

## CHAPTER 1. PARK LAND DEDICATION AND FEES\*

### ARTICLE 1. DEFINITIONS

#### SEC. 810.101. DEFINITIONS.

Words used herein that are defined in Title 8, Division One of the Code of Regulatory Ordinances but not specifically defined in this Chapter shall have the same meaning as is ascribed to them in Title 8, Division One of the Code of Regulatory Ordinances. Any zoning matters referred to herein shall have the same meaning as is ascribed to them in the County of San Diego General Plan, Zoning Ordinance, and Subdivision Ordinance. Whenever the following words are used in this Chapter, they shall have the meaning ascribed to them in this Section.

- (a) "Approving Body" means the Planning Commission or the Board of Supervisors as applicable.
- (b) "Development" means any development as defined in California Government Code Section 66000, as it exists or may be amended (also known as the Mitigation Fee Act).
- (c) "Director", unless otherwise specified, means the Director of the Department of Parks and Recreation of the County of San Diego.
- (d) "Fee Rate Tables" means the fee rates by category as shown on the tables attached to the San Diego County Park and Recreational Facilities Development Impact Fee Study (Impact Fee Study), on file with the Department of Parks and Recreation, and any subsequent adjustments thereto.
- (e) "Local Park Planning Area" means the geographical area(s) depicted on the Local Park Planning Area map on file with the Department of Parks and Recreation. Local Park Impact Areas coincide with the Community and Subregional Planning Area boundaries in Figure I-2 of the County of San Diego General Plan and as depicted on the Local Park Planning Area Map on file with the Department of Parks and Recreation.
- (f) "Park" or "Public Park" means a fully developed and improved land that is open to the public, operated and maintained by the County of San Diego or other public agency, and improved with both on-site and off-site improvements to the standards of the Department of Parks and Recreation for a local park, including PLDO Eligible Recreational Uses and all the improvements required by the Department of Parks and Recreation for acceptance of such improved land as a fully functioning local park without the necessity of further County improvements.
- (g) "Park Impact Fee" means the Park Improvement Impact Fee and/or the Park Land Acquisition Impact Fee.
- (h) "Park Improvement and Acquisition Agreement" means an agreement entered pursuant to Section 810.119 of this Chapter.
- (i) "Park Improvement Impact Fee" means the fee collected by the County of San Diego pursuant to Section 810.111 (b) in connection with approval of a residential Development or Subdivision project for the purpose of defraying all, or a portion of, the cost of constructing park and recreational facilities needed to accommodate new residential development.
- (j) "Park In-Lieu Fee" means the fee collected by the County of San Diego pursuant to Section 810.103 in connection with approval of a Subdivision project that is equivalent to the cost of acquiring parkland needed to accommodate new residential development.

(k) "Park Land Acquisition Impact Fee" means the fee collected by the County of San Diego pursuant to Section 810.111 (a) in connection with approval of a residential Development for the purpose of defraying all, or a portion of, the cost of acquiring park land for park and recreational facilities needed to accommodate new County residents.

(l) "PLDO Eligible Recreational Uses" means recreation facilities occurring on land restricted for park and recreation purposes designed to provide individual or group activities common to parks in San Diego County. PLDO Eligible Recreational Uses include adventure play areas, amphitheaters, bicycle parks, children's play areas, community gardens, community gather or event spaces, disc or Frisbee golf, dog parks or leash free areas, equestrian facilities, exercise areas or fitness stations, gymnasiums, improved overlooks, open lawn areas, picnic areas, plazas, recreation centers, skate parks, splash pads or wading pools, sport courts and fields, swimming pools, and trails outside of dedicated open space and County right-of-way. PLDO Eligible Recreational Uses do not include natural open space, nature study areas, open space buffer areas, steep slopes that are not improved with PLDO Eligible Recreational uses, golf courses, parking or staging areas, riding and hiking trails in open space preserves, trails conditioned pursuant to the County Trails Program, unimproved scenic overlooks, water courses, drainage areas, unenhanced stormwater facilities, water bodies (lakes, ponds, reservoirs), boating areas, archaeologically sensitive areas, group and individual usable open space as defined in the Zoning Ordinance, landscape corridors, pathways, environmental mitigation areas, land encumbered by easements, or other areas that preclude PLDO eligible recreational uses.

