

ORDINANCE NO. 3126

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CHULA VISTA AMENDING TITLE 17, SECTION 17.10.100
OF THE CHULA VISTA MUNICIPAL CODE TO FACILITATE
THE DEFERRAL OF IN-LIEU PARK FEES

WHEREAS, the City of Chula Vista is desirous of both assisting economic development and providing parklands for the community, and

WHEREAS, currently, in-lieu park fees ("PAD fees") are collected prior to the recordation of a final map or parcel map or for development that does not require a final map or parcel map, at the time of permit issuance; and

WHEREAS, the existing requirements related to the timing of the collection of PAD fees have been identified as a possible impediment to development; and

WHEREAS, in those situations where the PAD fees are not necessary for the public health or welfare, a deferral in the collection of such fees would not harm the City or its ability to provide its citizens and communities with the Parks they need; and

WHEREAS, the deferral of PAD fees will also provide developers with relief from the upfront capital requirements, so that they may begin pulling building permits; and

WHEREAS, on December 16, 2008, the City Council approved an ordinance for the deferral of certain development impact fees and other fees associated with development due to the economic downturn; and

WHEREAS, similarly, in order to permit the deferral of the collection of PAD fees, the City must amend its Municipal Code by adopting an ordinance; and

WHEREAS, the City desires to limit the applicability of such deferred payments of PAD fees to those final maps, parcel maps approved and recorded and those permits issued after the adoption of this Ordinance.

NOW, THEREFORE the City Council of the City of Chula Vista, does ordain as follows:

That Chula Vista Municipal Code chapter 17, section 17.10.100 be amended with the inclusion of sections 17.10.100(c), 17.10.100(d), and 17.10.100(e); as follows:

Chapter 17, Section 17.10.100
Collection and Distribution of Fees

(C) Notwithstanding the foregoing Section 17.10.100(A), the City may defer the payment of in-lieu fees for land dedication and/or park development for those developments that require a final subdivision map or parcel map until the date of permit issuance provided such final map or parcel map is approved and recorded after the adoption of this ordinance Section 17.10.100(C) and prior to December 31, 2010. The amount of the fees due shall be those fees in effect at the time of permit issuance.

(D) Notwithstanding the foregoing Section 17.10.100(A), the City may defer the payment of in-lieu fees for land dedication and/or park development due at permit issuance until a date 1 year from the permit issuance or until the call for final inspection, whichever is earlier, provided the following conditions are met:

- 1) The permit for which fee deferral is requested was issued after the adoption of this Ordinance Section 17.10.100(D) and prior to December 31, 2010.
- 2) Permit applicant demonstrates, to the satisfaction of the City Manager, that the payment of the in-lieu fees at the time of permit issuances creates a financial hardship.
- 3) An agreement with the City in a form approved by the City Attorney is executed containing the following terms and conditions:
 - a. Interest shall accrue on the deferred fees at the City's average earning rate from the date of permit issuance until the deferred fees are paid in full.
 - b. The City may withhold interim or final inspection, issuance of any additional permits, and/or certificates of occupancy, if applicable, until the deferred fees are paid in full.
 - c. The payment of the deferred fees and accrued interest shall be secured by a lien recorded on the property for which the permit was issued and such lien shall run with and encumber the property.
 - d. Fees and Accrued Interest shall be paid with a certified check prior to or concurrent with the date on which the deferral period ends.
 - e. If the Owner sells or transfers the property or any portion of the property in any manner, the property shall not be released from any of the obligations, covenants, or conditions under the Agreement relating to the property or portion of the property being acquired
 - f. Permit applicant shall pay all fees associated with the preparation and recording of the agreement and associated lien.
- 4) For those deferred fees equal to or in excess of \$100,000, the Agreement shall be approved by the City Council. For those deferred fees less than \$100,000, the City Manager or his/her designee shall execute the Agreement. Separate Agreements shall not be created or executed in order to avoid the approval limitations or requirements of this section.

(E) The provisions of Sections 17.10.100(C) and 17.10.100(D) shall expire, terminate, and become void at midnight on December 31, 2010. Upon expiration of this ordinance, all fees for development required to record a final or parcel map, deferred pursuant to the Section 17.10.100(C) and not the subject of a deferral agreement pursuant to Section 17.10.100(D), shall be due and payable on or before January 1, 2011. The amount of the fees due and payable shall be the amount of the fees in effect at the time of payment.

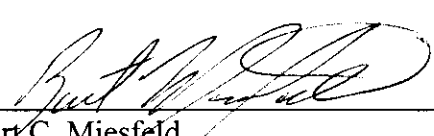
BE IT FURTHER ORDAINED that this ordinance shall take effect and be in full force thirty (30) days after its adoption.

Presented by

Approved as to form by



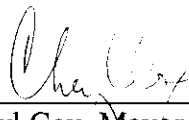
Gary Halbert, P.E., AICP
Deputy City Manager/Development Services
Director



Bart C. Miesfeld
City Attorney

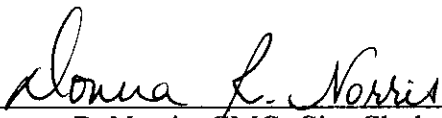
PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 21st day of April 2009, by the following vote:

AYES: Councilmembers: Bensoussan, Castaneda, McCann, Ramirez, and Cox
NAYS: Councilmembers: None
ABSENT: Councilmembers: None



Cheryl Cox, Mayor

ATTEST:



Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3126 had its first reading at a regular meeting held on the 7th day of April 2009 and its second reading and adoption at a regular meeting of said City Council held on the 21st day of April 2009; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

Executed this 21st day of April 2009.



Donna R. Norris, CMC, City Clerk