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ORDINANCE NO. 2026-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING CHAPTER III OF TITLE 15 OF THE COSTA MESA MUNICIPAL CODE RELATING TO DRAINAGE AND MAKING FINDINGS OF EXEMPTION UNDER CALIFORNIA ENVIRONMENTAL QUALITY ACT

THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, the City of Costa Mesa prepared and adopted a comprehensive 2006 Master Plan of Drainage Update that included a 20-year Capital Improvement Plan (CIP) Priority List for storm drain improvements to identify needed drainage facility improvements throughout the City and estimate the costs thereof; and

WHEREAS, the City of Costa Mesa's current Drainage Impact Fees are based on the 2006 20-year Capital Improvement Plan (CIP) Priority List for storm drain improvements; and

WHEREAS, the City Council determined that an update of the Master Plan of Drainage was necessary and the existing drainage fee and drainage fee provisions of the Municipal Code should be revised and updated to create a more appropriate fee structure for new development, redevelopment, and construction; and

WHEREAS, the City Council accepted Phase 1 of the Storm Drain System Master Plan Update on October 15, 2024, which included the Existing Conditions Assessment Report and the Proposed Drainage & Water Quality Improvements, dated October 2024; and

WHEREAS, on April 7, 2026, the City Council held a duly noticed open and public meeting regarding the adoption of the proposed updated Storm Drainage Impact Fee Nexus Study, to complete the Storm Drain System Master Plan Update, as required by Government Code sections 66016, 66017, and 66018; and

WHEREAS, the amount of each fee has been determined and calculated in a manner consistent with the California's Mitigation Fee Act and any applicable finance plan; and

WHEREAS, the effective date of a resolution that establishes the initial amount or increase of a fee is to be determined in accordance with California Government Code section 66017; and

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WHEREAS, all other prerequisites to the adoption of this Ordinance, the approval of the Storm Drainage Impact Fee Nexus Study dated February 2026, and the proposed updated Storm Drainage Impact Fees as specified by the Mitigation Fee Act (Cal. Gov. Code § 66000, *et seq.*) and other applicable laws, have been satisfied.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter III of Title 15 of the Costa Mesa Municipal Code is hereby amended to read as follows:

§ 15-64 Storm Drain System Master Plan identified.

The City has adopted and now has in effect a Storm Drain System Master Plan, which has been, after notice and public hearing, revised from time to time and which was adopted pursuant to Title 7, Chapter 3, Article 8, section 65450, *et seq.*, California [Government Code](#). The official copy of the current Storm Drain System Master Plan is on file in the Office of the City Engineer at 77 Fair Drive, Costa Mesa, California, and any reference in this chapter to the Storm Drain System Master Plan shall be to the reports, maps, plats, plans, specifications and other materials constituting said Storm Drain System Master Plan as on file at the above address. The terms of this chapter shall apply to all of the drainage facilities now in place within the City, as well as drainage facilities described and set forth in the Storm Drain System Master Plan and as may be required periodically by the City Engineer.

§ 15-65 Drainage fees established.

Development of, or construction on, property within the City will require construction of additional drainage facilities, as set forth in the Storm Drain System Master Plan and its Storm Drainage Impact Fee Nexus Study report and/or as may be identified periodically by resolution of the City Council or as may be imposed as a condition of development approval by the City Engineer. Drainage fees are hereby established for the Newport Bay Watershed and the Santa Ana Watershed. Drainage fees for the Newport Bay Watershed and the Santa Ana Watershed are to be set periodically by resolution of the City Council,

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which fees shall be tiered to take into account the intensity of development proposed for the property. The fee tiers shall be as follows: low-density residential; medium-density residential; high-density residential; and commercial/industrial. The drainage fees for each drainage shed shall be imposed on a pro rata, per acre basis upon any parcel or other piece of property for which an owner, developer or other applicant has requested approval to develop or redevelop, or to construct or reconstruct any structure upon such property pursuant to Chapter 15-70, prior to, and as a condition of approval being granted for such development or construction.

§ 15-66 Storm Drainage Watershed Funds

The funds collected hereunder shall be deposited in two separate funds which shall be known as the "Santa Ana Watershed Drainage Fund" and the "Newport Bay Watershed Drainage Fund". In the case of land development subject to the Subdivision Map Act, the drainage fee for the appropriate watershed, as defined in the adopted Storm Drain System Master Plan and its Storm Drainage Impact Fee Nexus Study, shall be collected, deposited and expended in accordance with sections 66483 through 66483.2 of the California [Government Code](#), in addition to the provisions set forth below, and all other applicable laws of the state. In the case of any development, redevelopment, construction, or reconstruction not subject to the Subdivision Map Act, the drainage fee for the appropriate watershed shall be collected, deposited and expended in accordance with sections 66000 through 66008 of the California [Government Code](#), in addition to the provisions set forth below, and all other applicable laws of the state.

