



AA

City of Costa Mesa, An Initiative Requiring Changes in Use at Fairview Park be Subject to Voter Approval

Shall an ordinance requiring voter approval for 1) construction of playgrounds, athletic fields, platforms/retaining walls for vista overlook, stairways to provide access to bluffs, new restrooms, parking lots, museum/multipurpose building, boardwalk and pedestrian bridges; 2) extended park hours for community events; 3) installation of parking lot lighting; or 4) other permanent structures at Fairview Park be adopted?

What your vote means

YES	NO
A “Yes” vote is a vote to require certain changes in use at Fairview Park, as defined in the ordinance, including 1) construction of playgrounds, athletic fields, platforms/retaining walls for vista overlook, stairways to provide access to bluffs, new restrooms, parking lots, museum/multipurpose building, boardwalk and pedestrian bridges; 2) extended park hours for community events; 3) installation of parking lot lighting; or 4) other permanent structures be subject to voter approval.	A “No” vote is a vote to continue implementing the existing Fairview Park Master Plan.

For and against

FOR	AGAINST
Richard Mehren President, Fairview Park Preservation Alliance	Jim Righeimer Mayor Pro Tem, City of Costa Mesa
Katrina Foley Member, Costa Mesa City Council Business Attorney	Gordon Bowley President, Costa Mesa United
Andy Campbell Geologist, Water Resources Planner	Ethan Temianka Vice President, Mesa Water District
Larry Courter Founder, Fairview Park Advocates	Brett Eckles Chairman, Parks & Recreation Commission
Sandra Genis Member, Costa Mesa City Council Land Use Planner	Ron Amburgey Former Committee Member, Fairview Park Citizens Advisory Committee



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Full Text of Measure AA City of Costa Mesa

The people of Costa Mesa declare the following:

1. Parks, wildlife habitat, and open-space lands are vital to maintaining the quality of life in Costa Mesa. As the City's population increases, it is of growing importance to provide parks and recreational opportunities to the residents of Costa Mesa.
2. Preservation of Costa Mesa's unique natural heritage is in the interest of all Costa Mesa residents and visitors.
3. Fairview Park is a unique recreational resource and should be preserved and restored as such, in perpetuity, for the public to enjoy.
4. The intent of the City of Costa Mesa in its purchase of Fairview Park as documented in the 1986 purchase agreement and grant deed, and demonstrated by the development and implementation of the Fairview Park Master Plan was to preserve and protect the last of Costa Mesa's natural open space.
5. There is a need to protect Fairview Park from alterations that reduce the tangible and intangible benefits to the public while visiting and exploring this natural, open space.
6. Fairview Park is a passive use park, developed to promote activities such as walking, hiking, jogging, running, bicycling, glider flying, kite flying, dog walking, picnicking, small group physical activities and similar uses.
7. Fairview Park, historically, has not been a site for organized sports activities that require amenities to be developed or built to meet the general need of those sports activities.
8. Currently, Fairview Park provides essential habitat for species of special significance, some of which are federally protected species which are in danger of extinction. The Park contains plants and animals, archeologically sensitive sites, and extremely rare vernal pools which need to be protected for future generations.
9. Once a change is instituted, and the natural land is unnaturally altered, it will be lost for future generations.
10. The registered voters of Costa Mesa should have the right to decide whether a change in Fairview Park as previously or currently proposed, but not constructed, should be allowed.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF COSTA MESA DO ORDAIN AS FOLLOWS:

Sec. ___1. Code Amendment. This Ordinance is added to and amends the Costa Mesa Municipal Code as follows and supersedes any provisions that are inconsistent with this ordinance.

Sec. ___2. Purpose. The purpose of this ordinance 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 the 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.

Sec. ___3. Definitions. The definitions set forth in this section apply to the provisions of this ordinance only and do not affect any other provisions of law.

A. **"Significant Change"** means:

1. any of the following activities within Fairview Park:
 - i. expansion or intensification of uses, or
 - ii. expansion of current amenities, or
 - iii. addition of new amenities, or
 - iv. expansion of park hours, or
 - v. grading, or
 - vi. expansion of any parking lot's footprint, or
 - vii. laying of foundations, or
 - viii. building of permanent Structures, or
 - ix. installation of water, electric, gas, or sewer lines or delivery systems, or
 - x. installation of additional lighting, or
 - xi. alterations that use geotechnical or structural analyses.
2. The following shall not be considered a "Significant Change" under this ordinance:
 - i. installation of trash cans, park benches, picnic tables, or
 - ii. 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
 - iii. installation of ADA compliant rest areas along existing trails and any level concrete pads needed for those rest area 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



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spacing intervals.

