. Prior to the issuance of a building permit for new development of any parcel within the district service area for an impacted district for which a fee has been established, or as otherwise required by law, the county shall collect the fee and shall remit the fee to the district in accordance with a written agreement between the county and the district in a form approved by county counsel. No fee shall be collected until such agreement has been duly executed by the impacted district and the county. Upon establishment of a fee, all approvals pursuant to title 16 herein shall include a condition providing for payment of the fee for each parcel created.
- B. The revenues raised by payment of the fee shall be placed by the district in a separate and special account and such revenues, along with any interest earnings on that account, shall be used by the district solely to:
1. Pay for the district's future acquisition and construction of capital facilities and equipment for purposes of park and recreation services;
  2. Reimburse the district for those capital facilities and equipment described or listed in the district's plan which have been constructed by the district with funds advanced by the district from other sources; or
  3. Credit developers who have been required or permitted by paragraph (d) below to install facilities which are set forth in the plan prior to actual demand or need for such facilities.
- C. The revenues raised by payment of the fee shall only be used to pay for the capital facilities and equipment described and set forth in the adoption Plan, as modified from time-to-time and for costs and expenses related to administration of the fee, the adopted plan and construction of facilities or procurement of equipment as set forth in the adopted plan.
- D. Whenever a developer is required, as a condition of approval of a development project, to construct a capital facility described in the adopted plan, which facility is determined by the district to be required as a result of new development, in advance of district's planned installation, and when such construction is necessary to ensure efficient and timely construction of the facilities network, a written agreement with the developer for a credit against the fee which would otherwise be charged pursuant to this chapter shall be offered to the developer.
- E. A developer of any project subject to the fee set forth in this chapter may apply to the county for a reduction, adjustment or a waiver of the fee, based upon the absence of any reasonable relationship or nexus between the impacts of that development and the amount of the fee. The application shall be made in writing and filed with the county either:

1. Not later than sixty (60) days prior to the public hearing on the discretionary development permit application for the project; or
2. If no discretionary development permit is required, at the time of the filing of the request for a building permit.

The developer shall state in detail the factual basis for the claim of waiver, reduction or adjustment. If a reduction, adjustment or waiver is granted, any change in use within the project shall invalidate the waiver, adjustment or reduction of the fee.

F.The district in administering the fee established by this chapter shall comply with, in addition to requirements set forth in this chapter, those requirements set forth in chapter 5, division 1 of title 7 of the Government Code commencing with section 66000 et seq. as amended from time-to-time. (Ord. 4404, 1995

### **13.30.050 Exempt Development.**

The impact mitigation fee established by this chapter shall not be charged for the following type of development:

- A.Senior housing projects meeting the definition and criteria set forth in Civil Code section 51.3 (3), California Health and Safety Code section 1569.2(k), and California Government Code section 1543.2(d) (9).
- B.All Non-Residential Development.
- C.Any other development, entitled by state or federal statute, to an exemption from development impact fees, including but not limited to Government Code sections 65961 or 66498 et seq. (Ord. 4404, 1995)

### **13.30.060 Annual Review.**

A.The board of supervisors shall review, on an annual basis, each parks and recreation capital facilities and equipment development impact mitigation fee established hereunder. Each district for which a fee has been established shall annually update its plan and perform the accounting required by Government Code section 66006, and shall provide to the county all the necessary information to allow the county to determine whether the fee amounts continue to be reasonably related to the impacts of development and whether the described capital facilities or equipment described in the plan are still required. The chief administrative officer and the county auditor shall review the information and make recommendations regarding the amount of the fee and any other aspect of the administration by the impact district of monies received hereunder. The impacted district shall reimburse the county for all costs incurred by the county in the review, including but not limited to costs for staff review and public notice, if necessary. (Ord. 4404, 1995)