(m) "Private Park" means a local park that provides recreation including, but not limited to PLDO Eligible Recreational Uses, that is not maintained by the Department of Parks and Recreation or other public agency.

(n) "Subdivision" means any subdivision as defined in California Government Code Section 66410 et seq., as it exists or may be amended (also known as the Subdivision Map Act).

## **ARTICLE 2. LAND DEDICATION AND PARK IN-LIEU FEES FOR SUBDIVISIONS**

### **SEC. 810.102. PURPOSE.**

The ordinance sections codified in this Article are enacted pursuant to the authority granted by California Government Code Sections 66477 et seq. (also known as the Quimby Act), which authorizes a county to require the dedication of land for park or recreation facilities at a rate of three acres per one thousand residents, or payment of fees in-lieu thereof (or a combination of both), incident to and as a condition of approval for a tentative map or parcel map. The purpose of the dedication of land and/or payment of the in-lieu fee is to ensure that each new residential unit within a Subdivision in the unincorporated County bears the burden of its individual, incremental share of additional park and recreation facilities needed to accommodate the new development.

### **SEC. 819.103 REQUIREMENTS**

As a condition of approval of any Subdivision tentative map or parcel map, the applicant shall dedicate land, pay fees in lieu thereof, or a combination of both, pursuant to the provisions of this Article for the purposes of developing new or rehabilitating existing park and recreational facilities to serve future residents of such Subdivision.

a) For Subdivisions containing more than fifty (50) parcels, and condominium, stock cooperative or community apartment projects (as those terms are defined in the California Civil Code) exceeding fifty (50) dwelling units, notwithstanding that the total number of parcels may be less than fifty (50), the dedication of land, payment of a fee in lieu thereof, or a combination of both shall be required.

b) For Subdivisions containing fifty (50) or fewer parcels, only the payment of Park In-Lieu Fees shall be required, unless the applicant offers to dedicate land in lieu of paying fees, in which event the Approving Body may elect to accept the land or require the payment of fees or a combination of both pursuant to Section 810.105.

c) If after recordation of the final map, there is an increase in the number of dwelling units or a change in the dwelling unit type which increases the number of persons served by the Subdivision, the applicant shall be required to dedicate additional park land, pay park in-lieu fees, or a combination of both, as determined by the Director.

d) Nothing in this Chapter shall be construed as to relieve the applicant from providing useable open space as defined and required by the Zoning Ordinance or by the provision of variance or permits granted pursuant to the Zoning Ordinance, nor shall any provisions of this Chapter be construed to require the County to accept land for park purposes which is determined by the Director to be unsuitable for park and recreation purposes.

#### **SEC. 810.104. EXEMPTIONS.**

The following projects shall be exempt from the park land dedication and Park In-Lieu Fee requirements of this Chapter:

- (a) Developments that do not require the subdivision of land;
- (b) Subdivisions that do not include any residential uses; and
- (c) Condominium projects or stock cooperatives which consist of the Subdivision of air-space in an existing apartment building which is more than five (5) years old and where no new dwelling units are added.
- (d) Accessory dwelling units permitted prior to January 1, 2024 and constructed pursuant to the provisions of the Zoning Ordinance on established lots with an existing single-family residence.

#### **SEC. 810.105. CRITERIA FOR DETERMINATION OF LAND DEDICATION OR PAYMENT OF FEE.**

(a) Dedication of park land is more preferred than the payment of Park In-Lieu Fees. Whether the County accepts land dedication or elects to require payment of the Park In-Lieu Fee, or a combination of both, shall be determined by consideration of the following:

(1) Compatibility of land dedication with the Conservation and Open Space Element of the General Plan, Live Well San Diego Strategic Initiatives and any applicable Community Plan, Subregional Plan, Park Master Plan and/or Specific Plan;

(2) The topography, geology, soils, soil stability, drainage, access, location and general utility of the land proposed for park land dedication;

(3) The size and shape of the land proposed for dedication;

(4) The amount, usability, and location of publicly owned property available for combination with dedicated park lands;

