



City of Huntington Beach Planning and Building Department
STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, AICP, Director of Planning and Building
BY: Ricky Ramos, Senior Planner ~~P-1-2~~
DATE: August 14, 2012

SUBJECT: ZONING TEXT AMENDMENT NO. 12-02 (PARK IN LIEU FEE – CONTINUED FROM JULY 24, 2012 WITH PUBLIC HEARING TO BE OPENED)

APPLICANT: City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648

PROPERTY

OWNER: Not applicable

LOCATION: Citywide

STATEMENT OF ISSUE:

- ◆ Zoning Text Amendment (ZTA) No. 12-02 request:
 - Amend Chapter 254 (Dedications and Reservations) of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) to delete the site-specific-appraisal approach for determining park in lieu fees for residential projects that require tentative maps and replace it with standard citywide fees and incorporate other related changes; and
 - Delete Section 230.20 of the HBZSO pertaining to park fees for projects not requiring a tentative map.

- ◆ Staff's Recommendation: Approve ZTA No. 12-02 based upon the following:
 - It will allow the City to collect park in lieu fees as necessary to acquire and/or improve park and recreational facilities throughout the City to meet the needs of residents consistent with the General Plan, the October 2011 Master Facilities Plan, and Development Impact Fee (DIF) Calculation and Nexus Report (Amended April 2012).
 - It will result in equitable standard citywide park fees for rental and for-sale residential units.
 - It will help developers determine development costs earlier in the process.
 - It is consistent with General Plan goals, objectives, and policies.

RECOMMENDATION:

Motion to:

“Approve Zoning Text Amendment No. 12-02 with findings (Attachment No. 1) and forward the draft ordinance (Attachment No. 2) to the City Council for adoption.”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. "Approve Zoning Text Amendment No. 12-02 with modifications and forward the modified draft ordinance to the City Council for adoption."
- B. "Continue Zoning Text Amendment No. 12-02 and direct staff accordingly."
- C. "Deny Zoning Text Amendment No. 12-02 with findings for denial."

PROJECT PROPOSAL:

ZTA No. 12-02 is a request by the City pursuant to Chapter 247 of the HBZSO to: 1) amend Chapter 254 (Dedications and Reservations) of the HBZSO to delete the site-specific-appraisal approach for determining park in lieu fees for residential projects that require tentative maps and replace it with standard citywide fees and incorporate other related changes; and 2) delete Section 230.20 of the HBZSO pertaining to park fees for projects not requiring a tentative map.

In order to facilitate review of ZTA No. 12-02, staff has prepared a legislative draft outlining the proposed amendments (Attachment 3) which include:

1. Deleting Section 230.20 which is now incorporated in the Municipal Code;
2. Amending Section 254.08(D)(1) to delete reference to appraising land to determine in lieu fee;
3. Amending Sections 254.08(G)(1) and (2) to reflect that park in lieu fees will be based on a fee schedule adopted by City Council instead of the current site-specific-appraisal approach;
4. Amending Sections 254.08(H)(1) and (2) to reflect that any required park land dedication shall be a credit toward the payment of park in lieu fees at the park land acquisition and development cost per acre used to develop the in lieu fee;
5. Amending Section 254.08(I) to:
 - a. Include a land acquisition cost adjustment challenge allowing a developer to object to the park land acquisition cost per acre used to develop the in lieu fee adopted by City Council and also give the City the ability to increase in lieu fees where the fair market value of land exceeds the park land acquisition cost per acre;
 - b. Update the qualifications of a Qualified Real Estate Appraiser;
 - c. Delete provision for Director-determination of fair market value of property for small subdivisions of three or fewer parcels; and
6. Amending Section 254.08(L) to allow payment of in lieu fees prior to final building permit approval instead of at map recordation.
7. Deleting Section 254.08(O)(2) which exempts the subdivision of a 50 foot wide parcel into two lots if held under common ownership for a minimum of five consecutive years.

Background:

On June 18, 2012 the City Council approved modifications to development impact fees (DIF). The approval included changing park fees for residential developments that do not require a tentative map (typically rental units) from \$.86 per square foot to a standard citywide per unit fee. Part of the

implementation of the modified DIFs involves the proposed amendments to HBZSO Chapter 254 and deletion of Section 230.20 which will now be incorporated in the Municipal Code.

Chapter 254 only applies to residential projects that require tentative maps. It previously included a methodology that resulted in a citywide standard per unit park in lieu fee by using a citywide average per acre land value in the calculation. However, in 2002 the City amended Chapter 254 to require site-specific appraisals to ensure that current land values are utilized when calculating park in lieu fees.

With ZTA No. 12-02, Chapter 254 will once again incorporate a citywide standard per unit park in lieu fee comparable to the fee approved by City Council for projects that do not have tentative maps. The new proposed standard park in lieu fee for ownership units is anticipated to be lower than if a site-specific appraisal approach were used and is subject to City Council approval by resolution.

Study Session: The request was presented to the Planning Commission for study session on May 15, 2012. There were no questions raised that requires further follow up by staff.

ISSUES:

Subject Property And Surrounding Land Use, Zoning And General Plan Designations:

ZTA No. 12-02 is applicable citywide.

General Plan Conformance:

The proposed ZTA is consistent with the goals, objectives, and policies of the City's General Plan as follows:

A. Land Use Element

Goal LU 2: Ensure that development is adequately served by transportation infrastructure, utility infrastructure, and public services.

Objective LU 14.1: Preserve and acquire open spaces for the City's existing and future residents that provide, maintain, and protect significant environmental resources, recreational opportunities, and visual relief from development.

Policy LU 14.1.2: Permit the acquisition and/or dedication of lands for new open space purposes in any land use zone where they complement and are compatible with adjacent land uses and development, contingent on City review and approval.

Policy LU 14.1.4: Provide for the acquisition and development of the City's parks in accordance with the Parks and Recreation Element of the General Plan.

B. Recreation and Community Services Element

Goal RCS 2: Provide adequately sized and located active and passive parklands to meet the recreational needs of existing and future residents, and to preserve natural resources within the City of Huntington Beach and its sphere of influence.

Policy RCS 2.1.1: Maintain the current park per capita ratio of 5.0 acres per 1,000 persons, which includes the beach in the calculation.

Policy RCS 8.1.5: Update, on a periodic basis, the park in lieu fee assessed to all new development.

