

## **ORDINANCE NO. 5-08**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE AMENDING CHAPTERS 3.13, 3.40, 3.50, 15.38, 15.41 AND 16.60 OF ORANGE MUNICIPAL CODE REGULATING PAYMENT OF IMPACT FEES.**

**WHEREAS**, the timing of payment of fees imposed under the Mitigation Fee Act on residential development is governed by the Mitigation Fee Act and more specifically by Government Code Section 66007; and

**WHEREAS**, the Mitigation Fee Act provides three alternatives that can trigger the City's collection of impact fees upon residential development consisting of more than one unit; and

**WHEREAS**, the City Council has directed that impacts fees on residential development should be collected on a pro rata basis on the date of the final inspection or issuance of certificate of occupancy for each unit, whichever occurs first; and

**WHEREAS**, this Ordinance does not change the amount of any fees, only the time in which impact fees on residential development are due and in most cases will result in payments being required later in the development process.

**NOW THEREFORE**, the City Council of the City of Orange does ordain as follows:

#### **SECTION I:**

##### **Police Facility Impact Fees.**

Section 3.13.010 of the Orange Municipal Code is deleted in its entirety and replaced with the following:

##### **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 residential 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 by this chapter shall be 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 insure that new development pays a fair 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.

Section 3.13.020 of the Orange Municipal Code shall be deleted in its entirety and replaced with the following:

### **3.13.020 Fee.**

The police facility development fee required by this chapter shall be due upon the following:

1. All Non-Residential 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.

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.

Subsection 13.13.030B of the Orange Municipal Code shall be amended to delete the last two sentences of that subsection which begins with the word For and ends with the word permit.

## **SECTION II:**

### Park Impact Fees.

Subsection 3.40.070.A.1 of the Orange Municipal Code shall be amended by adding the following sentence to the end of the subsection:

The rate at which the fee shall be charged for residential development involving the construction of one new dwelling unit shall be based upon the rate that was in place at the time a building permit was issued for each unit.”

Subsection 3.40.070.A.2 of the Orange Municipal Code shall be deleted in its entirety and replaced with the following:

2. For a residential development involving the construction of more than one new dwelling unit, 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.

## **SECTION III:**

### Library Impact Fees.

Subsection 3.50.070.A.1 of the Orange Municipal Code shall be amended by adding the following sentence to the end of the subsection:

The rate at which the fee shall be charged for residential development involving the construction of one new dwelling unit shall be based upon the rate that was in place at the time a building permit was issued for each unit.

Subsection 3.50.070.A.2 of the Orange Municipal Code shall be deleted in its entirety and replaced with the following:

2. For a residential development involving the construction of more than one new dwelling unit, 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.

## **SECTION IV:**

### **Fire Protection Facility Impact Fees**

Section 15.38.010 of the Orange Municipal Code shall be deleted in its entirety and replaced with the following:

#### **15.38.010 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 fire protection facilities, infrastructure and services, necessitating the acquisition of land and construction of fire protection facilities and expansion of services and infrastructure in order to meet and accommodate new residential development projects.

D. New development projects within the City should bear a proportionate financial burden in the construction and improvement of fire protection facilities necessary to serve them.

E. The cost of providing fire protection 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 fire protection 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 fire protection 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 fire protection facilities occasioned by new development projects within the City.

I. The fees established by this chapter shall be 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 fire protection facilities and to insure that new development pays a fair of the cost thereof.

J. Imposition of fees to finance fire protection facilities required by new development is necessary in order to avoid adversely impacting existing fire protection facilities.

Section 15.38.20 of the Orange Municipal Code shall be deleted in its entirety and replaced with the following:

**15.38.020      Fee.**

The fire protection facilities fee required by this chapter shall be due upon the following:

1. All Non-Residential 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.

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.