(5) Additional recreation facilities available to future residents of the Subdivision in the form of private parks;

(6) The location of existing and planned parks, recreational facilities, trails, and pathways, including those in neighboring jurisdictions that may be available to future residents of the Subdivision;

(7) The proximity of homes to proposed park land in Subdivisions with village densities, pursuant to the General Plan, should be within one-half (1/2) mile walking distance to all dwelling units or lots;

(8) Form of ownership and financing mechanism for operation and maintenance of land proposed for dedication;

(9) Suitability of the site for visibility, supervision, and maintenance;

(10) Conformance with the Department of Parks and Recreation Park Design Manual; and

(11) Recommendations of the applicable Community Planning or Sponsor Group and the Director.

(b) Grading, drainage, utility and infrastructure improvements may be required for the County to accept land to be dedicated for a public park, in addition to grading, drainage improvements, irrigation and planting required pursuant to Title 8, Division 7 of the Code of Regulatory Ordinances or other authority. The Parks and Recreation Department shall review and approve grading and improvement plans for parcels to be dedicated for public park purposes pursuant to this Chapter, and shall review grading and improvement plans for lots adjacent to such parcels in the Development. The applicant or developer is required to construct the same off-site street improvements and utilities to serve the dedicated park that are required pursuant to the improvement plans for the parcels within the Subdivision. Such improvements and utilities may include curbs, gutters, street paving, traffic-control devices, street trees and landscaping, sidewalks, and pathways, water, sewer, and electric. The off-site street improvements and utilities shall be constructed at the time improvements are constructed for the areas surrounding the park in the development. The improvements required pursuant to this subsection shall not be eligible for credit against the amount of land dedicated or the Park In-Lieu Fee paid. Stormwater facilities improved with PLDO Eligible Recreational Uses may receive fifty percent (50%) credit and combined shall not to exceed ten percent (10%) of the total PLDO requirement, as approved by the Director of Parks and Recreation.

#### **SEC. 810.106. AMOUNT OF LAND TO BE DEDICATED OR PARK IN-LIEU FEE TO BE PAID.**

(a) The amount of land to be dedicated, or Park In-Lieu Fee to be paid, shall be based upon the residential density, which shall be determined on the basis of the approved or conditionally approved tentative map or parcel map and the average number of persons per household within the Local Park Planning Area boundaries set forth in the occupancy densities on file with the Department of Parks and Recreation. Occupancy densities are derived from federal census data of average persons per dwelling unit and are adjusted every five years starting January 2019. The formula for determining the required Park acreage to be dedicated per lot or dwelling unit shall be as follows:

The occupancy density for the specific dwelling unit(s) in the Subdivision; multiplied by the three acre park land dedication standard; divided by one thousand (1,000) population.

Example: If the occupant density for single family homes within a certain Local Park Planning Area is 2.85 residents, and the parkland dedication standard is three acres per one thousand (1,000) residents, for one single family detached unit, the required park acreage would therefore be (2.85 residents per dwelling unit x 3.0 acres) ÷ 1,000 residents = .00855 acres per dwelling unit.

(b) In the event that a subdivider provides park and recreational improvements to dedicated land that provides PLDO Eligible Recreational Uses, credit shall be granted against the payment of fees required for the actual value of improvements as verified by Parks and Recreation staff, provided such credit does not exceed the value of improvements normally authorized by the County for similar parks.

(c) Private usable open space as defined and required by the Zoning Ordinance; improvements described in Section 810.105(b) of this Chapter; trails and pathways dedicated pursuant to County Trails Program; environmental mitigation areas or open space dedicated pursuant to Resource Protection Ordinance, Biological Mitigation Ordinance or local, state, or federal laws; other open areas that preclude PLDO Eligible Recreational Uses; and yards, court areas, setbacks, landscape areas, and other open areas required to be maintained by the Zoning Ordinance, Building Code, or other ordinances and regulations shall not be eligible for credit against the amount of land dedicated or the Park In-Lieu Fee paid.