C. Environmental Resources/Conservation Element

Goal ERC 1: Improve and enhance the overall aesthetic value and appearance of the City of Huntington Beach through the provision and maintenance of local public and private open space.

The revised ordinance will allow the City to collect park in lieu fees as necessary to acquire and/or improve park and recreational facilities throughout the City to meet the needs of residents consistent with the General Plan and the October 2011 Master Facilities Plan and DIF Calculation and Nexus Report (Amended April 2012). It will result in more equitable standard citywide park fees for rental and for-sale residential units. It will help developers determine the development costs earlier in the process.

Zoning Compliance: Not applicable.

Urban Design Guidelines Conformance: Not applicable.

Environmental Status: ZTA No. 12-02 is categorically exempt pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act because the request is an amendment to a zoning ordinance that does not change the development standards intensity or density.

Coastal Status: The proposed amendment will be combined with other minor amendments that will be forwarded to the California Coastal Commission as a minor Local Coastal Program Amendment for certification.

Redevelopment Status: Not applicable.

Design Review Board: Not applicable.

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements: The proposed amendments to the City's existing ordinance were prepared with input from the City Attorney's Office and the Community Services Department.

Public Notification: Legal notice was published in the Huntington Beach/Fountain Valley Independent on July 12, 2012 and notices were sent to individuals/organizations requesting notification (Planning and

Building Department's Notification Matrix) and the development community. As of August 7, 2012, no communications regarding the request have been received.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:

January 9, 2012

MANDATORY PROCESSING DATE(S):

Legislative Action - Not Applicable

ANALYSIS:

The primary planning issue related to the request pertains to determining the appropriate methodology for calculating park in lieu fees for residential projects that require tentative maps (i.e. site-specific appraisal or standard citywide fees adopted by City Council). The following analysis addresses this issue and the major revisions to the ordinance.

Methodology

The intent of the proposed amendments to Chapter 254 of the HBZSO is to apply the same standard citywide park in lieu fees for each unit type (detached, attached, and mobile home) whether it is a rental or for-sale unit. This is being accomplished by deleting the current site-specific-appraisal approach in Chapter 254 and replacing it with the same standard citywide park in lieu fees recently approved by City Council recently for rental units. Currently, rental units pay significantly less in park fees than for-sale units that require tentative maps. Approval of ZTA No. 12-002 coupled with City Council's recent actions will result in equitable standard citywide park fees for both rental and for-sale residential units. Furthermore, compared to a site-specific-appraisal approach, a standard citywide fee will help developers determine development costs earlier in the process. In addition, the current site-specific-appraisal approach has resulted in developers challenging the City on site-specific appraisals.

The revised ordinance will allow the City to collect park in lieu fees as necessary to acquire and/or improve park and recreational facilities throughout the City to meet the needs of residents consistent with the General Plan and the October 2011 Master Facilities Plan and DIF Calculation and Nexus Report (Amended April 2012) and in consideration of maximizing the goals, objectives, and policies of the General Plan. Based on the reasons above, staff supports the ZTA.

Credit for Partial Dedication

The ZTA incorporates a new method for addressing partial land dedication under Section 254.08(H). Under the current code, if partial dedication is given, a park in lieu fee to be paid by the developer for the balance of the required dedication is calculated using a site-specific appraisal. Since the site-specific-appraisal approach is proposed to be deleted partial dedications are proposed to be given credit toward the payment of in lieu fees at the park land acquisition and development cost per acre used to develop the park in lieu fee. Staff believes that this is an appropriate method for dealing with partial dedications under the new system of standard citywide fees.

Land Acquisition Cost Adjustment Challenge

The ZTA will add a provision in Chapter 254 for land acquisition cost challenge as noted in the DIF Calculation and Nexus Report (Amended April 2012). This provides a process for a developer to object to the park land acquisition cost of \$871,200 per acre used to develop the park in lieu fee. The process requires the developer to pay for an appraisal of the property to be developed to determine if the fair market value of the land is less than \$871,200 per acre. Conversely, the City retains the ability to increase the in lieu fee in areas where the fair market value of land exceeds \$871,200 per acre. Staff believes it is important to include this provision to give developers due process.

Timing of Fee Payment

The ZTA will allow payment of park in lieu fees prior to final building permit approval as noted in Section 254.08(L) instead of at recordation of the final map. This change is recommended because it is consistent with the Quimby Act and is appropriate given that the impacts for park facilities will not occur until the final building permit approval and occupancy of the unit.

Deletion of Exemption for 50 Foot Wide Parcels

The last notable change proposed is the deletion of the exemption from payment of Quimby Fees for subdivision of a 50 foot wide parcel into two lots provided that the parcel has been held under common ownership for a minimum of five consecutive years. This exemption was included when the City amended the code to require site-specific appraisals to protect property owners downtown that want to subdivide their 50 foot wide parcels into two from the significant increase in park fees resulting from the site-specific appraisals. Now that a standard citywide park fee is contemplated, the exemption is no longer needed.

SUMMARY:

Staff's Recommendation: Approve Zoning Text Amendment No. 12-02 based upon the following:

- It will allow the City to collect park in lieu fees as necessary to acquire and/or improve park and recreational facilities throughout the City to meet the needs of residents consistent with the General Plan and the October 2011 Master Facilities Plan and DIF Calculation and Nexus Report (Amended April 2012).
- It will result in equitable standard citywide park fees for rental and for-sale residential units.
- It will help developers determine development costs earlier in the process.
- It is consistent with General Plan goals, objectives, and policies.

ATTACHMENTS:

1. Suggested Findings of Approval – ZTA No. 12-02
2. Draft Ordinance
3. Legislative Draft HBZSO Section 230.20 and Chapter 254 – ZTA No. 12-02

SH:HF:RR

ATTACHMENT NO. 1

SUGGESTED FINDINGS OF APPROVAL

ZONING TEXT AMENDMENT NO. 12-02

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to City Council Resolution No. 4501, Class 20, which supplements CEQA because the request is a minor amendment to a zoning ordinance that does not change the development standards intensity or density.