§ 15-67 Required Construction.

(a) Whenever a development is planned in a location where the Storm Drain System Master Plan or condition of approval calls for a storm drain and the applicant or developer is required to construct the storm drain upon a public right-of-way or on private property to be dedicated as a public right-of-way, the applicant or developer shall be required to post appropriate bonds to cover the estimated construction cost of the storm drain and submit copies of bid prices to the City Engineer prior to construction. Any and all such bonds shall be exonerated upon acceptance of construction by the City Engineer.

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(b) If the City Engineer determines that additional drainage facilities are required in order to adequately provide for drainage, the City Engineer may require, as a condition of approval, the construction of those facilities for the detention of stormwater or such other means as may be necessary to provide adequate drainage of a particular property without adversely affecting adjacent properties or the City's drainage system.

(c) Notwithstanding anything provided in this section [15-67](#) or elsewhere in this Chapter III, any construction of drainage facilities required to be constructed prior to issuance of development approval shall be in addition to, and not in lieu of, imposition of the drainage fee applicable to that property. Facilities included in the Storm Drain System Master Plan may be eligible for credit and/or reimbursement pursuant to this chapter.

§ 15-68 Fee refund.

If a building permit expires without commencement of construction or a subdivision or parcel map is abandoned prior to final approval, then the applicant or developer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance, except that the City may retain the actual administrative costs incurred on behalf of said applicant or developer, in accordance with section 66014 of the California [Government Code](#). The fee payer must submit a written request for a refund to the City Engineer within 30 calendar days of the expiration of the permit. Failure to submit the required application for refund in a timely manner shall constitute a waiver of any right to the refund.

§ 15-69 Use of funds.

The money obtained through payment of drainage fees as provided for in this chapter may be used by the City to defray the cost of constructing storm drains and related facilities as identified in the Storm Drain System Master Plan. The City may incur indebtedness for the construction of any drainage facility and utilize either of the drainage fee funds for repayment.

§ 15-70 Fees to connect to existing facilities.

Subject to the provisions of section 66013 of the California [Government Code](#), applicants requesting connection with existing drainage facilities shall be required to pay the drainage fee as provided for in this chapter.

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§ 15-71 Applicability of fees.

Drainage fees shall be imposed in the following cases:

(a) For low density residential uses, any improvement, addition or major alteration to an existing structure or construction of an accessory structure, in any form, where the aggregate gross impervious percentage of the parcel as a result of such improvement exceeds 50% of the gross acreage of the parcel is subject to a drainage fee for the exceeding impervious acreage. The applicable drainage fee shall be calculated pursuant to the following formula:

Fee = (Impervious area exceeding 50% of the gross parcel acreage) X (Fee per Impervious Acre)

(b) For medium density residential uses, any improvement, addition or major alteration to an existing structure or construction of an accessory structure, in any form, where the aggregate gross impervious percentage of the parcel as a result of such improvement exceeds 70% of the gross acreage of the parcel is subject to a drainage fee for the exceeding impervious acreage. The applicable drainage fee shall be calculated pursuant to the following formula.

Fee = (Impervious area exceeding 70% of the gross parcel acreage) X (Fee per Impervious Acre)

(c) For high density residential uses, any improvement, addition or major alteration to an existing structure or construction of an accessory structure, in any form, where the aggregate gross impervious percentage of the parcel as a result of such improvement exceeds 80% of the gross acreage of the parcel is subject to a drainage fee for the exceeding impervious acreage. The applicable drainage fee shall be calculated pursuant to the following formula.

Fee = (Impervious area exceeding 80% of the gross parcel acreage) X (Fee per Impervious Acre)

(d) For commercial and industrial uses, any improvement, addition or major alteration to an existing structure or construction of an accessory structure, in any form, where the aggregate gross impervious percentage of the parcel as a result of such improvement exceeds 90% of the gross acreage of the parcel is subject to a drainage fee for the

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exceeding impervious acreage. The applicable drainage fee shall be calculated pursuant to the following formula.

Fee = (Impervious area exceeding 90% of the gross parcel acreage) X (Fee per Impervious Acre)

(e) For development of vacant land, any improvement or construction is subject to a drainage fee. The applicable drainage fee shall be calculated pursuant to the following formula.

Fee = (Gross Parcel Acreage) X (Land Use Impervious Factor) X (Fee per Impervious Acre)

(f) For land use changes, where the impervious factor for the future land uses as identified in the Storm Drain System Master Plan is greater than the impervious factor of the existing land use as identified in the Storm Drain System Master Plan.

