

**ORDINANCE NO. 14-03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT  
ADOPTING THE "LANTERN DISTRICT DEVELOPMENT IMPACT FEE,"  
AND AMENDING THE MUNICIPAL CODE BY ADDING CHAPTER 14.30  
RELATING TO PUBLIC FACILITY DEVELOPMENT IMPACT FEES**

WHEREAS, the City of Dana Point Town Center Plan of June 2008 found that public facilities and services improvements are necessary for the Town Center Area to realize its potential, citing high traffic speeds and poor circulation/access with one way streets, lack of a strong pedestrian environment, lack of landscaping and open space linkages, lack of a critical mass and mix of retail uses, and lack of housing; and

WHEREAS, the City Council branded the 'Town Center' area as the 'Lantern District' on December 3, 2013. The Lantern District boundary is the same as the Town Center Plan boundary; and

WHEREAS, the City of Dana Point is in the process of rehabilitating and improving the Dana Point Town Center Public facilities and services in accordance with the goals and policies established within the City's General Plan, the Town Center Plan, and in accordance with the City's Capital Improvement Plan; and

WHEREAS, the City has budgeted general funds to begin the PCH/Del Prado Street Improvements Project Phase I to construct street and public right-of-way improvements necessary to mitigate development impacts on PCH and Del Prado between Blue Lantern and Copper Lantern and may decide to provide additional public facilities and services to this Lantern District Area in the future; and

WHEREAS, the City Council has determined that the developing retail, commercial and residential property owners within the Lantern District will benefit from the proposed public improvements and as they develop further, will place greater demands on the public facility improvements from the PCH/Del Prado Street Improvements Project Phase I; and

WHEREAS, the cost of the Public Infrastructure Improvements is a major investment intended to improve the Lantern District, benefiting both the visitors, residents, and the private property owners and businesses therein; and

WHEREAS, the State of California authorizes the collection of Development Impact Fees as set forth in Government Code 66000-66025 ("The Mitigation Fee Act"); and

WHEREAS, a Development Impact Fee is not a tax, but is a fee requiring a nexus between the cost of the service and the benefit of the improvement; in this case the property owner/business owners developing within the Lantern District; and

WHEREAS, a Lantern District Development Impact Fee Feasibility Study, dated February 2014, has been prepared for the City by Psomas Engineering; and

WHEREAS, on March 18, 2014 the City Council of the City of Dana Point, California held a duly noticed Public Hearing on the Adoption of the Lantern District Development Impact Fee, considered all evidence presented therein and determined that the City should adopt the Lantern District Development Impact Fee Feasibility Study and establish the Lantern District Development Impact Fee; and

WHEREAS, the adoption of the Lantern District Development Impact Fee Feasibility Study and the Lantern District Development Impact Fee is exempt from the provisions of the California Environmental Quality Act Pursuant to Title 14, California Administrative Code 15273; and

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the City Council of the City of Dana Point as follows:

**Section 1:** The City Council hereby adopts the "Lantern District Development Impact Fee Feasibility Study" prepared by Psomas Engineering dated February 2014. Copies of this document shall be available for public inspection in the Office of the City Clerk.

**Section 2:** A new chapter 14.30 is hereby added to the Municipal Code of the City of Dana Point to read in its entirety as follows:

***Chapter 14.30***

**14.30.010 Purpose**

The City Council finds that the purpose of the Development Impact Fee is to defray a portion of the cost of new public facilities related to the development project known as the Dana Point Town Center (Lantern District) as outlined in the General Plan and the Town Center Plan of the City of Dana Point.

**14.30.020 Use**

The Fee will be used to comply with the Town Center Plan and with the General Plan as outlined in the Urban Design Element and Economic Development Sections to improve the Facilities and Standard of Services provided in the Town Center, renamed the Lantern District, with the same boundary. The City shall establish a Lantern District Development Impact Fee account to collect revenues and interest-earned thereon as development occurs and reimburse the General Fund annually solely for Public Facility and Service expenditures.

**14.30.030 Establishment**

The Lantern District Development Impact Fee is hereby established and imposed upon the issuance of all Building Permits for Commercial, Retail and Residential Development within the Town Center Plan Area, now known as The Lantern District. This Fee shall be calculated to reflect the developments' Fair Share Cost of mitigating the increased demand

such development places upon the Lantern District. The City Council shall set forth the specific amount of the Lantern District Development Impact Fee.