SUGGESTED FINDINGS FOR APPROVAL - ZONING TEXT AMENDMENT NO. 12-02:

1. Zoning Text Amendment (ZTA) No. 12-02 to: 1) amend Chapter 254 (Dedications and Reservations) of the HBZSO to delete the site-specific-appraisal approach for determining park in lieu fees for residential projects that require tentative maps and replace it with standard citywide fees and incorporate other related changes; and 2) delete Section 230.20 of the HBZSO pertaining to park fees for projects not requiring a tentative map is consistent with the goals, objectives, policies, general land uses and programs specified in the General Plan including:

A. Land Use Element

Goal LU 2: Ensure that development is adequately served by transportation infrastructure, utility infrastructure, and public services.

Objective LU 14.1: Preserve and acquire open spaces for the City's existing and future residents that provide, maintain, and protect significant environmental resources, recreational opportunities, and visual relief from development.

Policy LU 14.1.2: Permit the acquisition and/or dedication of lands for new open space purposes in any land use zone where they complement and are compatible with adjacent land uses and development, contingent on City review and approval.

Policy LU 14.1.4: Provide for the acquisition and development of the City's parks in accordance with the Parks and Recreation Element of the General Plan.

B. Recreation and Community Services Element

Goal RCS 2: Provide adequately sized and located active and passive parklands to meet the recreational needs of existing and future residents, and to preserve natural resources within the City of Huntington Beach and its sphere of influence.

Policy RCS 2.1.1: Maintain the current park per capita ratio of 5.0 acres per 1,000 persons, which includes the beach in the calculation.

Policy RCS 8.1.5: Update, on a periodic basis, the park in lieu fee assessed to all new development.

C. Environmental Resources/Conservation Element

Goal ERC 1: Improve and enhance the overall aesthetic value and appearance of the City of Huntington Beach through the provision and maintenance of local public and private open space.

The revised ordinance will allow the City to collect park in lieu fees as necessary to acquire and/or improve park and recreational facilities throughout the City to meet the needs of residents consistent with the General Plan and the October 2011 Master Facilities Plan and Development Impact Fee (DIF) Calculation and Nexus Report (Amended April 2012).

2. ZTA No. 12-02 does not affect a general land use provision and compatibility with the uses authorized in, and the standards prescribed for, the zoning district for which it is proposed. ZTA No. 12-02 will revise Chapter 254 and delete Section 230.20 of the HBZSO. It will not affect the zoning of any property or the allowed uses and development standards of any zoning district.
3. A community need is demonstrated for the change proposed. ZTA No. 12-02 will reflect the City's desired approach for determining park in lieu fees for new development consistent with the October 2011 Master Facilities Plan and DIF Calculation and Nexus Report (Amended April 2012) and in consideration of maximizing the goals, objectives, and policies of the General Plan. It will result in equitable standard citywide park fees for rental and for-sale residential units. It will help developers determine development costs earlier in the process.
4. Its adoption will be in conformity with public convenience, general welfare and good zoning practice because ZTA No. 12-02 will allow the city to provide sufficient park and recreational facilities for its residents.

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING CHAPTER 254 OF THE HUNTINGTON BEACH ZONING AND
SUBDIVISION ORDINANCE RELATING TO PARKLAND DEDICATION

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Section 254.08 of the Huntington Beach Zoning and Subdivision Ordinance is hereby amended to read as follows:

254.08 Parkland Dedication

- A. General. This Section is enacted pursuant to the authority granted by the Subdivision Map Act and the general police power of the City including the power to zone and the power to implement open space and recreational elements of the General Plan. This Section is adopted to implement the provisions of the Quimby Act which authorizes the City to require the dedication of land for park and recreational facilities or payment of in-lieu fees incident to and as a condition of the approval of a tentative tract map or tentative parcel map for a residential subdivision. The park and recreational facilities for which dedication of land and/or payment of an in-lieu fee as required by this Section are in accordance with the policies, principles and standards for park, open space and recreational facilities contained in the General Plan. (3562-7/02)

The general purposes and objectives of this Section are: (3562-7/02)

1. To preserve, enhance and improve the quality of the physical environment of the City of Huntington Beach; (3562-7/02)
 2. To provide a procedure for the acquisition, development and rehabilitation of local park and recreational facilities; (3562-7/02)
 3. To secure for the citizens of Huntington Beach the social and physical advantages resulting from the provision of orderly park, recreation and open space facilities; (3562-7/02)
 4. To establish conditions which will allow park and recreational facilities to be provided and to exist in harmony with surrounding and neighborhood land uses; (3562-7/02)
 5. To ensure that adequate park and recreational facilities will be provided; (3562-7/02)
 6. To provide regulations requiring five usable acres, or the proportionate share thereof, having a grade not exceeding two percent, for each 1,000 persons residing within the City to be supplied by persons proposing residential subdivisions. (3562-7/02)
- B. Requirements. The requirements of this Section shall be complied with by the dedication of land, payment of a fee in lieu thereof, or both, at the option of the

City, for park or recreational purposes at the time and according to the standards and formula contained in this Section. The amount and location of land dedicated or the fees to be paid, or both, shall be used for acquiring, developing new or rehabilitating existing community and neighborhood parks and other types of recreational facilities in such a manner that the locations of such parks and recreational facilities bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision generating such dedication or fees, or both. Dedications for trails shall not be included as part of any requirements for park or recreational dedication.

(3562-7/02)

Lands to be dedicated or reserved for park and/or recreational purposes shall be suitable in the opinion of the Director and the Director of Community Services in location, topography, environmental characteristics and development potential as related to the intended use. The primary intent of this Section shall be construed to provide the land

for passive and active recreation, including but not limited to: tot lots, play lots, playgrounds, neighborhood parks, playfields, community or regional parks, lakes, picnic areas, tree groves or urban forests, and other specialized recreational facilities that may serve residents of the City. Principal consideration shall be given therefore to lands that offer: (3562-7/02)

1. A variety of recreational potential for all age groups;
2. Recreational opportunities provided and maintained in a manner that will permit the maximum use and enjoyment by residents of the City of Huntington Beach;
(3562-7/02)
3. Possibility for expansion or connection with school grounds;
4. Integration with hiking, riding and bicycle trails, natural stream reserves and other open space;
5. Coordination with all other park systems;
6. Access to at least one existing or proposed public street.

C. General Standard. It is hereby found and determined that the public interest, convenience, health, safety and welfare require that five acres of property for each 1,000 persons residing within the City be devoted to local park and recreational purposes.