#### **SEC. 810.107. TIME OF LAND DEDICATION OR PAYMENT OF FEE.**

(a) If land is to be dedicated, whether within or outside the subdivision, approval of the tentative map shall be subject to the following condition:

(1) Fee title to the land shall be conveyed by grant deed to the County, other governmental agency or other entity responsible for operation and maintenance of parks and recreation facilities, as approved by the County, that is free and clear of all encumbrances, including utility easements and underlying drainage systems, except those which, in County's opinion, will not interfere with the use of land for park and recreational purposes and which the Department of Parks and Recreation agrees to accept, as evidenced by a Phase I and/or II Environmental Site Assessment and a California Land Title Association policy provided by the applicant or developer and subject to approval of the Director. The applicant shall convey fee title to the County prior to approval of the final map and the grant deed shall be recorded immediately following the recordation of the final map. The applicant shall provide all fees and instruments required to convey fee title to the land plus title insurance in favor of the County; or

(2) Enter into a secured Park Acquisition and Improvement Agreement pursuant to Section 810.119 of this Chapter.

(b) If Park In-Lieu Fees are to be paid, such fees shall be collected on a per dwelling unit basis prior to the issuance of a building permit or such other permit for development required to authorize the construction or installation of a dwelling. The applicant shall pay the fees prescribed in Section 810.108 or shall present a written statement from the Director of Parks and Recreation certifying that the requirements of this Article have been satisfied with respect to the development for which permits are sought. The obligation to pay Park In-Lieu Fees shall be noted on both the tentative map and the final map.

(c) Notwithstanding the provisions of this Subsection to the contrary, the payment of Park In-Lieu Fees in connection with residential Subdivisions may be deferred and paid prior to or at the time of scheduling a final building inspection, if the applicant executes an agreement with the County for a fee deferral. Applicants choosing to execute an agreement with the County for a fee deferral, shall pay the PLDO fee amount in effect at the time of PLDO fee payment. In the event the County, for any reason, fails to collect any or all PLDO fees prior to final inspection, such fees shall remain the obligation of the applicant and/or the property owner.

## **SEC. 810.108. CREDIT FOR PRIVATE PARKS.**

(a) The Director may grant up to fifty percent (50%) credit for land dedication or park in-lieu fees payment for private parks not to exceed fifty percent (50%) of the total land dedication or Park In- Lieu Fee payment requirement if all of the following standards either have been or will be met prior to approval of the final parcel map:

(1) Evidence is provided that ownership and maintenance of the private park will be adequately provided for in perpetuity by recorded written agreement, covenants or restrictions, and any such document or amendments thereto shall be subject to review and approval by the Director prior to adoption;

(2) That the use of the private park is restricted for park and recreational purposes by an open space easement or other instrument approved by County Counsel which cannot be defeated or eliminated without consent of the Director;

(3) That the proposed private area is suitable for PLDO Eligible Recreational Uses, taking into consideration such factors as size, shape, topography, geology, access and location;

(4) That any facilities proposed: (1) are in substantial conformance with the Conservation and Open Space Element of the General Plan, or adopted community, subregional or specific plans, (2) are appropriate to the recreational needs of the future residents of the development as determined by the Director, and (3) will substitute for the park lands otherwise required to be dedicated in meeting the recreation needs of the residents; and

(5) That the design of the proposed private park is governed by a site plan or major use permit issued pursuant to the provisions of the Zoning Ordinance.

(b) Private usable open space as defined and required by the Zoning Ordinance; improvements described in Sections 810.105(b) of this Chapter; trails and pathways dedicated pursuant to County Trails Program; environmental mitigation areas or open space dedicated pursuant to Resource Protection Ordinance, Biological Mitigation Ordinance or local, state, or federal laws; other open areas that preclude park and recreational activities; and yards, court areas, setbacks, landscape areas, and other open areas required to be maintained by the Zoning Ordinance, Building Code, and other ordinances and regulations, shall not be granted acreage credit for private park areas unless otherwise approved by the Director or Approving Body.

## **ARTICLE 3. PARK IMPACT FEES**

### **SEC. 810.109. PARK IMPACT FEES PURPOSE.**

The ordinance section codified in this article is enacted pursuant to the authority granted by California Government Code Sections 66000 et seq. (also known as the Mitigation Fee Act), which authorizes a county to require the payment of an impact fee to defray all or a portion of the cost of public facilities needed to accommodate the new residents of a development project as a condition of project approval.