- B. **“As-Built Condition”** means the amenities and alterations that have been built in Fairview Park as of the effective date of this ordinance.
- 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, or
 2. roads paved with concrete or asphalt, or
 3. curbs constructed of concrete or asphalt, or
 4. lamp stands or poles, or
 5. pergolas, or gazebos, or
 6. parking lots,
 7. retaining walls, or
 8. microwave or communication towers.

Sec. ___4. Effective Date, Applicability.

- A. This ordinance 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 ordinance to the City Municipal Code shall be subject to the provisions of this ordinance.

Sec. ___5. Vote of the Costa Mesa Electorate on any alteration to Fairview Park.

- A. Any Significant Change, except those listed in Sec. 6 below, to Fairview Park 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.



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- C. The popular vote required by this ordinance 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").

Sec. __6. Exceptions.

- A. This ordinance shall not apply to any Significant Changes to Fairview Park that are made for:
1. restoration purposes, or;
 2. preservation purposes, or;
 3. maintenance purposes, or;
 4. public safety, or;
 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 is in effect as of January 1, 2015, as long as that direction does not require the construction of any permanent structure.
- B. This ordinance shall not apply to any Significant Change to Fairview Park that is legally approved and completed prior to the effective date of this ordinance.

Sec. __7. Relationship to Municipal Code. If any provision of this ordinance conflicts with other provisions contained in the Costa Mesa Municipal Code, the provisions of this ordinance shall supersede any other conflicting provision.

Sec. __8. Amendments. No provision of this ordinance may be amended or repealed except by a vote of the People of Costa Mesa.

Sec. __9. Judicial Enforcement. Any aggrieved person shall have the right to bring an action to enjoin any violation of this ordinance or to enforce the duties imposed on Costa Mesa by this ordinance.

Sec. __10. Construction. This ordinance 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 this ordinance, or to prohibit any activities required by State or Federal Law.

Sec. __11. Consistency with Other Ballot Measures. If another ballot measure is placed on the same ballot as this measure and deals with the same subject matter, and if both measures pass, the voters intend that both measures shall be put into effect, except to the extent that specific provisions of the measures are in direct conflict. In the event of a direct conflict, the measure which obtained more votes will control as to the directly conflicting provisions only. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

Sec. __12. Severability. If any section, subdivision, clause, sentence, phrase or portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining sections, subdivisions clauses, sentences, phrases and portions shall remain valid and enforceable. The voters declare that they would have passed all sections, subdivisions, clauses, sentences, phrases and portions of this ordinance without the section, subdivision, clause, sentence, phrase or portion declared invalid by a court of competent jurisdiction.

Sec. __13. Acts Beyond Control. Nothing in this ordinance 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.

Sec. __14. Prohibited Uses: Any activity or use of Fairview Park inconsistent with the purpose of this ordinance is prohibited.



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Impartial Analysis City of Costa Mesa Measure AA

Measure AA, known as “An Initiative Requiring Changes in Use at Fairview Park be Subject to Voter Approval,” (“Measure”) would amend the Costa Mesa Municipal Code to require certain changes to Fairview Park, as defined, be subject to voter approval.

If adopted, the Measure would prohibit the following facilities currently authorized under the Fairview Park Master Plan from being constructed without first obtaining voter approval:

- To the east of Placentia Avenue, platforms and retaining walls for vista overlook area; a museum and/or multipurpose building; two paved parking lots to accommodate a total of 131 cars; and a playground.
- To the west of Placentia Avenue, covered picnic areas; a bus turnaround; stairs to allow bluff access; grading bluffs to prevent erosion; new restrooms; playground; and boardwalk and pedestrian bridge on new trail.

Other facilities or activities that would be prohibited unless approved by the voters include completing structures that were under construction when the initiative became effective; installation of concrete curbs; expansion of existing buildings; installation of additional lighting; expanding park hours; new trails not currently listed in the Fairview Park Master Plan; installation of water, electric, gas or sewer lines; expansion of parking lots; construction of retaining walls; an increase in the number of community events such as concerts-in-the-park, seasonal festivals or races; increased staffing to facilitate a greater number of park visitors; installation of pergolas and/or gazebos; and rest areas along trails that are larger than the minimum required by law, or are within 100 feet of one another.