D. Standards and Formula for Dedication of Land. Where a park or recreational facility has been designated in the General Plan and is to be located in whole or in part within the proposed subdivision and is reasonably related to serving the present and future needs of the residents of the subdivision, the subdivider shall dedicate land for park and recreation facilities sufficient in size and topography to meet that purpose. The amount of land to be provided shall be determined pursuant to the following standards and formula:

$$A = \frac{5.0 (DF \times \text{No. DU})}{1000}$$

1. Definitions of terms:
 - a. A - the area in acres required to be dedicated as a park site.
 - b. DF - density factor as determined pursuant to Section 254.08 (E).
(3562-7/02)
 - c. 5.0 - number of acres per one thousand persons.
 - d. No. DU - number of dwelling units proposed in the subdivision.
2. When a proposed subdivision contains dwelling units with different density factors, the formula shall be used for each such density factor and the results shall be totaled.
3. Dedication of parkland shall not be required for parcel maps or subdivisions containing 50 parcels or less; except that when a condominium project, stock cooperative or community apartment project exceeds 50 dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than 50. (3562-7/02)

E. Density.

The amount of land dedicated or fees paid shall be based upon residential density, which is determined on the basis of the approved tentative map and the average number of persons per household. The average number of persons per household by unit in a structure shall be established by City Council resolution and be derived from the most recent available federal census or state or City population and housing data. (3562-7/02)

The number of dwelling units in a subdivision shall be the number proposed for construction. When the actual number of units to be constructed is unknown, it shall be assumed for the purposes of this chapter that the maximum number permissible by law will be constructed.

- F. Standard Improvements. The dedication of land for park and recreational purposes shall not be deemed to waive any other requirements that may be imposed by the City. The subdivider may, at the time of the approval of the tentative map, be obligated by condition to said map to provide curbs, gutters, sidewalk, drainage facilities, street lighting, stop lights, street signs, matching pavement and street trees to full City standards, to stub-in requested standard improvements required for residential property plus initial on-site grading required for developing the park facility. In lieu of making said improvements and upon approval of the Planning Commission or City Council, whichever acts last on the tentative map, the subdivider may pay a sum as estimated by the Director of Public Works sufficient to cover the cost of said improvements. The environmental condition of any land dedicated pursuant to this Section shall satisfy all federal, state and local requirements applicable to parkland and recreational facilities. (3562-7/02)

G. Fees in Lieu of Land Dedication. (3562-7/02)

1. General. Whenever the requirements of this Section are met solely on the basis of the payment of a fee in lieu of land dedication, the subdivider shall

pay a fee in lieu of dedication according to a schedule adopted by City Council resolution.

2. Fees in Lieu of Land - 50 Parcels or Less. If the proposed subdivision contains 50 parcels or less and has no park or recreational facility, the subdivider shall pay a fee according to a schedule adopted by City Council resolution. When a condominium project, stock cooperative or community apartment project exceeds 50 dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than 50.
 3. Use of Fees. The fees paid to the City pursuant to this Section and the interest accrued from such fees shall be used, in accordance with the schedule developed pursuant to Section 254.08(M), for the purpose of acquiring, developing new or rehabilitating existing neighborhood or community park or recreational facilities reasonably related to serving the subdivision, including the purchase of necessary land and/or improvement of such land for park or recreational purposes. All fees collected pursuant to this Section shall be transferred for deposit into a separate fund and used solely for the purposes specified in this Section. All monies deposited into the fund shall be held separate and apart from other City funds. All interest or other earnings on the unexpended balance in the fund shall be credited to the fund. The money deposited in the fund account shall be committed to the partial or full completion of necessary purchases or improvements within five years after payment thereof or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the money is not committed, it shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of each lot bears to the total area of all lots in the subdivision. Any requests for refunds shall be submitted to the Director in accordance with the procedures set forth in Section 254.08 (P). (3562-7/02)
 4. Standard Improvements. When the requirements of this Section are met solely on the basis of the payment of a fee in lieu of land dedication, in addition to the in-lieu fee, the subdivider shall also pay an amount equal to 20 percent of the in-lieu fee to provide curbs, gutters, drainage facilities, street lighting, stop lights, sidewalks, street signs, matching pavement and street trees to full City standards, stubbing in of utility line services to the park facility, and all standard improvements required by the City for residential subdivisions. (3562-7/02)
- H. Criteria for Requiring Both Dedication and Fee. If the proposed subdivision contains more than 50 lots, the subdivider shall both dedicate land and pay a fee in lieu of dedication in accordance with the following: (3562-7/02)
1. When only a portion of the land to be subdivided is proposed in the General Plan as the site for a local park or recreational facility, such portion shall be dedicated for local park purposes and shall be a credit toward the payment of in lieu fees at the park land acquisition and development cost per acre used to develop the in lieu fee.
 2. When a major part of the local park or recreational site has already been acquired by the City and only a small portion of land is needed from the subdivision to complete the site, such portion shall be dedicated, and shall be a credit toward the payment of in lieu fees at the park land acquisition and development cost per acre used to develop the in lieu fee.

3. The fee shall be used for the improvement of the existing park or recreational facility or for the improvement of other neighborhood or community parks and recreational facilities reasonably related to serving the subdivision.

- I. Amount of Fee in Lieu of Park Land Dedication. Where a fee is required to be paid in lieu of park land dedication, such fee shall be according to a schedule adopted by City Council resolution.

Land Acquisition Cost Adjustment Challenge. If the subdivider objects to the parkland acquisition cost per acre used to develop the in lieu fee pursuant to a schedule adopted by City Council resolution, the subdivider may, as outlined below, pay for an appraisal of the property to be developed to see if the fair market value of the land is less than the park land acquisition cost per acre. Conversely the City retains the ability to increase the in lieu fee in areas where the fair market value of land exceeds the park land acquisition cost per acre.

Fair market value of the land shall be determined by a qualified real estate appraiser who currently holds the MAI designation from the Appraisal Institute and has been selected and retained by the City at the expense of the subdivider ("Qualified Real Estate Appraiser"). The fair market value of the land shall be based on the average acre value of the property to be subdivided at the time of the recording of the final subdivision map, adjusted to reflect the value of such acre of property rough graded to a maximum two percent slope. Such appraisal shall exclude improvement. The date of value of the property for purposes of the appraisal shall be within 60 days of payment of the fee as referenced in Section 254.08L. (3468-8/00, 3562-7/02, 3827-4/09, 3879-6/10)

If the subdivider objects to the fair market value as determined by the Qualified Real Estate Appraiser, the subdivider may request an appeal by a hearing officer within ten (10) days. The hearing officer provided for this appeal process shall be from a list provided by the Director or one selected by the mutual consent of the parties. The subdivider shall have the burden of proof in contesting the fair market value appraisal. All decisions rendered by the hearing officer shall be final for all purposes, and binding upon the parties. If the subdivider does not request an appeal within ten (10) days, the original decision shall stand, be final for all purposes, and binding upon the parties. If the deadline falls on a weekend or a holiday, the deadline extends to the next succeeding working day.