(a) Park Land Acquisition Impact Fees collected pursuant to this Article are intended to fund the acquisition of park land which will mitigate impacts of new residential Developments without Subdivisions on park land within the unincorporated County pursuant to California Government Code Section 66000 et seq. as it exists or may be amended.

(b) Park Improvement Impact Fees collected pursuant to this Article are intended to fund park improvements which will mitigate the impacts of new residential Developments with or without Subdivisions on parks and recreational facilities within the unincorporated County pursuant to California Government Code Section 66000 et seq. as it exists or may be amended.



## **SEC. 810.110. PARK IMPACT FEES FINDINGS.**

With regard to the Park Land Acquisition Impact and Park Improvement Impact Fees (Park Impact Fees), the Board of Supervisors, consistent with the Mitigation Fee Act, finds and adopts each of the findings set forth in the Impact Fee Study, and further finds that:

(1) Purpose of Fee, Government Code § 66001(a)(1): Future residential development within the unincorporated portions of the County will require park land acquisition and construction of new park improvements and amenities and recreational facilities to mitigate for impacts on parks and recreational facilities. The Park Land Acquisition Impact Fee is solely for the purpose of acquiring new parkland to serve residents of Developments that do not involve the subdivision of land. The Park Improvement Impact Fee is solely for the purpose of constructing new park improvements and amenities or recreational facilities to serve residential Development with or without Subdivisions.

(2) Use of Revenues, Government Code § 66001(a)(2): Park Impact Fees will not be used to address existing deficiencies attributable to prior development or to fund park operation and maintenance costs. Park Land Acquisition Impact Fee is hereby established on non-Subdivision residential Development within unincorporated portions of San Diego County to pay a proportionate share of future park land acquisition. The Park Land Acquisition Impact Fee authorized by this Article will be used only for defraying costs associated with acquiring park land needed to serve new Developments, and shall not exceed the estimated cost associated with acquiring new park land. The Park Improvement Impact Fee is hereby established on residential Development with or without Subdivisions within unincorporated portions of San Diego County to pay a proportionate share of constructing park improvements and recreational facilities. The Park Improvement Impact Fee authorized by this Article will be used only for defraying costs associated with constructing park improvements and recreational facilities needed to serve new residential development with or without Subdivisions, and shall not exceed the estimated costs associated with constructing new or improving existing park amenities and recreational facilities.

(3) Benefit Relationship, Government Code § 66001(a)(3): Future residential development will impact demand for and use of parks and recreational facilities in unincorporated portions of the County of San Diego. Park Impact Fees will be used to acquire park land, improve, develop and expand park and recreational amenities to satisfy increased demand and mitigate for impacts created by new residential Development with or without Subdivisions. Park Impact Fees are collected to ensure park acquisition and recreational improvements will serve the community that paid the fees. There is, accordingly, a reasonable relationship between the Park Impact Fees use and the type of Development or Subdivision project on which the fee is imposed.

(4) Burden Relationship, Government Code § 66001(a)(4): The Park Land Acquisition Impact Fee uses a formula that takes into consideration occupancy rates for three residential land use types (single family, multifamily, and accessory dwelling units), and land acquisition costs within Local Park Planning Areas in unincorporated County of San Diego to account for the park land acquisition needed to mitigate for impacts from residential Development without Subdivisions. The Park Improvement Impact Fee uses a formula that takes into consideration occupancy rates for three residential land use types (single family, multifamily, and accessory dwelling units), and park improvement costs within Local Park Planning Areas in unincorporated County of San Diego to account for park improvements needed to mitigate for residential Development with or without Subdivisions. In this way, there is a reasonable relationship between the need for the park and recreational facility improvements and the project on which the Park Impact Fees are imposed.

(5) Proportionality, Government Code § 66001(b): There is a reasonable relationship between the amount of the Park Impact Fees and the cost of acquiring, and developing new or improving existing Parks to accommodate the needs of future residential Development with or without Subdivisions.