Fee = (Drainage Fee per Acre of Future Land Use – Drainage Fee per Acre of Existing Land Use) X (Gross Property Acreage)

Drainage fees shall not be imposed in the following cases:

(a) For accessory dwelling units (ADU) less than 750 square feet.

(b) For reconstruction of existing structures in the event of a disaster where the reconstruction does not increase the impervious area of the parcel.

(c) For land use changes where the impervious coefficient for the future land use as identified in the Storm Drain System Master Plan is less than the impervious coefficient of the existing land use.

§ 15-72 Deposit of fees.

Subject to the provisions of the Subdivision Map Act or sections 66000 through 66007 of the California [Government Code](#), as applicable, a drainage fee paid in accordance with this chapter shall be deposited in the appropriate watershed drainage fund prior to the approval of the final tract or parcel map in the case of recorded map developments and at the issuance of a building permit in all other instances, except for residential

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developments expressly permitted by Government Code section 66007 to pay such fees at issuance of a certificate of occupancy or final inspection, whichever first occurs.

§ 15-73 Private facilities.

Fees provided for, and the expenditures to be made from, the Drainage Fee Fund are to be applicable to those facilities as provided for in the Storm Drain System Master Plan. Drainage facilities necessary within any development by reason of requirements of the City or the Uniform Building Code shall be at the sole expense of the developer, and funds obtained as provided for in this chapter shall not be expended therefore.

§ 15-74 Credits, Reimbursement & Reductions.

- A. Whenever the conditions of approval of a development project require direct construction of a public storm drainage facility (see section 15-67) described or listed in the Storm Drain System Master Plan, a credit or reimbursement, as applicable, shall be given against the development impact fee, which would have been charged to the development project under the program, for actual construction costs incurred by the developer, up to the cost included in the Storm Drain System Master Plan. The reimbursement and/or credit amount shall not include any improvements the City can require from the development project under the Subdivision Map Act, or the portion of the improvement deemed to be an on-site improvement that is not included in the Storm Drain System Master Plan.
- B. A developer may be allowed a reduction in fees from the drainage fee requirements of this chapter if the developer enters into a development agreement with the City pursuant to which drainage fees are assessed to the developer, or equivalent or comparable improvements are constructed and implemented by the developer.
- C. No refund or payment shall be due to an applicant in the event that the impervious coefficient for the future land use as identified in the Storm Drain System Master Plan is less than the impervious coefficient of the existing land use.
- D. State law. The City will comply with any fee reduction or fee adjustment requirements imposed by state law.

§ 15-75 Appeals

- A. A developer subject to the drainage fees required by this chapter for a particular project may apply to the City Council for: (a) a fee adjustment based upon a showing of substantial evidence of a lesser impact upon the level of service; or (b) a land use category adjustment based upon a showing of substantial evidence that another land use category is more appropriate for a particular development. The written appeal and the applicable appeal fee must be filed with the City Clerk's Office, prior to the issuance of building permit. The City Council shall establish the appeal fee by Resolution. The appeal shall state in detail the factual basis for the request for adjustment.
- B. The City Council shall consider the appeal at a public meeting to be held within 60 calendar days after the appeal application has been filed. The decision of the City Council shall be final. The decision of the City Council shall be in writing and shall be mailed to the applicant.
- C. If an adjustment is granted pursuant to this section, any subsequent change or intensification of the use or uses of the property or any expansion of the structures on the property, shall invalidate the adjustment, and the applicant shall be subject to the development impact fee requirement applicable to the entire development based on the fee in effect at the time of the change or expansion, less any amount previously paid.
- D. If an adjustment is not granted pursuant to this section, then upon the payment of the required fees, the City shall provide the applicant a written notice of the amount of the fees or a description of the dedications, reservations, or other exactions, and shall also provide notification that the 90-day protest period has begun, pursuant to Government Code section 66020.

Section 3. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies

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and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 4. The City Council finds that adoption of this ordinance is not a “project” under the California Environmental Quality Act, but even if it were, consistent with CEQA Guidelines section 15378(b)(4), adoption of the ordinance constitutes the establishment of a government funding mechanism and long-range fiscal planning tool. Section 15378(b)(4) provides that a “project” does not include fiscal activities or administrative actions that do not involve any commitment to a specific project or physical development.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 6. The Mayor shall sign and the City Clerk shall certify the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with section 36933 of the Government Code.

PASSED AND ADOPTED this 21st day of April 2026.

John Stephens, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

Kimberly Hall Barlow, City Attorney

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THIS PAGE IS RESERVED FOR THE CITY CLERK'S OFFICE.

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 2026-xx was duly introduced for first reading at a regular meeting of the City Council held on the 7th day of April 2026, and that thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council held on the 21st day of April, 2026, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 21st day of April 2026.

Brenda Green, City Clerk