

ORDINANCE NO. 02-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING CHAPTER 3.13 OF THE ORANGE MUNICIPAL CODE TO UPDATE THE DEVELOPMENT CATEGORIES SUBJECT TO POLICE FACILITY DEVELOPMENT FEES AND MODIFY THE MINIMUM VALUE OF CONSTRUCTION AND YEARLY ADJUSTMENT METHOD FOR POLICE FACILITY DEVELOPMENT FEES.

APPLICANT: CITY OF ORANGE

WHEREAS, the Mitigation Fee Act requires that Police Facility Development fees assessed on new development projects in the City are proportionate to the burden on police facilities necessary to serve them and bear a rational relationship to the reasonable cost of providing police facilities occasioned by the new development; and

WHEREAS, the categories of development and minimum construction valuation subject to Police Facility Development fees were last updated in 1989 and the fees were last updated by the City Council in 1991; and

WHEREAS, the City commissioned a comprehensive study of its development impact fees for police facilities that established the level of fees reasonably needed to provide police facilities as required by new development.

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

SECTION I:

Chapter 3.13, "Police Facility Development Fee," of the Orange Municipal Code is hereby amended in its entirety to read as follows:

3.13.010 - Findings and Purpose.

The City Council of the City of Orange finds and declares that all recitals set forth in the preamble of the ordinance codified in this chapter are true and such recitals are incorporated in this chapter and set forth as findings of the City Council; and the City Council does further find and declare as follows:

- A. The State of California, through the enactment of Section 66000 et seq. of the Government Code of the State of California, also known as the Mitigation Fee Act, has determined the nexus that must be established in the enactment of development impact fees.

- B. The imposition of development impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of public facilities and services necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.
- C. This chapter recognizes that new development projects within the City will result in additional growth and that such growth will place additional burdens on police facilities, infrastructure and services, necessitating the acquisition of land and construction of police facilities and expansion of services and infrastructure in order to meet and accommodate new development projects.
- D. New development projects within the City should bear a proportionate financial burden in the construction and improvement of police facilities necessary to serve them.
- E. The cost of providing police facilities occasioned by new development projects within the City exceeds the revenue generated by fees exacted from the development projects.
- F. In adopting fees authorized by this chapter, the City shall establish the fees based upon the costs generated through the need for new police facilities and other capital acquisition costs required, incrementally, by new development within the City.
- G. The fees established under this chapter shall not exceed the reasonable cost of providing police facilities occasioned by new development projects within the City.
- H. The fees established under this chapter shall bear a rational relationship to the reasonable cost of providing police facilities occasioned by new development projects within the City.
- I. The fees established under this chapter are consistent with the goals and objectives of the City's general plan and are designed to mitigate the impacts caused by new development throughout the City. Development impact fees are necessary in order to help finance the required police facilities and to pay for new development's fair share of the cost thereof.
- J. Imposition of fees to finance police facilities required by new development is necessary in order to avoid adversely impacting existing police facilities.

3.12.020 – Police Facility Development Fee

- A. The City Council shall, by resolution, set forth the specific amount of the police facility development fee, which fee shall include an amount to recover the cost of preparation of the study and administrative overhead costs, to be set as a percentage of the police facility development fees which are collected pursuant to this chapter.
- B. The police facility development fee required by this chapter shall be due upon the following:

1. All Nonresidential Development. As a condition precedent to the issuance of a building permit.
2. Residential Development. On the date of final inspection or certificate of occupancy for each unit, whichever occurs first. The rate at which the fee shall be charged for residential development shall be based upon the rate that was in place at the time a building permit was issued for each unit.
 - a. "Residential development" means any project undertaken for the purpose of developing real property with one or more dwelling units, including a subdivision, apartment houses, dormitory-style housing, fraternity and sorority houses, room and board facilities, mobile homes, manufactured housing or structures, and structures moved into the City.
 - b. "Dormitory-style housing" means student housing facilities for individual or group accommodation owned or operated, or authorized to be acquired, constructed, furnished, equipped and operated, by a college or university for use by students, faculty members, or other employees of any college or university.
3. Hospitals and Other Health Facilities Issued Building Permits by the State. As a condition precedent to approval of a grading plan, which requirement shall appear in any CUP issued for such a facility.

