

**RESOLUTION NO. 78733**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE SETTING FORTH THE SCHEDULE OF PARKLAND FEES CHARGED PURSUANT TO CHAPTERS 14.25 AND 19.38 OF THE SAN JOSE MUNICIPAL CODE TO DEFINE SINGLE RESIDENT OCCUPANCY AND SECONDARY UNITS OR ACCESSORY DWELLING UNIT FEE RATES IN THE SCHEDULE OF PARKLAND FEES AS SET FORTH IN THE SAN JOSE MUNICIPAL CODE TITLE 20**

**WHEREAS**, the City of San José ("City") enacted the Parkland Dedication Ordinance, San José Municipal Code ("SJMC") Chapter 19.38 ("PDO") in 1988 and the Park Impact Ordinance, SJMC Chapter 14.25 ("PIO") in 1992 to meet the demand for new neighborhood and community parkland generated by development of new residential subdivisions and new non-subdivided residential projects, both of which have been amended since that time; and

**WHEREAS**, on January 9, 2007, the City Council adopted Resolution No. 73587 which set forth the Schedule of Parkland Fees and Credits charged under the PDO and PIO to reflect the land values identified in the 2005 Residential Land Value Study to temporarily reduce the parkland fees for developments in the Downtown Core Area, and to revise the credits for private recreation improvements; and

**WHEREAS**, on December 4, 2007, the City Council adopted Resolution No. 74152 which set forth the Schedule of Parkland Fees charged under the PDO and PIO to reflect the land values identified in the 2006 Residential Land Value Study; and

**WHEREAS**, on April 8, 2008, the City Council adopted Resolution No. 74314 to establish parkland fees for secondary units; and

**WHEREAS**, on September 30, 2008, the City Council adopted Resolution No. 74608 which set forth the Schedule of Parkland Fees charged under the PDO and PIO to reflect the land values identified in the 2007 Residential Land Value Study; and

**WHEREAS**, on April 20, 2010, the City Council adopted Resolution No. 75346 which set forth the Schedule of Parkland Fees charged under the PDO and PIO to reflect the land values identified in the 2009 Residential Land Value Study; and

**WHEREAS**, on August 24, 2010, the City Council adopted Resolution No. 75540 to establish parkland fees for low-income units at fifty percent (50%) of the applicable parkland fees for each residential unit type; and

**WHEREAS**, on May 10, 2011, the City Council adopted Resolution No. 75799 which set forth the Schedule of Parkland Fees charged under the PDO and PIO to reflect the land values identified in the 2010 Residential Land Value Study; and

**WHEREAS**, on June 7, 2011, the City Council adopted Resolution No. 75824 to clarify the definition of "Low-Income Units" exempt from the payment of parkland fees for residential projects that have obtained an approved discretionary permit or tentative or parcel map on or before October 24, 2010, and subsequently obtain an amendment for essentially the same project without changing the type or increasing the number of units; and

**WHEREAS**, on May 8, 2012, the City Council adopted Resolution No. 76220 which set forth the Schedule of Parkland Fees charged under the PDO and PIO to reflect the land values identified in the 2011 Residential Land Value Study, to amend Section 2.B of EXHIBIT B of Resolution No. 73587, as amended, and set the parkland fees charged for high-rise multi-family residential projects of twelve (12) stories or more located in the Downtown Core at fifty percent (50%) of the applicable parkland fees for multi-family 5+ units in the Downtown Area; and

**WHEREAS**, on May 14, 2013, the City Council adopted Resolution No. 76631 which set forth the Schedule of Parkland Fees charged under the PDO and PIO to reflect the land values identified in the 2012 Residential Land Value Study and continued the incentive program for downtown high-rise construction by keeping parkland fees there at \$7,650 per unit; and

**WHEREAS**, on September 9, 2014, the City Council adopted Resolution No. 77153 which set forth the Schedule of Parkland Fees charged under the PDO and PIO to reflect the land values identified in the 2012 Residential Land Value Study trended to 2013 and the updated 2010 Census data; and

