

TITLE 12 PARKS AND RECREATION

CHAPTER V. AN ORDINANCE TO GIVE THE PEOPLE OF COSTA MESA A VOTE TO DETERMINE WHAT SIGNIFICANT CHANGES TO FAIRVIEW PARK MAY BE MADE

12-85. Code amendment.

This chapter is added to and amends the Costa Mesa Municipal Code as follows and supersedes any provisions that are inconsistent with this chapter. (Ord. No. 16-17, § 1, 11-8-16)

12-86. Purpose.

The purpose of this chapter is to:

- (a) Keep Fairview Park as a natural and open space as documented in the Fairview Park Master Plan as defined below.
- (b) Give the citizens of Costa Mesa a voice in determining whether the development of a project beyond the as-built condition of Fairview Park shall be allowed or not.
- (c) Ensure that Costa Mesa officials provide timely, accurate and unbiased review of any such proposed development or change to Fairview Park.
- (d) Ensure that the Citizens of Costa Mesa receive all necessary and accurate environmental and relevant information needed to cast an informed vote on any such proposed development or change. (Ord. No. 16-17, § 1, 11-8-16)

12-87. Definitions.

The definitions set forth in this section apply to the provisions of this chapter only and do not affect any other provisions of law.

- (a) "Significant change" means:
 - (1) Any of the following activities within Fairview Park:
 - a. Expansion or intensification of uses;
 - b. Expansion of current amenities;
 - c. Addition of new amenities;
 - d. Expansion of park hours;

- e. Grading;
- f. Expansion of any parking lot's footprint;
- g. Laying of foundations;
- h. Building of permanent structures;
- i. Installation of water, electric, gas, or sewer lines or delivery systems;
- j. Installation of additional lighting; or
- k. Alterations that use geotechnical or structural analyses.

(2) The following shall not be considered a significant change under this chapter:

- a. Installation of trash cans, park benches, picnic tables;
 - b. Installation of a concrete pad applied to any such trash cans, park benches, or picnic tables, used to provide stability and/or theft deterrence, so long as the upper surface area of such pad does not substantially exceed the outer footprint dimensions of said trash can, park bench or picnic table; or
 - c. Installation of ADA compliant rest areas along existing trails and any level concrete pads needed for those rest areas as long as the coverage area of those concrete pads are not in excess of the minimum required dimensions for ADA compliance and are spaced from other such pads a minimum of one hundred (100) linear feet or per ADA required spacing intervals.
- (b) "As-built condition" means the amenities and alterations that have been built in Fairview Park as of the effective date of the ordinance codified in this chapter.
- (c) "Fairview Park" means that area as defined by the City of Costa Mesa in the November 2008 Fairview Park Master Plan, encompassing all parts of the park area designated as "Fairview Park" and any lands currently included in Talbert Park (also known as Talbert Regional Park and Talbert Nature Preserve) if ever acquired by the City of Costa Mesa.
- (d) "Fairview Park Master Plan" means the document and its amendments approved by the City of Costa Mesa to guide the continuing and future alterations to Fairview Park that have been in effect since November 2008.
- (e) "Preservation" or "preservation efforts" means any activity whose purpose is to protect the natural state of Fairview Park. Those activities could include, but are not limited to, improved signage of an educational or warning nature, educational activities, and activities intended to protect vernal pools, archaeological sites, habitat or biological resources, including installation of protective fencing.
- (f) "Restoration" means any act or activity whose purpose is to restore any part of Fairview Park to its natural non-developed state. Those activities could include the removal of non-native or invasive plants, replanting of native habitat areas utilizing the on-site collection of seeds and native plant materials, and improvement of the watersheds to enhance the proper

flow of water in support of endangered species of plants or animals and the habitat that supports their survival.

(g) “Maintenance” means any activity whose purpose is to keep the park amenities in a neat, clean, serviceable and safe condition for the public’s use. Those activities would include, but are not limited to, mowing of turf areas, painting, replacement of broken lights and bulbs, repair of restroom facilities, rehabilitation and restriping of existing roads and parking lots, repair of any existing structures, and maintenance of existing paths or trails to allow safe access and use by emergency response vehicles.

(h) “Natural lands” means an area of relatively undeveloped land which:

(1) Has substantially retained its characteristics as provided by nature or has been substantially restored, or which can be restored, to a near-natural condition, and which has valuable wildlife, scenic, open-space, or park resources, or a combination thereof; or

(2) Meets the definition of open-space land in section 65560 of the California State Government Code.

(i) “Park” means a tract of land with outstanding scenic, natural, open-space, or recreational aspects, set apart to conserve natural, scenic, cultural, or ecological resources for present and future generations, and to be used by the public as a place for rest, recreation, education, exercise, inspiration, or enjoyment.