The Measure would not require voter approval for habitat restoration, preservation, maintenance, public safety, expanding Fairview Park’s size, improvements pursuant to the Fairview Park Master Plan which do not require installing permanent structures, and “significant changes” approved and built before the Measure’s effective date.

The Measure requires specific information in any sample ballot measure mailed to voters prior to an election proposing any change at Fairview Park.

The voter approval requirements are in addition to all other City review and approval requirements including review under the California Environmental Quality Act that may be applicable to the specific change. The change cannot be submitted to the voters until it has first been approved by the appropriate governing body. Any amendment or repeal of the ordinance must be approved by a vote of the electorate.

This Measure was placed on the ballot by a petition signed by the requisite number of voters.

The above statement is an impartial analysis of Measure AA. If you desire a copy of the measure, please call the elections official’s office at 714-754-5225 and a copy will be mailed at no cost to you.



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Argument in Favor of Measure AA

Measure AA is about protecting Fairview Park for your children and their children. The park has been under attack for years by groups who want to take over portions of the park for their own interests. Measure AA keeps capricious choices of three council members from changing Fairview Park unless the people of Costa Mesa agree.

The city dumped tons of dirt in a canyon providing habitat for endangered birds. Truckloads of gravel were dumped in rare, vernal wetlands, in clear violation of federal laws. None of this was given a public hearing. The decisions were made behind closed doors.

Measure AA is needed to protect the unique resources of Fairview Park, including the model railroad enjoyed by generations of children and families.

Fairview Park is home for rare plants and animals. It is on the National Register of Historic Places and is a sacred burial ground for Native Americans who inhabited Fairview Park for thousands of years.

Costa Mesa taxpayers bought Fairview Park to head off Orange County's plans for a more intensive, active use park. Measure AA guarantees that Fairview Park will remain a nature park unless you, the voter, decide to change it.

Fairview Park provides a rare opportunity to "get away from it all" here in Costa Mesa—without getting on a freeway.

Voter approval will not be needed for any changes required by the federal government for ADA compliance or for habitat restoration, maintenance, education, or safety.

But Measure AA assures no major changes to Fairview Park will occur unless the citizens of Costa Mesa give their okay.

Measure AA ensures we won't lose the beauty and quiet tranquility of this natural open space.

VOTE YES ON MEASURE AA

<http://www.fairviewparkalliance.org>

Fairview Park Preservation Alliance on Facebook.

s/ Richard Mehren
President, Fairview Park Preservation Alliance

s/ Katrina Foley
Member, Costa Mesa City Council
Business Attorney

s/ Andy Campbell
Geologist, Water Resources Planner

s/ Larry Courter
Founder, Fairview Park Advocates

s/ Sandra Genis
Member, Costa Mesa City Council
Land Use Planner

Rebuttal to Argument in Favor of Measure AA

Dear Costa Mesa Resident,

My name is Scott Voigts. Twelve years ago I was paralyzed in a construction accident.

Now I use a motorized wheel chair to get around. I have a loving wife and we are raising two wonderful teenage girls.

I don't complain. I thank God every day that I am alive and can enjoy my family and the outdoors.

Fairview Park is a regional treasure but I'm concerned that Measure **AA** won't allow for the necessary improvements to the park for the handicapped.

I am able to drive but need reasonable facilities like a parking lot and lights to enjoy the park that might be rejected under Measure **AA**.

Measure **AA** requires a public vote for basic improvement like trails or additional concerts in the park. Some of Fairview's trails are too steep for wheel chairs or folks on crutches.

Basic facilities like handicapped restrooms might require a public vote before they're constructed. Such a requirement could result in a lawsuit under the American's With Disabilities Act.

I am a city councilman and know how expensive ADA lawsuits can be for the taxpayers.

I know the residents of Costa Mesa are compassionate people that would never do anything to hurt the handicapped. That's why I don't understand the goals of Measure **AA**.

I see a political motivation behind Measure **AA** not the preservation of Fairview Park.

Measure AA is mean spirited and could expose Costa Mesa to massive lawsuits. Vote No.