Park Impact Fees are derived from a formula that considers occupancy rates by residential land use type (single-family, multi-family, and accessory dwelling units), land acquisition and improvement costs, and the park acreage needed within Local Park Planning Areas within unincorporated County of San Diego to correlate impacts. In this way, Park Impact Fees are tied to the acquisition of park land and the construction of new or improvement of existing Parks needed to mitigate for the impacts of future development and Subdivision projects.

#### **SEC. 810.111. PARK IMPACT FEES ESTABLISHED.**

(a) Park Land Acquisition Impact Fee: Residential development that is not subject to Quimby Act park dedication or Park In-Lieu Fee of Article 2 must pay the Park Land Acquisition Impact Fee for acquisition of new park land.

(b) Park Improvement Impact Fee: All residential development, including Development that dedicates Quimby Act park land or pays the Park In-Lieu Fee pursuant to Article 2, must pay the Park Improvement Impact Fee for park improvements.

(c) The payment of Park Impact Fees shall be required prior to issuance of any building permit or other permit required for construction of a dwelling unit, where Park Impact Fees have been established by the Board of Supervisors resolution or ordinance. Park Impact Fees shall be determined in accordance with the fee schedule approved by the applicable Board of Supervisors resolution in effect at the time fees are paid, and may include an automatic increase.

(d) Notwithstanding Subsection (c) above, the payment of Park Impact Fees may be deferred and paid prior to or at the time of scheduling a final building inspection, if the applicant executes an agreement with the County for a fee deferral in a manner consistent with the requirements of Government Code Section 66007.

(e) In the event subsequent development or Subdivision of land occurs with respect to property for which Park Impact Fees have been paid or park land dedicated and there is an increase in the number of dwelling units or a change in the dwelling unit type which increases the number of persons served by the development or Subdivision and was not included in computing the prior requirements, additional park land, park impact fees, or a combination of both shall be required, as determined by the Director.

#### **SEC. 810.112. PARK IMPACT FEE EXEMPTIONS.**

The following uses shall be exempt from both the Park Land Acquisition Impact Fee and the Park Improvement Impact Fee, unless otherwise stated:

(a) Any residential Development that involves the Subdivision of land and pays the Park In-Lieu Fee is exempt from the Park Land Acquisition Impact Fee.

(b) Any Development that does not require a County building permit.

(c) Any nonresidential Development.

(d) The replacement on the same parcel by the owner of a dwelling or dwellings destroyed by fire, flood, earthquake, or other calamity, provided that the application for a building permit to replace such dwelling is filed with the Director within two (2) years after destruction of the dwelling and is filed by the homeowner impacted by the calamity.

(e) Rehabilitation, replacement, or reconstruction of residential structures that were lawfully constructed.



(f) Transient habitation resort services for which occupancy is limited to 90 days for any person in any 12 month period pursuant to Sections 6400 through 6449, inclusive, of the Zoning Ordinance, or camping, cabin or motel units which are not to be used as primary residences and which are to be constructed within and primarily to serve Federal, State or County parks or forest.

(g) Recreational Trailer Parks, Temporary Trailer Parks, or Travel Trailer Parks, as those terms are defined in the Mobilehome Parks Act.

(h) Condominium projects or stock cooperatives which consist of the Subdivision of air-space in an existing apartment building which is more than five (5) years old where no new dwelling units are added.

(i) Any farm employee housing or farm labor camp project.

(j) Accessory dwelling units permitted prior to January 1, 2024 and constructed pursuant to the provisions of the Zoning Ordinance on established lots with an existing single-family residence.

### **SEC. 810.113. CREDIT FOR PARK LAND ACQUISITION IMPACT FEE.**

(a) In the event that an applicant subject to the Park Land Acquisition Impact Fee seeks to dedicate land for parks, the Approving Body may allow a credit for up to 100% of the Park Land Acquisition Impact Fee payment required by this Chapter, if the public park land dedication amount is greater than 0.4 contiguous acres. For public park land dedication amounts less than 0.4 contiguous acres, only fees will be accepted, unless otherwise approved by the Director or Approving Body.

(b) Credit for land dedication against the Park Land Acquisition Impact Fee payment required by this Chapter shall only be granted for lands that conform with Sections 810.105 and 810.107 of this Chapter and are approved by the Director and Approving Body.