- J. Determination of Land or Fee. Whether the City accepts land dedication, or elects to require the payment of a fee in lieu of, or a combination of both, shall be determined by the Director after consideration of the following: (3562-7/02)

1. Policies, standards and principles for park and recreational facilities in the General Plan; (3562-7/02)
2. Topography, geology, access and location of land in the subdivision available for dedication;
3. Size and shape of the subdivision and land available for dedication;
4. Feasibility of dedication;
5. Compatibility of dedication with the General Plan;

6. Availability of previously acquired park property.

The determination by the City as to whether land shall be dedicated, or whether a fee shall be charged, or a combination of both, shall be final and conclusive.

- K. Credit for Improvements and Private Open Space. If the subdivider provides park and recreational improvements to the dedicated land other than those referenced in Section 254.08 (F), the value of the improvements together with any equipment located thereon shall be a credit toward the payment of fees or dedication of land required by this Section. (3562-7/02)

Common interest developments as defined in Sections 1351 of the California Civil Code shall receive partial credit, not to exceed 50 percent, against the amount of land required to be dedicated, or the amount of the fee imposed, pursuant to this Section, for the value of private open space within the development, which is usable for active recreational uses, if the City Council, on the recommendation of the Community Services Commission, finds that it is in the public interest to do so, and that the following standards are met. (3562-7/02)

1. That yards, court areas, setbacks and other open areas required by Titles 20-24 (Zoning) shall not be included in the computation of the private open space;
2. That the private ownership and maintenance of the open space is adequately provided for by recorded written agreement, conveyance, or restrictions;
3. That the use of the private open space is restricted to park and recreational purposes by recorded covenant, which runs with the land in favor of the future owners of property, and which cannot be defeated or eliminated without the consent of the City or its successor;
4. That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access, and location; and
5. That facilities proposed for the open space are in substantial accord with the provisions of the General Plan.

L. Procedure.

1. As determined by the City pursuant to this Section, the subdivider shall:
 - a. Dedicate the land at the time of the recording of the final map or parcel map, and/or;
 - b. Pay the fees prior to final building permit approval.
2. Open space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the final map or parcel map and, if approved, shall be recorded concurrently with the final map or parcel map.

- M. Schedule of Use. At the time of the approval of the final map or parcel map, the City shall make a preliminary determination of how, when, and where it will use the land or fees, or both, to develop or rehabilitate park or recreational facilities

to serve the residents of the subdivision. Final scheduling of improvements to these new or rehabilitated parks or recreational facilities shall be made as part of the City's capital improvement program. (3562-7/02)

- N. Not Applicable to Certain Subdivisions. The provisions of this Section do not apply to: (1) commercial or industrial subdivisions; or (2) to condominium projects or stock cooperatives that consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added. (3562-7/02)
- O. Exemptions. The following development shall be exempt from the payment of fees pursuant to this Section: (3562-7/02)

Development of real property into housing units that are either rented, leased, sold, conveyed or otherwise transferred, at a rental price or purchase price which does not exceed the "affordable housing cost" as defined in Section 50052.5 of the California Health and Safety Code when provided to a "lower income household" as defined in Section 50079.5 of the California Health and Safety Code or "very low income household" as defined in Section 50105 of the California Health and Safety Code, and provided that the applicant executes an agreement, in the form of a deed restriction, second trust deed, or other legally binding and enforceable document acceptable to the City Attorney and binding on the owner and any successor-in-interest to the real property being developed, guaranteeing that all of the units developed on the real property shall be maintained for lower and very low income households whether as units for rent or for sale or transfer, for the lesser of a period of thirty years or the actual life or existence of the structure, including any addition, renovation or remodeling thereto. (3562-7/02)

Exemptions shall only be granted when the following findings can be made:
(Resolution No. 2004-80-9/04)

- i. The project meets the minimum on-site private and common open space requirements; or (Resolution No. 2004-80-9/04)
 - ii. The exemption will not individually or cumulatively result in adverse impacts to public recreational opportunities in the coastal zone; and (Resolution No. 2004-80-9/04)
 - iii. The exemption will not individually or cumulatively lead to overcrowding or overuse of public facilities by the public in any single area in the coastal zone. (Resolution No. 2004-80-9/04)
- P. Appeals. Any person may appeal a determination of the City regarding the interpretation and implementation of this Section. Any such appeal shall be filed with the Director consistent with the requirements of Section 248.24 of the Huntington Beach City Zoning and Subdivision Ordinance. (3562-7/02)
- Q. Refunds. Requests for refunds of in-lieu fees paid pursuant to this Section may be directed to the Director at any time. The Director may approve of a refund or a partial refund of park fees paid or release of security instruments when the following has been verified: (3562-7/02)

1. That the refund amount requested corresponds to the amount of fees actually deposited in the fund account established pursuant to Section 254.08 (G) (3) for a given number of dwelling units; and (3562-7/02)
2. That the local park requirement for the dwelling units in question had been met by actual Council acceptance of park land, or by an irrevocable recorded offer to dedicate a park land on a final tract map or parcel map; or (3562-7/02)
3. The subdivision or building permit approval for which fees were required has been withdrawn or is otherwise no longer valid. (3562-7/02)

SECTION 2. All other provisions of Chapter 254 not amended by this ordinance remain in full force and effect.

SECTION 3. This ordinance shall become effective 30 days after its adoption.

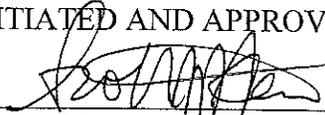
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2012.