The Fire Chief may require that specific acquisitions made and/or fire protection facilities be constructed as a condition of development as long as such a requirement bears a reasonable relationship to the impacts of such facilities being caused by the development. In such an event, the cost of such acquisitions, development, maintenance and improvements, upon verification of actual costs by the Fire Department, shall be provided as an in-lieu credit for fees otherwise due under this chapter. If the cost of the required acquisition and/or fire protection facilities is greater than the required fire protection facilities fees, this chapter does not create an obligation on the City to pay the applicant the excess amount.

Subsection 15.38.030B shall be amended to delete the last two sentences of that subsection beginning with the word For and ending with the word Permit.

Section 15.38.060 shall be deleted in its entirety and Section 15.38.070 shall be renumbered Section 15.38.060 and Section 15.38.080 shall be renumbered Section 15.38.070.

## **SECTION V:**

### **Transportation Systems Improvement Program Fees**

Section 15.41.010 of the Orange Municipal Code shall be deleted in its entirety and replaced with the following:

#### **15.41.010 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 fire protection facilities, infrastructure and services, necessitating the acquisition of land and construction of transportation facilities and expansion of services and infrastructure in order to meet and accommodate new residential development projects.

D. New development projects within the City should bear a proportionate financial burden in the construction and improvement of transportation facilities necessary to serve them.

E. The cost of providing transportation 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 transportation 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 transportation 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 transportation facilities occasioned by new development projects within the City.

I. The fees established by this chapter shall be 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 transportation facilities and to insure that new development pays a fair of the cost thereof.

J. Imposition of fees to finance transportation facilities required by new development is necessary in order to avoid adversely impacting existing transportation facilities.

Section 15.41.020 of the Orange Municipal code shall be amended by deleting the first paragraph and replacing it with the following:

The transportation systems improvement program fee required by this chapter shall be due upon the following:

1. All Non-Residential 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.
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.

## **SECTION VI:**

### Quimby Park Fees.

Section 16.60.130 of the Orange Municipal Code shall be amended by deleting the last two sentences of that section beginning with the words The fees and ending with the word paid to be replaced with the following:

The fees prescribed in this chapter shall be due and payable on the date of final inspection or issuance of a certificate of occupancy for each unit, whichever occurs first. The rate at which the fee shall be charged is to be based upon the rate that was in place at the time a building permit was issued for each unit.

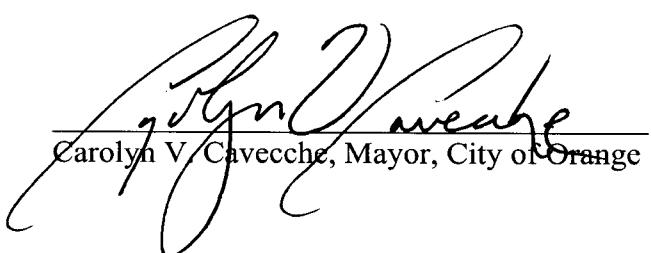
## **SECTION VII:**

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 VIII:**

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 five (5) 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 this Ordinance's passage in a newspaper of general circulation, published, and circulated 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 such adopted Ordinance along with the names of those City Council members voting for and against the Ordinance in accordance with Government Code Section 36933. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

**ADOPTED** this 8<sup>th</sup> day of April, 2008.



Carolyn V. Cavecche, Mayor, City of Orange

**ATTEST:**

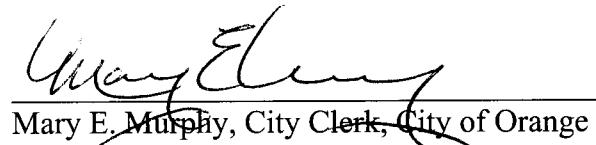


Mary E. Murphy, City Clerk, City of Orange

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

I, MARY E. MURPHY, 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 25<sup>th</sup> day of March, 2008, and thereafter at the regular meeting of said City Council duly held on the 8<sup>th</sup> day of April, 2008, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Smith, Murphy, Cavecche, Dumitru, Bilodeau  
NOES: COUNCILMEMBERS: None  
ABSENT: COUNCILMEMBERS: None  
ABSTAIN: COUNCILMEMBERS: None

  
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Mary E. Murphy, City Clerk, City of Orange