**14.30.040 Adjustment of Fee**

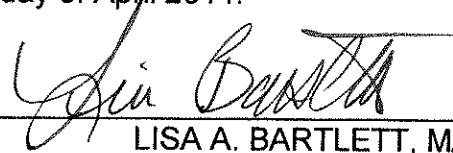
The Lantern District Development Impact Fee shall annually be adjusted and become effective each January 1<sup>st</sup> by the greater of two percent (2%) or the Cumulative Percentage Increase in the Consumer Price Index for all urban consumers ("CPI-U") for the Los Angeles-Riverside-Orange County California Standard Metropolitan Statistical Area ("Index") published by the Bureau of Labor Statistics of the United States Department of Labor. The Index used each year will be as reported for the month of June preceding the particular January 1<sup>st</sup> effective date. The City Council may also adjust such fee when it finds that the cost of acquiring and/or construction of new public facilities or services within the Lantern District has increased in excess of the Consumer Price Index.

**14.30.050 Exemptions and Appeals**

A Building Permit Applicant may appeal the imposition of the Lantern District Development Impact Fee on its development by submitting a written Appeal to the Director of Community Development or the Director's Designee. The Director shall review the Appeal and rule thereon within thirty (30) calendar days of receipt of the Appeal. The Applicant shall show that its development is not the type of project that will add any additional business customers, or residents/visitors at the property, or create additional use or demand upon public facilities. Substantially upgrading existing facilities to attract customers is considered an impact, subject to the fee. Any determination of the Director or the Director's Designee may be appealed to the City Council in writing within 10 calendar days of the Director's decision. The City Council shall have 45 days to render a decision on an Appeal. Building Permit Approvals shall be held in abeyance during the Appeal Process.

**Section 3:** The City Clerk shall certify to the passage of this Ordinance, and the same to be published as required by Law and the same shall take effect as provided by Law.

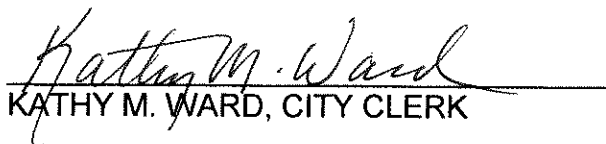
PASSED, APPROVED, AND ADOPTED this 15th day of April 2014.



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LISA A. BARTLETT, MAYOR

ATTEST:



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KATHY M. WARD, CITY CLERK

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Establishment of the Lantern District Development Impact Fee  
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STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF DANA POINT )

I, KATHY M. WARD, City Clerk, of the City of Dana Point, California DO HEREBY CERTIFY that the foregoing Ordinance No. 14-03 was duly introduced at a regular meeting of the City Council on the 18<sup>th</sup> day of March, 2014, and was duly adopted and passed at a regular meeting of the City Council on the 15<sup>th</sup> day of April, 2014, by the following vote, to wit:

AYES: Council Members Olvera, Schoeffel, Mayor Pro Tem Weinberg,  
and Mayor Bartlett  
NOES: Council Member Brough  
ABSENT: None  
ABSTAIN: None

  
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KATHY M. WARD, CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF DANA POINT )

AFFIDAVIT OF POSTING  
AND PUBLISHING

KATHY WARD, being first duly sworn, deposes, and says:

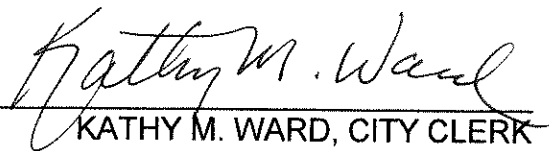
That she is the duly appointed and qualified City Clerk of the City of Dana Point;

That in compliance with State Laws of the State of California, ORDINANCE NO. 14-03, being:

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was published in summary in the Dana Point News on the 27<sup>th</sup> day of March, 2014, and the 24<sup>th</sup> day of April, 2014, and, in further compliance with City Resolution No. 91-10-08-1, on the 20<sup>th</sup> day of March, 2014, and the 17<sup>th</sup> day of April, 2014, was caused to be posted in four (4) public places in the City of Dana Point, to wit:

Dana Point City Hall  
Capistrano Beach Post Office  
Dana Point Post Office  
Dana Point Library

  
KATHY M. WARD, CITY CLERK  
Dana Point, California