Mayor

ATTEST:

INITIATED AND APPROVED:

City Clerk

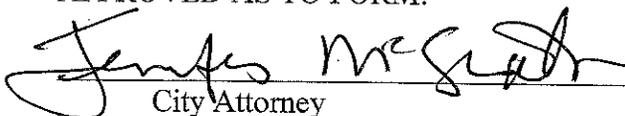


Director of Building and Planning

REVIEWED AND APPROVED:

City Manager

APPROVED AS TO FORM:



City Attorney

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING CHAPTER 230 OF THE HUNTINGTON BEACH ZONING AND
SUBDIVISION ORDINANCE RELATING TO THE PAYMENT OF PARK FEE

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Chapter 230 of the Huntington Beach Zoning and Subdivision Ordinance is hereby amended to delete section 230.20-Payment of Park Fee in its entirety.

SECTION 2. This ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 20__.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

James McGrath

City Attorney mv-8-7-12

REVIEWED AND APPROVED:

City Manager

INITIATED AND APPROVED:

Director of Planning and Building

APPROVED AS TO FORM:

City Attorney

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ORIDNANCE NO. _____

LEGISLATIVE DRAFT

CHAPTER 254 DEDICATIONS AND RESERVATIONS

254.08 Parkland Dedication

A. General. This Section is enacted pursuant to the authority granted by the Subdivision Map Act and the general police power of the City including the power to zone and the power to implement open space and recreational elements of the General Plan. This Section is adopted to implement the provisions of the Quimby Act which authorizes the City to require the dedication of land for park and recreational facilities or payment of in-lieu fees incident to and as a condition of the approval of a tentative tract map or tentative parcel map for a residential subdivision. The park and recreational facilities for which dedication of land and/or payment of an in-lieu fee as required by this Section are in accordance with the policies, principles and standards for park, open space and recreational facilities contained in the General Plan. (3562-7/02)

The general purposes and objectives of this Section are: (3562-7/02)

1. To preserve, enhance and improve the quality of the physical environment of the City of Huntington Beach; (3562-7/02)
2. To provide a procedure for the acquisition, development and rehabilitation of local park and recreational facilities; (3562-7/02)
3. To secure for the citizens of Huntington Beach the social and physical advantages resulting from the provision of orderly park, recreation and open space facilities; (3562-7/02)
4. To establish conditions which will allow park and recreational facilities to be provided and to exist in harmony with surrounding and neighborhood land uses; (3562-7/02)
5. To ensure that adequate park and recreational facilities will be provided; (3562-7/02)
6. To provide regulations requiring five usable acres, or the proportionate share thereof, having a grade not exceeding two percent, for each 1,000 persons residing within the City to be supplied by persons proposing residential subdivisions. (3562-7/02)

B. Requirements. The requirements of this Section shall be complied with by the dedication of land, payment of a fee in lieu thereof, or both, at the option of the City, for park or recreational purposes at the time and according to the standards and formula contained in this Section. The amount and location of land dedicated or the fees to be paid, or both, shall be used for acquiring, developing new or rehabilitating existing community and neighborhood parks and other types of recreational facilities in such a manner that the locations of such parks and recreational facilities bear a reasonable

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relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision generating such dedication or fees, or both. Dedications for trails shall not be included as part of any requirements for park or recreational dedication.
(3562-7/02)

Lands to be dedicated or reserved for park and/or recreational purposes shall be suitable in the opinion of the Director and the Director of Community Services in location, topography, environmental characteristics and development potential as related to the intended use. The primary intent of this Section shall be construed to provide the land for passive and active recreation, including but not limited to: tot lots, play lots, playgrounds, neighborhood parks, playfields, community or regional parks, lakes, picnic areas, tree groves or urban forests, and other specialized recreational facilities that may serve residents of the City. Principal consideration shall be given therefore to lands that offer: (3562-7/02)

1. A variety of recreational potential for all age groups;
 2. Recreational opportunities provided and maintained in a manner that will permit the maximum use and enjoyment by residents of the City of Huntington Beach;
(3562-7/02)
 3. Possibility for expansion or connection with school grounds;
 4. Integration with hiking, riding and bicycle trails, natural stream reserves and other open space;
 5. Coordination with all other park systems;
 6. Access to at least one existing or proposed public street.
- C. General Standard. It is hereby found and determined that the public interest, convenience, health, safety and welfare require that five acres of property for each 1,000 persons residing within the City be devoted to local park and recreational purposes.
- D. Standards and Formula for Dedication of Land. Where a park or recreational facility has been designated in the General Plan and is to be located in whole or in part within the proposed subdivision and is reasonably related to serving the present and future needs of the residents of the subdivision, the subdivider shall dedicate land for park and recreation facilities sufficient in size and topography to meet that purpose. The amount of land to be provided shall be determined pursuant to the following standards and formula:

$$A = \frac{5.0 (DF \times \text{No. DU})}{1000}$$

1. Definitions of terms:
 - a. A - the area in acres required to be dedicated as a park site ~~or to be appraised for in-lieu fee payment for the subdivision.~~ (3562-7/02)

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- b. DF - density factor as determined pursuant to Section 254.08 (E).
(3562-7/02)
 - c. 5.0 - number of acres per one thousand persons.
 - d. No. DU - number of dwelling units proposed in the subdivision.
2. When a proposed subdivision contains dwelling units with different density factors, the formula shall be used for each such density factor and the results shall be totaled.
3. ~~Dedication of parkland shall not be required for parcel maps or subdivisions~~ containing 50 parcels or less; except that when a condominium project, stock cooperative or community apartment project exceeds 50 dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than 50. (3562-7/02)

E. Density.

The amount of land dedicated or fees paid shall be based upon residential density, which is determined on the basis of the approved tentative map and the average number of persons per household. The average number of persons per household by unit in a structure shall be established by City Council resolution and be derived from the most recent available federal census or state or City population and housing data. (3562-7/02)

The number of dwelling units in a subdivision shall be the number proposed for construction. When the actual number of units to be constructed is unknown, it shall be assumed for the purposes of this chapter that the maximum number permissible by law will be constructed.