(c) Fee credit for land dedication of public parks may be provided at a one-to-one ratio based on conversion of Park Land Acquisition Impact Fee to actual park acres.

(d) The Director may grant fifty percent (50%) credit for private park land dedication against the Park Land Acquisition Impact Fee payment required by this Chapter for private park land, not to exceed fifty percent (50%) of the total requirement for Park Improvement Impact Fee payment, if the requirements of Section 810.108 of this Chapter have been or will be met prior to issuance of any building permits for Developments and prior to approval of the final map for Subdivisions.

(e) Credit shall only be granted for park land that meets the criteria set forth in this Article and the Department of Parks and Recreation Park Design Manual.

(f) Private usable open space as defined and required by the Zoning Ordinance; improvements described in Sections 810.105(b) of this Chapter; trails and pathways dedicated pursuant to County Trails Program; environmental mitigation areas or open space dedicated pursuant to Resource Protection Ordinance, Biological Mitigation Ordinance or local, state, or federal laws; other open areas that preclude PLDO Eligible Recreational Uses; and yards, court areas, setbacks, landscape areas, and other open areas required to be maintained by the Zoning Ordinance, Building Code, and other ordinances and regulations shall not be eligible for credit against the Park Land Acquisition Impact Fee requirement, unless otherwise approved by the Director or Approving Body.

### **SEC. 810.114. CREDIT FOR PARK IMPROVEMENT IMPACT FEE.**

(a) If an applicant for a residential Development subject to the Park Improvement Impact Fee wishes to construct PLDO Eligible Recreational Uses, the Director may allow a credit therefor against up to 100% of the requirement for Park Improvement Impact Fee payment required by this Chapter.

(b) Credit shall be granted against the payment of Park Improvement Impact Fees required pursuant to this Chapter for the actual cost of any fixed recreational equipment, installed or constructed by the applicant, as approved by the County, provided that such credit shall not exceed the value of improvements normally authorized by the County for similar parks.

(c) The Director may grant fifty percent (50%) credit for park improvements against the Park Improvement Impact Fee payment required by this Chapter for improvements on private park land, not to exceed fifty percent (50%) of the total requirement for Park Improvement Impact Fee payment, if the requirements of Section 810.108 of this Chapter have been or will be met prior to issuance of any building permits for Development Projects and prior to approval of the final map for Subdivisions.

(d) No credit shall not be given for labor or overhead costs or for site preparation items such as grading, drainage, utilities, irrigation, planting or parking areas. No credit shall be given for required off-site improvements such as curbs, gutters, street paving, traffic-control devices, sidewalks, pathways, and parking areas that serve the park.

(e) Credit shall only be granted for PLDO Eligible Recreational Uses and park and recreational facility improvements that meet the criteria set forth in this Article and the Department of Parks and Recreation Park Design Manual.

(f) Private usable open space as defined and required by the Zoning Ordinance; improvements described in Sections 810.105(b) of this Chapter; trails and pathways dedicated pursuant to County Trails Program; environmental mitigation areas or open space dedicated pursuant to Resource Protection Ordinance, Biological Mitigation Ordinance or local, state, or federal laws; other open areas that preclude PLDO Recreational Use, and yards, court areas, setbacks, landscape areas, and other open areas required to be maintained by the Zoning Ordinance, Building Code, and other ordinances and regulations shall not be eligible for credit against the Park Improvement Impact Fee payment requirement unless otherwise approved by the Director or Approving Body.

#### **ARTICLE 4. IMPLEMENTATION**

##### **SEC. 810.115. LIMITATIONS ON USE.**

(a) The Park In-Lieu Fee paid pursuant to this Chapter shall only be used for the purpose of acquiring park land, developing new, or rehabilitating existing park or recreation facilities.

(b) The Park Land Acquisition Fee paid pursuant to this Chapter shall only be used for the purpose of acquiring new parkland.

(c) The Park Improvement Impact Fee paid pursuant to this Chapter shall only be used for the purpose of developing new or expansion of existing park or recreation facilities.

(d) Park Impact Fees and Park In-Lieu Fees shall not be used to provide recreational services, programming or operations and maintenance of parks and recreational facilities.