(j) “Structure” means something constructed for occupancy or use, whether installed on, above or below ground and any connected fixtures. Examples of structures include, but are not limited to:

(1) Buildings and any above-ground or below-ground electrical, water, gas, or sewage facilities or delivery systems needed or used by those buildings;

(2) Roads paved with concrete or asphalt;

(3) Curbs constructed of concrete or asphalt;

(4) Lamp stands or poles;

(5) Pergolas or gazebos;

(6) Parking lots;

(7) Retaining walls; or

(8) Microwave or communication towers. (Ord. No. 16-17, § 1, 11-8-16)

12-88. Effective date—Applicability.

(a) This chapter shall be binding and effective as of the earliest date allowed by law (the “effective date”). At its first public meeting following completion of the canvass of votes, the Costa Mesa City Council shall pass the resolution required by Elections Code section 9266. The following day, the elections official of Costa Mesa shall cause a copy of the complete text

of the adopted measure to be filed with the Secretary of State pursuant to Government Code Sections 34459 and 34460.

(b) Pursuant to Elections Code section 9205, all alterations to Fairview Park after notice of intention to circulate the initiative petition adding this chapter to the City Municipal Code shall be subject to the provisions of this chapter. (Ord. No. 16-17, § 1, 11-8-16)

12-89. Vote of the Costa Mesa electorate on any alteration to Fairview Park.

(a) Any significant change to Fairview Park, except those listed in section 12-90, shall be put to a vote of the Costa Mesa electorate; provided, however, that no such significant change shall be submitted to the Costa Mesa electorate unless it has first been approved by the appropriate governing body. A significant change to Fairview Park shall become effective only after approval by the appropriate governing body and a majority of the Costa Mesa electorate who are participating in an election proposing such significant change. An advisory election does not satisfy the voter approval requirement.

(b) The sample ballot materials mailed to the registered voters of Costa Mesa prior to an election shall describe any significant change to Fairview Park in a manner that clearly discloses both the scope and main features of the entire proposal (including any development or construction phases) that the significant change to Fairview Park includes, consists of or depends on, and the location and the acreage that will be affected by the significant change. The description shall clearly compare the proposal to the as-built condition. Easily readable maps shall be provided to assist the voters in understanding the description of the proposed significant change. All of the information called for by this subdivision shall be posted on Costa Mesa's website no later than thirty (30) days prior to an electorate election to approve or deny said change.

(c) The popular vote required by this chapter shall be in addition to all other applicable review and approval requirements for such significant change, including environmental review in compliance with the California Environmental Quality Act (CEQA). (Ord. No. 16-17, § 1, 11-8-16)

12-90. Exceptions.

(a) This chapter shall not apply to any significant changes to Fairview Park that are made for:

- (1) Restoration purposes;
- (2) Preservation purposes;
- (3) Maintenance purposes;
- (4) Public safety;

(5) To expand the size of Fairview Park, such as by City acquisition of lands currently contained in Talbert Park; or

(6) Significant changes as directed in the Fairview Park Master Plan that are in effect as of January 1, 2015, as long as that direction does not require the construction of any permanent structure.

(b) This chapter shall not apply to any significant change to Fairview Park that is legally approved and completed prior to the effective date of the ordinance codified in this chapter. (Ord. No. 16-17, § 1, 11-8-16)

12-91. Relationship to municipal code.

If any provision of this chapter conflicts with other provisions contained in the Costa Mesa Municipal Code, the provisions of this chapter shall supersede any other conflicting provision. (Ord. No. 16-17, § 1, 11-8-16)

12-92. Amendments.

No provision of this chapter may be amended or repealed except by a vote of the people of Costa Mesa. (Ord. No. 16-17, § 1, 11-8-16)

12-93. Judicial enforcement.

Any aggrieved person shall have the right to bring an action to enjoin any violation of this chapter or to enforce the duties imposed on Costa Mesa by this chapter. (Ord. No. 16-17, § 1, 11-8-16)

12-94. Construction.

This chapter shall be liberally construed to accomplish its purposes. Nothing herein shall be construed to make illegal any lawful use being made of any land in accordance with the Fairview Park Master Plan and City land use and zoning regulations in force before the effective date of the ordinance codified in this chapter, or to prohibit any activities required by state or federal law. (Ord. No. 16-17, § 1, 11-8-16)

12-95. Acts beyond control.

Nothing in this chapter shall be construed to bring action against the City for any injury to or change resulting from any natural cause beyond the control of the City, including, without limitation, fire, flood, storm and earth movement. (Ord. No. 16-17, § 1, 11-8-16)12-96.

Prohibited uses.

Any activity or use of Fairview Park inconsistent with the purpose of this chapter is prohibited. (Ord. No. 16-17, § 1, 11-8-16)