- F. Standard Improvements. The dedication of land for park and recreational purposes shall not be deemed to waive any other requirements that may be imposed by the City. The subdivider may, at the time of the approval of the tentative map, be obligated by condition to said map to provide curbs, gutters, sidewalk, drainage facilities, street lighting, stop lights, street signs, matching pavement and street trees to full City standards, to stub-in requested standard improvements required for residential property plus initial on-site grading required for developing the park facility. In lieu of making said improvements and upon approval of the Planning Commission or City Council, whichever acts last on the tentative map, the subdivider may pay a sum as estimated by the Director of Public Works sufficient to cover the cost of said improvements. The environmental condition of any land dedicated pursuant to this Section shall satisfy all federal, state and local requirements applicable to parkland and recreational facilities. (3562-7/02)

G. Formula for Fees in Lieu of Land Dedication. (3562-7/02)

1. General Formula. Whenever the requirements of this Section are met solely on the basis of the payment of a fee in lieu of land dedication, the subdivider shall pay a fee in lieu of dedication equal to the value of the land prescribed for dedication in Section 254.08(D) and in an amount determined in accord with the provisions of

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~~Section 254.08(F) according to a schedule adopted by City Council resolution. (3562-7/02)~~

2. Fees in Lieu of Land - 50 Parcels or Less. If the proposed subdivision contains 50 parcels or less and has no park or recreational facility, the subdivider shall pay a fee according to a schedule adopted by City Council resolution equal to the land value of the portion of the park or recreational facilities required to serve the needs of the residents of the proposed subdivision as prescribed in Section 254.08(D) and in an amount determined in accordance with the provisions of Section 254.08(I). When a condominium project, stock cooperative or community apartment project exceeds 50 dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than 50. (3562-7/02)

3. Use of Fees. The fees paid to the City pursuant to this Section and the interest accrued from such fees shall be used, in accordance with the schedule developed pursuant to Section 254.08(M), for the purpose of acquiring, developing new or rehabilitating existing neighborhood or community park or recreational facilities reasonably related to serving the subdivision, including the purchase of necessary land and/or improvement of such land for park or recreational purposes. All fees collected pursuant to this Section shall be transferred for deposit into a separate fund and used solely for the purposes specified in this Section. All monies deposited into the fund shall be held separate and apart from other City funds. All interest or other earnings on the unexpended balance in the fund shall be credited to the fund. The money deposited in the fund account shall be committed to the partial or full completion of necessary purchases or improvements within five years after payment thereof or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the money is not committed, it shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of each lot bears to the total area of all lots in the subdivision. Any requests for refunds shall be submitted to the Director in accordance with the procedures set forth in Section 254.08 (P). (3562-7/02)

4. Standard Improvements. When the requirements of this Section are met solely on the basis of the payment of a fee in lieu of land dedication, in addition to the in-lieu fee, the subdivider shall also pay an amount equal to 20 percent of the in-lieu fee to provide curbs, gutters, drainage facilities, street lighting, stop lights, sidewalks, street signs, matching pavement and street trees to full City standards, stubbing in of utility line services to the park facility, and all standard improvements required by the City for residential subdivisions. (3562-7/02)

H. Criteria for Requiring Both Dedication and Fee. If the proposed subdivision contains more than 50 lots, the subdivider shall both dedicate land and pay a fee in lieu of dedication in accordance with the following: (3562-7/02)

1. When only a portion of the land to be subdivided is proposed in the General Plan as the site for a local park or recreational facility, such portion shall be dedicated for local park purposes and shall be a credit toward the payment of in lieu fees at the park land acquisition and development cost per acre used to develop the in lieu fee. ~~a fee computed pursuant to the provisions of Section 254.08(I) shall be paid for any additional land that would have been required to be dedicated pursuant to Section 254.08(D).~~ (3562-7/02)

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2. When a major part of the local park or recreational site has already been acquired by the City and only a small portion of land is needed from the subdivision to complete the site, such portion shall be dedicated, and ~~a fee, computed according to Section 254.08(I)~~ shall be a credit toward the payment of in lieu fees at the park land acquisition and development cost per acre used to develop the in lieu fee paid in an amount equal to the value of the land which would otherwise have been required to be dedicated according to Section 254.08(D). (3562-7/02)
3. The fee shall be used for the improvement of the existing park or recreational facility or for the improvement of other neighborhood or community parks and recreational facilities reasonably related to serving the subdivision.

I. Amount of Fee in Lieu of Park Land Dedication. Where a fee is required to be paid in lieu of park land dedication, such fee shall be according to a schedule adopted by City Council resolution, equal to the fair market value for each acre which would otherwise have been required to be dedicated by Section 254.08D.

Land Acquisition Cost Adjustment Challenge. If the subdivider objects to the park land acquisition cost per acre used to develop the in lieu fee pursuant to a schedule adopted by City Council resolution, the subdivider may, as outlined below, pay for an appraisal of the property to be developed to see if the fair market value of the land is less than the park land acquisition cost per acre. Conversely the City retains the ability to increase the in lieu fee in areas where the fair market value of land exceeds the park land acquisition cost per acre.

Fair market value of the land shall be determined by a qualified real estate appraiser who currently holds the MAI designation from the Appraisal Institute that and has been selected and retained by the City at the expense of the subdivider and is a member of the American Institute of Real Estate Appraisers ("Qualified Real Estate Appraiser"). The fair market value of the land shall be based on the average acre value of the property to be subdivided at the time of the recording of the final subdivision map, adjusted to reflect the value of such acre of property rough graded to a maximum two percent slope. Such appraisal shall exclude improvement. The date of value of the property for purposes of the appraisal shall be within 60 days of payment of the fee as referenced in Section 254.08L. (3468-8/00, 3562-7/02, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

If the subdivider objects to the fair market value as determined by the Qualified Real Estate Appraiser, the subdivider may request an appeal by a hearing officer within ten (10) days. The hearing officer provided for this appeal process shall be from a list provided by the Director or one selected by the mutual consent of the parties. The subdivider shall have the burden of proof in contesting the fair market value appraisal. All decisions rendered by the hearing officer shall be final for all purposes, and binding upon the parties. If the subdivider does not request an appeal within ten (10) days, the original decision shall stand, be final for all purposes, and binding upon the parties. If the deadline falls on a weekend or a holiday, the deadline extends to the next succeeding working day. ~~at his own expense, retain another Qualified Real Estate Appraiser to complete a second appraisal.~~ If the City disputes the fair market value as

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determined by the second appraisal, the matter will be submitted to binding arbitration at the expense of the subdivider. ~~(3562-7/02, 3827-4/09, 3879-6/10)~~

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

~~Subdivisions Consisting of Three or Fewer Parcels. If the proposed subdivision contains three (3) or fewer parcels, the Director shall determine the fair market value of the property to be subdivided based upon the fair market value of adjacent parcels in consideration of site characteristics of the property. If the subdivider objects to the determination of the Director, the subdivider may retain, at his or her own expense, a Qualified Real Estate Appraiser to provide the fair market value of the property to be subdivided. In the event the Director's determination of the land value exceeds the Qualified Real Estate Appraiser's appraisal by more than \$5,000.00, the average of both determinations shall be established as the fair market value. (3562-7/02, 3827-4/09, 3879-6/10)~~

~~Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.~~

- J. Determination of Land or Fee. Whether the City accepts land dedication, or elects to require the payment of a fee in lieu of, or a combination of both, shall be determined by the Director after consideration of the following: (3562-7/02)
1. Policies, standards and principles for park and recreational facilities in the General Plan; (3562-7/02)
 2. Topography, geology, access and location of land in the subdivision available for dedication;
 3. Size and shape of the subdivision and land available for dedication;
 4. Feasibility of dedication;
 5. Compatibility of dedication with the General Plan;
 6. Availability of previously acquired park property.