3.13.030 - Building Permits and Conditional Use Permits Requiring Payment of Fees.

The payment of a police facility development fee, including an administrative fee to offset the operational oversight and administration of the impact fee program, shall be required when the application indicates the following:

- A. A construction or improvement project will result in an increase of floor area.
- B. The estimated cost of the proposed construction or improvement, as determined by the Building Official will exceed fifteen thousand dollars (\$15,000.00). For purpose of this section, the valuation per square foot shall not exceed that listed in the latest edition of the International Code Council (ICC) Building Valuation Data information sheet, or equivalent.

3.13.040 - Exemptions.

The following construction and improvements are exempt from the requirements of this chapter.

- A. Building additions or improvements to single-family residential units and accessory structures to be constructed on parcels in any single-family R-1 District.

- B. Tenant and owner improvements and maintenance work which will not increase the floor area of existing structures.
- C. Replacement of structures in size and function as the result of fire, earthquake, flood, or other acts of God or of the public enemy.
- D. Open parking garages that are not part of any other structure or used or intended for supporting or sheltering any use of occupancy other than parking of vehicles.
- E. Existing buildings erected prior to the adoption of this chapter, or one for which a valid building permit has been issued, unless the development was previously conditioned to participate in or pay a fee related to providing police or administrative facilities or services.

3.13.050 - Disposition of Proceeds—Fund Created.

All proceeds from fees collected under this chapter shall be paid into a special fund of the City of Orange entitled "police facility development fund," which fund is hereby created. The fund shall be used only for the purposes stated in Section 3.13.010.

3.13.060 – Automatic Annual Adjustment.

The police facility development fees shall be adjusted on the first day of July of each year to reflect the percentage of increase or decrease in the Consumer Price Index for All Urban Consumers (CPI-U) (Los Angeles-Long Beach-Anaheim; all items, not seasonally adjusted; 1982-1984=100 reference base) for the timeframe since the most recent increase. The adjusted fee, if any, shall be rounded to the nearest dollar for "per unit" fees and to the nearest one tenth of a cent for "per square foot" fees. The police facility development fees will be reviewed on an annual basis to determine if development and the corresponding police facility improvements are proceeding as projected.

3.13.070 - Amendment by Resolution.

The fees referred to in Sections 3.13.020 and 3.13.060 of this chapter and other provisions of this chapter affecting the amounts of fees to be paid may be revised, deleted or otherwise amended by Resolution of the City Council.

3.13.080 - Controlling State Law.

The provisions of this chapter and any resolution adopted pursuant hereto shall at all times be subject and subordinate to the provisions of Chapter 5 (commencing with Section 66000), Division 2, of Title 7 of the California Government Code, as the same presently exists or may hereafter be amended from time to time, to the extent the same are applicable. In the event of any conflict between the provisions of this chapter and state law, the latter shall control.

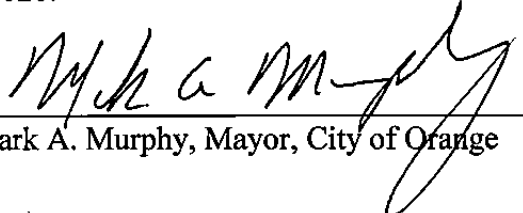
SECTION II:

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION III:

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least fifteen (15) days prior to the City Council meeting at which this Ordinance is to be adopted. A summary of this Ordinance shall also be published once within fifteen (15) days after its passage in a newspaper of general circulation in the City of Orange. The City Clerk shall post in the Office of the City Clerk a certified copy of the full text of the adopted Ordinance along with the names of those City Council members voting for and against the Ordinance in accordance with Government Code Section 36933.

ADOPTED this 11th day of February 2020.


Mark A. Murphy, Mayor, City of Orange

ATTEST:


Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 14th day of January 2020, and thereafter at the regular meeting of said City Council duly held on the 11th day of February 2020, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Alvarez, Murphy, Nichols, Monaco
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None


Pamela Coleman, City Clerk, City of Orange