

RESOLUTION NO. 75540

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING EXHIBIT A OF RESOLUTION NO. 75346 (SCHEDULE OF PARKLAND FEES) ESTABLISHING THE PARKLAND FEES CHARGED FOR LOW INCOME UNITS PURSUANT TO CHAPTERS 14.25 AND 19.38 OF THE SAN JOSE MUNICIPAL CODE AT FIFTY PERCENT (50%) OF THE APPLICABLE PARKLAND FEES FOR EACH RESIDENTIAL UNIT TYPE

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, which Ordinances have been amended since that time; 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, the City desires to amend Resolution No. 75346 to establish a parkland fee for low income units, as such term is defined in SJMC Chapters 14.25 and 19.38, at fifty percent (50%) of the applicable fees for each residential unit type; and

WHEREAS, the City Council finds that establishing the parkland fee for low income units at fifty percent (50%) of the applicable fees for each residential unit type promotes the following important public policies: (i) continue to provide incentives for the development of affordable housing in the City; (ii) generate additional parkland fees for development of park and recreational facilities to serve residents in new low income residential developments; and (iii) continue to provide a high quality of life in the City to attract residents, businesses, visitors, and continue to attract the best jobs and workforce;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of San José that:

SECTION 1. Section 1 of Exhibit A of Resolution No. 75346 is hereby amended to add the following subsection C:

C. The parkland fees charged for "low income units" as defined in SJMC Chapters 14.25 and 19.38 shall be at the rate of fifty percent (50%) of the applicable parkland fees for each residential unit type set forth in Table 1.

SECTION 2. Exhibit A of Resolution No. 75346 is hereby amended to add the following Section 2:

Section 2. Notwithstanding Section 1.C. above, projects including residential units that meet the definition of "low income units" as defined in SJMC Chapters 14.25 and 19.38 that have obtained an approved discretionary permit authorizing a particular residential use or the project has an approved Tentative or Parcel Map, on or before October 24, 2010, shall be exempt from the payment of parkland fees. 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 SJMC ("Discretionary Permit"), such as a Plan Development Permit, Conditional Use Permit, or Site Development 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 statute of limitations relating to the approval by City have expired.

SECTION 3. If any section, subsection, sentence, clause, or phrase of any provision of this Resolution, including any 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.

SECTION 4. This Resolution shall become effective upon adoption by the City Council provided that the provisions of Section 1 of this Resolution shall become effective on October 25, 2010.

ADOPTED this 24th day of August, 2010, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, PYLE; REED.

NOES: OLIVERIO.

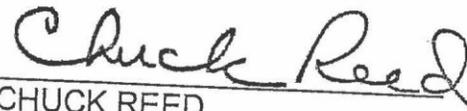
ABSENT: NONE.

DISQUALIFIED: NONE.

ATTEST:



LEE PRICE, MMC
City Clerk



CHUCK REED
Mayor