##### **SEC. 810.116. ADJUSTMENT OF PARK IMPACT FEES.**

The Park In-Lieu Fee and Park Impact Fees established by this Chapter have been established based on estimated costs to acquire land or construct park improvements within each Local Park Planning Area. Park Impact Fees will be adjusted annually, starting in January 2020, and each January thereafter. The amount of the Park Impact Fees shall be based on the one-year change (from October to October) in the Los Angeles Construction Cost Index as determined by Engineering News Record published by McGraw-Hill Publishing Company, or any successor thereof. The amount of the Park Land Acquisition Impact Fee and Park In-Lieu Fee shall be based on 40% of the one-year change in median sale price (from October to October) in the Sandicor's San Diego Cost Index, or any successor thereof.

Adjustments to the fees based upon the cost Indices shall be automatic and shall not require further action of the Board of Supervisors. The fee adjustments shall become effective January 1 of each year.

#### **SEC. 810.117. TRANSFER OF LANDS OR FUNDS.**

The County may transfer land or funds acquired pursuant to this Chapter to another governmental agency or other entity responsible for operation and maintenance of parks and recreation facilities, as approved by the Director, only if such lands or funds shall be used in the manner prescribed by this ordinance, a source of funding for ongoing maintenance and operation is available other than County of San Diego General Fund monies, and the governmental agency or other entity responsible for operation and maintenance of parks and recreation facilities, as approved by the Director, shall enter into a joint or shared use agreement or other agreement as approved by the Director.

#### **SEC. 810.118. REFUND OF PARK IMPACT AND PARK IN-LIEU FEES.**

Any Park Impact Fee and Park In-Lieu Fees paid pursuant to the provisions of this Chapter may be refunded or partially refunded under the following circumstances:

(a) If a building permit or development permit expires, is cancelled, is withdrawn or is voided and if any fees paid pursuant to this Chapter have not been expended and no construction has taken place pursuant to such building permit or Development permit, the Director shall, upon written request, refund the fee to the record property owner or his or her representative.

(b) In the event that the acreage of the development site, number of dwelling units, acreage of land to be dedicated, acreage of private recreation area(s), or any combination thereof changes through the Subdivision or discretionary permit processes, thereby reducing the requirements for the Development or Subdivision under this Chapter, and the applicant has paid the higher originally calculated fee, the Director of Planning & Development Services, or such other officer having jurisdiction over the Development or Subdivision, upon review and concurrence by the Director, shall refund to the applicant the amount specified in the action taken by the Director of Planning & Development Services or the Approving Body authorizing such decrease of the requirements, not to exceed the amount originally deposited.

(c) In the event that fees were collected for a project exempt from the requirements of this Chapter, the Director of Planning & Development Services, or such other officer having jurisdiction over the Development, upon review and concurrence by the Parks and Recreation Department, shall refund to the property owner or his or her representative not to exceed the amount originally deposited.

#### **SEC. 810.119. PARK ACQUISITION AND IMPROVEMENT AGREEMENT.**

(a) Applicants receiving credit against Park Impact Fees pursuant to the provisions of this Chapter shall enter into a secured Park Acquisition and Improvement Agreement with the County or another governmental agency or other entity responsible for operation and maintenance of parks and recreation facilities, as approved by the County, prior to approval of the final map for a Subdivision or prior to issuance of a building permit for a Development to provide for park facility construction, interim funding, and maintenance for Park Facilities.

(b) The secured Park Acquisition and Improvement Agreement shall comply with the requirements for improvement security as specified in the Subdivision Map Act at Government Code Section 66499 et seq., the County Subdivision Ordinance at County Code Section 81.407 et seq. for Subdivision projects, and the Department of Parks and Recreation Park Design Manual adopted by the Director.

(c) In those instances where the applicant and County or another governmental agency or other entity responsible for operation and maintenance of parks and recreation facilities, as approved by the County, enter into secured Park Acquisition and Improvement Agreement, the Director or designee is authorized to execute secured Park Acquisition and Improvement Agreement with applicants and to take any future actions to administer these or similar agreements as may be necessary to secure the construction, operation, and maintenance of the improvements.