**WHEREAS**, on September 29, 2015, the City Council adopted Resolution No. 77538 which set forth the Schedule of Parkland Fees charged under the PDO and PIO to reflect the land values identified in the 2012 Residential Land Value Study trended to 2014 and the updated 2010 Census data; and

**WHEREAS**, on September 20, 2016, the City Council adopted Resolution No. 77926 which set forth the new Schedule of Parkland Fees to be imposed under the PDO and PIO based on the 2012 Residential Land Value Study trended to 2015 and the updated 2010 Census data, and authorized the City Manager to determine the applicable parkland

fees for any residential units in the City of San José that are not included in the Schedule of Parkland Fees based on the nearest Multiple Listing Service districts; and

**WHEREAS**, on February 7, 2017, the City Council adopted Resolution No. 78079 which set forth the Schedule of Parkland Fees charged pursuant to chapters 14.25 and 19.38 of the San José Municipal Code, to amend section 2 of Exhibit B of Resolution No. 73587, as amended, temporarily setting the parkland fees charged for highrise multi-family residential projects of twelve (12) stories or more located in the downtown core at fifty percent (50%) of the applicable parkland fees for multi-family 5+ units; and

**WHEREAS**, on November 15, 2016, the City Council approved changes to the San José Zoning Code (Title 20). These changes, among others, specifically modified Sections 20.30.150 and 20.200.325 of the Municipal Code, relating to 'Secondary Units' (SU) or 'Accessory Dwelling Units, (ADU), in compliance with newly adopted state laws (SB 1069 and AB 2299). The adopted changes modified numerous zoning rules regarding SUs and ADUs, commonly referred to as 'Granny Units,' and included a new maximum size for granny units of 800 square feet; and

**WHEREAS**, on June 13, 2017, the City Council adopted Resolution No. 78200 which amended the Schedule of Parkland Fees charged pursuant to chapters 14.25 and 19.38 of the San Jose Municipal Code to set the maximum square footage for Secondary Units or Accessory Dwelling Units at 800 square feet to remain eligible for the Secondary Residential Unit fee rate; and

**WHEREAS**, on December 19, 2017, the City Council adopted Resolution No. 78474 which set forth the Schedule of Parkland Fees charged pursuant to chapters 14.25 and 19.38 of the San Jose Municipal Code; and which, permanently established a unit rate for high-rise multi-family residential projects of twelve (12) stories or more located in the downtown core; and

**WHEREAS**, on June 19, 2018, the City Council adopted Ordinance No. 30133 with changes to Chapters 20.30, 20.90, and 20.100 of the San Jose Municipal Code (Title 20), and to make other changes, including technical, non-substantive, or formatting changes within those sections of Title 20. These changes modified numerous zoning rules regarding 'Secondary Units' (SU) or 'Accessory Dwelling Units, (ADU) and included a new maximum size for ADUs of 900 square feet; and

**WHEREAS**, this Resolution permanently aligns the eligibility requirements for Single Resident Occupancy and Secondary Residential Units in the Schedule of Parkland Fees with the corresponding descriptions and requirements in Title 20 of the San Jose Municipal Code, as it may be amended from time to time. These changes ensure consistency between the San Jose Municipal Code and the Schedule of

Parkland Fees regarding the maximum unit square footage and other zoning requirements for these specific unit types;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:**

**SECTION 1. REVISED SCHEDULE OF PARKLAND FEES.**

The revised Schedule of Parkland Fees is set forth in the attached EXHIBIT A. The schedule set forth in EXHIBIT A shall take effect as specified below in this Section 1.

This Resolution is effective on August 7, 2018. Any projects that (1) have not fully paid parkland fees before August 7, 2018; or (2) have not entered into a fully executed parkland or turnkey parkland agreement before August 7, 2018, are subject to the Schedule of Parkland Fees set forth in EXHIBIT A. City will not enter into a parkland or turnkey parkland agreement for purposes of payment of parkland fees unless a Discretionary Permit authorizing a particular land use approval has been issued for the project or the project has an approved Tentative or Parcel Map, whichever occurs first, that will allow City to calculate parkland fees based on EXHIBIT A. A Discretionary Permit for purposes of this Resolution shall mean a permit issued by the Director of Planning, Building, and Code Enforcement pursuant to Title 20 of the San José Municipal Code ("Discretionary Permit"). A Discretionary Permit or Tentative or Parcel Map is considered "approved" for purposes of this Resolution after each of the following events have been satisfied: (1) City has approved the Discretionary Permit or Tentative or Parcel Map; and (2) all applicable statutes of limitations relating to the approval by City have expired.