The determination by the City as to whether land shall be dedicated, or whether a fee shall be charged, or a combination of both, shall be final and conclusive.

- K. Credit for Improvements and Private Open Space. If the subdivider provides park and recreational improvements to the dedicated land other than those referenced in Section 254.08 (F), the value of the improvements together with any equipment located thereon shall be a credit toward the payment of fees or dedication of land required by this Section. (3562-7/02)

Common interest developments as defined in Sections 1351 of the California Civil Code shall receive partial credit, not to exceed 50 percent, against the amount of land required to be dedicated, or the amount of the fee imposed, pursuant to this Section, for the value of private open space within the development, which is usable for active recreational uses, if the City Council, on the recommendation of the Community

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Services Commission, finds that it is in the public interest to do so, and that the following standards are met. (3562-7/02)

1. That yards, court areas, setbacks and other open areas required by Titles 20-24 (Zoning) shall not be included in the computation of the private open space;
2. That the private ownership and maintenance of the open space is adequately provided for by recorded written agreement, conveyance, or restrictions;
3. That the use of the private open space is restricted to park and recreational purposes by recorded covenant, which runs with the land in favor of the future owners of property, and ~~which cannot be defeated or eliminated without the consent of the City or its successor;~~
4. That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access, and location; and
5. That facilities proposed for the open space are in substantial accord with the provisions of the General Plan.

L. Procedure. (3562-7/02)

1. As determined by the City pursuant to this Section, the subdivider shall:
 - a. Dedicate the land ~~At the time of the recording of the final map or parcel map, the subdivider shall dedicate the land and/or;~~
 - b. Pay the fees prior to final building permit approval, as determined by the City pursuant to this Section. (3562-7/02)
2. Open space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the final map or parcel map and, if approved, shall be recorded concurrently with the final map or parcel map.

M. Schedule of Use. At the time of the approval of the final map or parcel map, the City shall make a preliminary determination of how, when, and where it will use the land or fees, or both, to develop or rehabilitate park or recreational facilities to serve the residents of the subdivision. Final scheduling of improvements to these new or rehabilitated parks or recreational facilities shall be made as part of the City's capital improvement program. (3562-7/02)

N. Not Applicable to Certain Subdivisions. The provisions of this Section do not apply to: (1) commercial or industrial subdivisions; or (2) to condominium projects or stock cooperatives that consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added. (3562-7/02)

O. Exemptions. The following development shall be exempt from the payment of fees pursuant to this Section: (3562-7/02)

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1. Development of real property into housing units that are either rented, leased, sold, conveyed or otherwise transferred, at a rental price or purchase price which does not exceed the "affordable housing cost" as defined in Section 50052.5 of the California Health and Safety Code when provided to a "lower income household" as defined in Section 50079.5 of the California Health and Safety Code or "very low income household" as defined in Section 50105 of the California Health and Safety Code, and provided that the applicant executes an agreement, in the form of a deed restriction, second trust deed, or other legally binding and enforceable document acceptable to the City Attorney and binding on the owner and any successor-in-interest to the real property being developed, guaranteeing that all of the units developed on the real property shall be maintained for lower and very low income households whether as units for rent or for sale or transfer, for the lesser of a period of thirty years or the actual life or existence of the structure, including any addition, renovation or remodeling thereto. (3562-7/02)

~~2. Subdivision of a 50-foot wide parcel into two lots provided that the parcel has been held under common ownership for a minimum of five consecutive years. (3562-7/02)~~

3. Exemptions pursuant to sections 1 or 2 above shall only be granted when the following findings can be made: (Resolution No. 2004-80-9/04)

- i. The project meets the minimum on-site private and common open space requirements; or (Resolution No. 2004-80-9/04)
- ii. The exemption will not individually or cumulatively result in adverse impacts to public recreational opportunities in the coastal zone; and (Resolution No. 2004-80-9/04)
- iii. The exemption will not individually or cumulatively lead to overcrowding or overuse of public facilities by the public in any single area in the coastal zone. (Resolution No. 2004-80-9/04)

P. Appeals. Any person may appeal a determination of the City regarding the interpretation and implementation of this Section. Any such appeal shall be filed with the Director consistent with the requirements of Section 248.24 of the Huntington Beach City Zoning and Subdivision Ordinance. (3562-7/02)

Q. Refunds. Requests for refunds of in-lieu fees paid pursuant to this Section may be directed to the Director at any time. The Director may approve of a refund or a partial refund of park fees paid or release of security instruments when the following has been verified: (3562-7/02)

1. That the refund amount requested corresponds to the amount of fees actually deposited in the fund account established pursuant to Section 254.08 (G) (3) for a given number of dwelling units; and (3562-7/02)
2. That the local park requirement for the dwelling units in question had been met by actual Council acceptance of park land, or by an irrevocable recorded offer to dedicate a park land on a final tract map or parcel map; or (3562-7/02)
3. The subdivision or building permit approval for which fees were required has been withdrawn or is otherwise no longer valid. (3562-7/02)

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ORDINANCE NO. _____

LEGISLATIVE DRAFT

~~230.20~~ Payment of Park Fee

~~As a condition of development approval, all new commercial and industrial development and all new residential development not covered by Chapter 254 of Title 25, Subdivision Ordinance, except for mobile home parks, shall pay a park fee. The fees shall be paid and calculated according to a schedule adopted by City Council resolution. (EMG 3594 11/02, EMG 3596 12/02, Resolution No. 2002-129 12/02, 3827 4/09, 3879 6/10)~~
Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees: