

RESOLUTION NO. 79705

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN JOSE ESTABLISHING THE AMOUNTS OF
COMMERCIAL LINKAGE FEES IN ACCORDANCE WITH
CHAPTER 5.11 OF TITLE 5 OF THE SAN JOSE
MUNICIPAL CODE**

WHEREAS, the City Council of the City of San José adopted an ordinance establishing a Commercial Linkage Fee on Non-Residential development as codified in Chapter 5.11 of Title 5 of the San José Municipal Code (the “Ordinance”); and

WHEREAS, the purpose and findings supporting the adoption of the Commercial Linkage Fee are set forth in the Ordinance; and

WHEREAS, the Council desires to establish herein the amount of the Commercial Linkage Fees for specified Non-Residential land uses in specified Geographic Subareas of the City of San José; and

WHEREAS, this Resolution is not a project subject to the California Environmental Quality Act of 1970, as amended (“CEQA”) pursuant to Section 15378(b)(4) of the CEQA Guidelines which excludes the following from the definition of projects subject to the environmental review requirements: “The creation of a government funding mechanism or other government fiscal activities which do not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment” (File No. PP17-004);

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE AS FOLLOWS:

SECTION 1. The definitions set forth in this Section shall govern the application and interpretation of this Resolution:

- A. The definitions of the terms “Certificate of Occupancy,” “Geographic Subarea,” “Non-Residential” land use categories, and “Non-Residential Project” used in this Resolution shall have meanings set forth in Section 5.11.020 of the San José Municipal Code.
- B. The term “Building Shell” means any building that has received a final inspection by the Building Official and his/her designees and is market ready, but the building is not approved for occupancy.
- C. The term “Common Area” means any area of a building used collectively by tenants, patients, guests and/or staff, as applicable, including but not limited to common kitchen facilities; common restrooms; common laundry facilities; reception areas; staff, medical, and nursing offices; hallways; stairwells; elevators; and common social and recreational facilities. Common Area does not include any tenant, patient, or guest living area that is not shared in common with all other tenants, patients, or guests of the facility, and any bedroom, kitchen, restroom, and laundry facility that is a part of that living area.

SECTION 2. The Commercial Linkage Fees adopted in Chapter 5.11 of the San José Municipal Code are hereby established in the following amounts and shall be computed as follows:

- A. All Non-Residential Projects and all Non-Residential portions of a Project shall pay the fee based on the gross square footage of each use included in the proposed Project by Geographic Subarea as follows:

1. DOWNTOWN AND NEARBY

<u>Non-Residential Use</u>	<u>Fee per square foot</u>
Office (≥100,000 sq. ft.)	<ul style="list-style-type: none"> • \$12.00 when paid in full prior to Final Inspection of Building Shell; or • \$15.00 when paid in phases as follows: <ul style="list-style-type: none"> ○ \$5.00 prior to Final Inspection for Building Shell, and ○ \$10.00 at each Certificate of Occupancy for tenant improvements within the Building Shell but prior to occupancy by the tenant(s).
Office (<100,000 sq. ft.)	<ul style="list-style-type: none"> • No Fee (\$0) for all square footage ≤40,000 sq. ft.; and • \$3.00 for all remaining square footage.
Retail	No fee (\$0)
Hotel	\$5.00 excluding Common Area
Industrial/Research and Development (≥100,000 sq. ft.)	<ul style="list-style-type: none"> • \$3.00 paid in full prior to Final Inspection of Building Shell; or • The fee may be paid in phases when the building includes tenant improvements as follows: <ul style="list-style-type: none"> ○ \$1.00 prior to Final Inspection for Building Shell, and ○ \$2.00 at each Certificate of Occupancy for tenant improvements within the Building Shell but prior to occupancy by the tenant(s).
Industrial/Research and Development (<100,000 sq. ft.)	No fee (\$0)
Warehouse	\$5.00
Residential Care	\$6.00 excluding Common Area

**2. NORTH SAN JOSE AND NEARBY and
WEST SAN JOSE URBAN VILLAGES**

<u>Non-Residential Use</u>	<u>Fee per square foot</u>
Office (≥100,000 sq. ft.)	<ul style="list-style-type: none"> • \$5.00 when paid in full prior to Final Inspection of Building Shell; or • The fee may be paid in phases when the building includes tenant improvements as follows: <ul style="list-style-type: none"> ○ \$2.00 prior to Final Inspection for Building Shell, and ○ \$3.00 at each Certificate of Occupancy for tenant improvements within the Building Shell but prior to occupancy by the tenant(s).
Office (<100,000 sq. ft.)	<ul style="list-style-type: none"> • No fee (\$0) for all square footage ≤40,000 sq. ft.; and • \$3.00 for all remaining square footage.
Retail	No fee (\$0)
Hotel	\$5.00 excluding Common Area
Industrial/Research and Development (≥100,000 sq. ft.)	<ul style="list-style-type: none"> • \$3.00 paid in full prior to Final Inspection of Building Shell; or • The fee may be paid in phases when the building includes tenant improvements as follows: <ul style="list-style-type: none"> ○ \$1.00 prior to Final Inspection for Building Shell, and ○ \$2.00 at each Certificate of Occupancy for tenant improvements within the Building Shell but prior to occupancy by the tenant(s).
Industrial/Research and Development (<100,000 sq. ft.)	No fee (\$0)
Warehouse	\$5.00
Residential Care	\$6.00 excluding Common Area

3. EDENVALE and MONTEREY CORRIDOR

<u>Non-Residential Use</u>	<u>Fee per square foot</u>
Office (≥100,000 sq. ft.)	<ul style="list-style-type: none"> • \$5.00 when paid in full prior to Final Inspection of Building Shell; or • The fee may be paid in phases when the building includes tenant improvements as follows: <ul style="list-style-type: none"> ○ \$2.00 prior to Final Inspection for Building Shell, and ○ \$3.00 at each Certificate of Occupancy for tenant improvements within the Building Shell but prior to occupancy by the tenant(s).
Office (<100,000 sq. ft.)	<ul style="list-style-type: none"> • No fee (\$0) for all square footage ≤40,000 sq. ft.; and • \$3.00 for all remaining square footage.
Retail	No fee (\$0)
Hotel	\$5.00 excluding Common Area
Industrial/Research and Development	No fee (\$0)
Warehouse	\$5.00
Residential Care	\$6.00 excluding Common Area

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4. SOUTH AND EAST SAN JOSE GROWTH AREAS

<u>Non-Residential Use</u>	<u>Fee per square foot</u>
Office	No fee (\$0)
Retail	No fee (\$0)
Hotel	\$5.00 excluding Common Area
Industrial/Research and Development (≥100,000 sq. ft.)	<ul style="list-style-type: none"> • \$3.00 paid in full prior to Final Inspection of Building Shell; or • The fee may be paid in phases when the building includes tenant improvements as follows: <ul style="list-style-type: none"> ○ \$1.00 prior to Final Inspection for Building Shell, and ○ \$2.00 at each Certificate of Occupancy for tenant improvements within the Building Shell but prior to occupancy by the tenant(s).
Industrial/Research and Development (<100,000 sq. ft.)	No fee (\$0)
Warehouse	\$5.00
Residential Care	\$6.00 excluding Common Area

B. The amount of legally permitted Non-Residential square footage to be demolished or removed in an existing building or structure shall be a credit in the calculation of the Commercial Linkage Fee. Credit shall be applied on a per square foot basis according to the per square foot fee assigned to the type of Non-Residential use that existed on the site prior to the date of submittal of the new Non-Residential Project application.

SECTION 3. This resolution shall take effect upon the effective date of the ordinance of the City of San José City Council adopting Chapter 5.11 of the San José Municipal Code entitled “Commercial Linkage Fee.”

ADOPTED this 1st day of September 2020, by the following vote:

AYES: DAVIS, DIEP, FOLEY, JONES, JIMENEZ, KHAMIS,
 LICCARDO.

NOES: PERALEZ, CARRASCO, ESPARZA, ARENAS.

ABSENT: NONE.

DISQUALIFIED: NONE.



SAM LICCARDO
Mayor

ATTEST:



TONI J. TABER, CMC
City Clerk