**SECTION 2. ESP**

The provisions of this Resolution shall not apply to residential projects in the Evergreen Specific Plan Area ("ESP") if the developer of the ESP project has met all of the following conditions prior to filing an application for final map approval for projects subject to the PDO or prior to filing an application for a building permit for projects subject to the PIO:

- A. The residential project is subject to Community Facilities District No. 4 (Evergreen Improvements); or
- B. An agreement entitled: "Cooperation Agreement By and Between the City of San José, the Evergreen Specific Plan Property Owners Partnership and the Evergreen Specific Plan Area Developers," as amended ("Cooperation Agreement") and the parkland agreement required under the Cooperation Agreement have both been executed and are in effect for the ESP project.

**SECTION 3. MISCELLANEOUS.**

- A. If not otherwise defined in this Resolution, capitalized terms shall have the meanings set forth in SJMC Chapters 14.25 and 19.38.
- B. If any section, subsection, sentence, clause, or phrase of any provision of this Resolution, including its attachments, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Resolution. Each and every section, subsection, sentence, clause or phrase of this Resolution, including its attachments, is severable from all other sections, subsections, sentences, clauses or phrases.

ADOPTED this 7<sup>th</sup> day of August, 2018, by the following vote:

AYES: ARENAS, CARRASCO, DAVIS, DIEP, JONES, KHAMIS,  
NGUYEN, PERALEZ, ROCHA; LICCARDO.

NOES: NONE.

ABSENT: JIMENEZ.

DISQUALIFIED: NONE.



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SAM LICCARDO  
Mayor

ATTEST



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TONI J. TABER, CMC  
City Clerk

## Exhibit A

### 2018 Proposed Schedule of Parkland In-Lieu Fees

| MLS ZONE  | AREA COVERED   | 100% OF COST/<br>SQUARE FOOT | PROPOSED FEE PER UNIT <sup>1</sup>   |                        |                        |                 |           |                                       |  |
|---|--|------------------------------|--|------------------------|------------------------|-----------------|-----------|---------------------------------------|--|
|   |  |                              | SINGLE FAMILY DETACHED   | SINGLE FAMILY ATTACHED | MULTI-FAMILY 2-4 UNITS | MULTI-FAMILY 5+ | HIGHRISE  | SINGLE RESIDENCY OCCUPANCY UNIT (SRO) | SECONDARY RESIDENTIAL or ACCESSORY DWELLING UNIT (SU/ADU)                    |
|   |  |                              | <i>Unit types classified per U.S. Census definitions of housing characteristics.</i> |                        |                        |                 |           | <i>Defined in Res. No. 78079.</i>     | <i>Defined in the San Jose Municipal Code (Title 20), as may be amended.</i> |
| <i>Number of Persons Per Unit - 2010 Census Data; ACS; Survey</i> |  |                              | 3.31   | 3.31                   | 2.96                   | 2.34            | 1.51      | 1.00                                  | 50% of SRO   |
| <i>Number of Dwelling Units to create 1 acre of Raw Parkland</i>  |  |                              | 100.7  | 100.7                  | 112.6                  | 142.5           | 220.8     | 333.3                                 | n/a  |
| 1 & 2   | SANTA TERESA   | \$ 34.00                     | \$ 14,700  | \$ 14,700              | \$ 13,200              | \$ 10,400       | \$ 6,700  | \$ 4,400                              | \$ 2,200   |
| 3   | EVERGREEN  | \$ 43.00                     | \$ 18,600  | \$ 18,600              | \$ 16,600              | \$ 13,100       | \$ 8,500  | \$ 5,600                              | \$ 2,800   |
| 4   | ALUM ROCK  | \$ 30.00                     | \$ 13,000  | \$ 13,000              | \$ 11,600              | \$ 9,200        | \$ 5,900  | \$ 3,900                              | \$ 1,950   |
| 5 & 6   | BERRYESSA  | \$ 45.00                     | \$ 19,500  | \$ 19,500              | \$ 17,400              | \$ 13,800       | \$ 8,900  | \$ 5,900                              | \$ 2,950   |
| 7A  | ALVISO (North of 237)  | \$ 26.00                     | \$ 11,200  | \$ 11,200              | \$ 10,100              | \$ 8,000        | \$ 5,100  | \$ 3,400                              | \$ 1,700   |
| 7B  | NORTH SAN JOSE (So. of 237)  | \$ 136.00                    | \$ 58,800  | \$ 58,800              | \$ 52,600              | \$ 41,600       | \$ 26,800 | \$ 17,800                             | \$ 8,900   |
| 8   | SANTA CLARA  | \$ 37.00                     | \$ 16,000  | \$ 16,000              | \$ 14,300              | \$ 11,300       | \$ 7,300  | \$ 4,800                              | \$ 2,400   |
| 9   | DOWNTOWN   | \$ 74.00                     | \$ 32,000  | \$ 32,000              | \$ 28,600              | \$ 22,600       | \$ 14,600 | \$ 9,700                              | \$ 4,850   |
| 10  | WILLOW GLEN  | \$ 68.00                     | \$ 29,400  | \$ 29,400              | \$ 26,300              | \$ 20,800       | \$ 13,400 | \$ 8,900                              | \$ 4,450   |
| 11  | SOUTH SAN JOSE   | \$ 30.00                     | \$ 13,000  | \$ 13,000              | \$ 11,600              | \$ 9,200        | \$ 5,900  | \$ 3,900                              | \$ 1,950   |
| 12  | BLOSSOM VALLEY   | \$ 34.00                     | \$ 14,700  | \$ 14,700              | \$ 13,200              | \$ 10,400       | \$ 6,700  | \$ 4,400                              | \$ 2,200   |
| 13  | ALMADEN VALLEY   | \$ 40.00                     | \$ 17,300  | \$ 17,300              | \$ 15,500              | \$ 12,200       | \$ 7,900  | \$ 5,200                              | \$ 2,600   |
| 14 & 16   | CAMBRIAN   | \$ 35.00                     | \$ 15,100  | \$ 15,100              | \$ 13,500              | \$ 10,700       | \$ 6,900  | \$ 4,600                              | \$ 2,300   |
| 15  | CAMPBELL   | \$ 65.00                     | \$ 27,300  | \$ 27,300              | \$ 24,400              | \$ 19,300       | \$ 12,400 | \$ 8,200                              | \$ 4,100   |
| 17 & 18   | CUPERTINO  | \$ 63.00                     | \$ 27,300  | \$ 27,300              | \$ 24,400              | \$ 19,300       | \$ 12,400 | \$ 8,200                              | \$ 4,100   |
| 9 - DC  | Downtown High-rise Incentive - HighRise 12+ Stories <sup>2,3</sup> |                              |  |                        | \$ 11,300              |                 |           |                                       |  |

<sup>1</sup> Fees for Low Income Units shall be at the rate of 50% of the applicable parkland fees for each residential unit type per Section 1 of Resolution No. 75540

<sup>2</sup> Fees for eligible Downtown Area Highrises locked into the Original Downtown Highrise Incentive, shall be set at 50% of the Multifamily 5+ rate within the Downtown MLS district, as set forth in Resolutions 78039 and 78079.

<sup>3</sup> Eligibility for Downtown High-rise Incentive Program (Resolutions 78039 and 78079) is closed for any projects which have not pulled Building Permits by July 1, 2018. Currently eligible projects must receive final inspection for at least 80% of the units by December 31, 2020 to secure discounted and deferred rates, that are payable prior to issuance of a Certificate of Occupancy for the Project, as described in the applicable parkland agreement.

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