Sincerely,

Scott Voigts

s/ James Righeimer
Mayor Pro Tem, City of Costa Mesa

s/ Ethan Temianka
Vice President, Mesa Water

s/ Ron Amburgey
Former Committee Member
Fairview Park Citizens Advisory Committee

s/ Gordon Bowley
President, Costa Mesa United

s/ Brett Eckles
Chairman, Costa Mesa Parks and Recreation Commission



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Argument Against Measure AA

Measure **AA** is a solution looking for a problem. It should be rejected, it's a cynical political ploy.

After hundreds of hours of citizens' involvement and numerous public meetings, the Fairview Master Plan was adopted.

It protects Fairview Park in its natural state and already forbids construction of baseball diamonds, football fields, and other physical improvements to the park.

Despite the existing ban on developing the park, the political opportunists in town are using Fairview Park as an election ploy to benefit their city council campaign.

When collecting signatures the supporters misled residents by telling them Measure **AA** would stop condo's development at Fairview Park. There has never been a plan to develop anything at Fairview Park. That didn't stop them from lying.

MEASURE **AA** LIKELY VIOLATES FEDERAL LAW

The Americans With Disabilities Act requires those with handicaps unfettered access public and private property, including parks.

We believe Measure **AA** violates the Americans With Disabilities Act and will be found unconstitutional, costing Costa Mesa's taxpayers a bundle.

WHY DO THE SUPPORTERS WANT TO HURT THE HANDICAPPED?

Fairview Park is for everyone, not just the few that use it today. As written the measure's supporters have foreclosed on the necessary public health facilities required for all segments of the population, including the handicapped. Bathroom remodeling, trails, picnic areas, and changes in hours of operation will require a citywide vote.

COULD COST US \$800,000 IN OPEN SPACE GRANTS

The City is in line for an \$800,000 open space grant from the Orange County Transportation Authority. It likely will lose this grant because of this measure because it is earmarked for improving bicycle trails at Fairview Park. This improvement will require a citywide vote.

Vote No on Measure **AA**. It hurts the handicapped, likely violates Federal law, and costs us \$800,000 in grant money.

s/ Jim Righeimer
Mayor Pro Tem, City of Costa Mesa

s/ Gordon Bowley
President, Costa Mesa United

s/ Ethan Temianka
Vice President, Mesa Water District

s/ Brett Eckles
Chairman, Parks & Recreation Commission

s/ Ron Amburgey
Former Committee Member, Fairview Park Citizens Advisory Committee

Rebuttal to Argument Against Measure AA

Measure AA is the only measure on this ballot guaranteeing that Fairview Park will be kept natural unless Costa Mesa voters decide otherwise.

It gives you, the Costa Mesa voter, the final voice on any significant change to Fairview Park.

Measure AA will protect the unique resources of Fairview Park, including endangered species and their habitat, cultural resources thousands of years old, and the only large open and natural space for miles around.

Measure AA :

- Is compliant with ADA
- Is Constitutional.

No agency has requested its grant money back because of Measure AA.

Don't be misled by council majority propaganda. Check the facts yourself.

Measure AA allows, without a vote:

- Activities for restoration of habitat or amenities maintenance (Measure AA Section 6.A.1 through 3).
- Public safety improvements (Section 6.A.4).
- Improvements necessary for handicapped access (Section 3.A.2.iii)
- Any activities required by State or Federal Law (Section 10)

Measure AA will prevent, without a vote:

- Changes in the park that will irretrievably alter the character of Fairview Park.
- The type of damage inflicted on Fairview Park by city officials—damage that's resulted in a Federal investigation.
- Athletic fields, golf facilities, roads through Fairview Park, rave festivals, and night lighting.

Don't let the whims of a City Council (or Park Commission) majority dictate the future of Fairview Park.

Let's make sure Fairview Park is truly the crown jewel of Costa Mesa, for now and for generations to come.

Vote Yes on Measure AA. It respects the handicapped, respects Federal law, and supports getting open space grants.

Learn more: <http://www.fairviewparkalliance.org/> and <https://www.facebook.com/groups/1626485264275535/>.

s/ Kelley Sigel
Educator - NMUSD

s/ John Stephens
Attorney/Business owner

s/ Jay Humphrey
Former Costa Mesa City Council Member and Vice Mayor

s/ Terry Welsh
Member, Save Banning Ranch

s/ Jack Ross
Former Member, Costa Mesa Chamber of Commerce Board of Directors