

ORDINANCE NO. 2508

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDWOOD CITY AMENDING SECTIONS 18.257, 18.258 AND 18.259 OF ARTICLE XVI (PARKS IMPACT FEE) OF CHAPTER 18 OF THE REDWOOD CITY MUNICIPAL CODE REGARDING THE PARKS IMPACT FEE

WHEREAS, the Mitigation Fee Act, contained in Government Code 66000 et seq., permits the City to impose development impact fees on new development for the purposes of funding the public facilities necessary to serve that new development; and

WHEREAS, on October 22, 2007, the City adopted Ordinance No. 2318, the Parks Impact Fee Ordinance, setting forth Article XVI of Chapter 18 of the Redwood City Municipal Code and imposing parks impact fees on new residential development projects; and

WHEREAS, the City seeks to amend the Parks Impact Fee Ordinance to update the requirements for parks impact fees paid by new residential development projects, impose parks impact fees on new nonresidential development projects, and update provisions to ensure compliance with current law.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDWOOD CITY DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The foregoing recitals are true and correct, are hereby incorporated herein by this reference as if fully set forth in their entirety, and constitute findings in this matter.

Section 2. Form of Amendments. The City Council of the City of Redwood City adopts the amendments to Chapter 18, Article XVI, by adding the text shown in underline (example) and deleting the text shown in ~~strikeout (example)~~, as shown below. Wording in brackets ([example]) is informational only and is not to be included in the published ordinance.

Section 3. Amendments to Section 18.257. Section 18.257 of Article XVI of Chapter 18 of the Redwood City Municipal Code is hereby amended to read as follows:

Sec. 18.257 – DEFINITIONS:

The following words and terms as used in this Article shall have the meaning respectively ascribed thereto:

ADMINISTRATOR: Means the Director of Parks, Recreation and Community Services, or his or her designee, who shall administer the provisions of this Article.

AFFORDABILITY AGREEMENT: Means an agreement, to which the City is a party, that (i) identifies itself as an Affordability Agreement pursuant to this Section, (ii)

restricts ownership (in the case of owner occupied housing) or tenancy (in the case of rental housing) to persons at or below a specified income level, (iii) restricts purchase price or rental costs to a level affordable to such owners or tenants, using the affordability calculations applicable to expenditures of moneys from the low and moderate income trust funds established pursuant to the Community Redevelopment Act, (iv) has a term of not less than fifty (50) years; and (v) is determined by the City Manager to contain sufficient provisions to permit enforcement of these restrictions by the City and recapture of any credit granted pursuant to Section 18.259(C) of this Code in the event of breach of the Agreement.

APPLICANT: Means the owner of real property proposed for development, or the Applicant's authorized agent.

DEVELOPMENT: Means a proposal for the construction, alteration, addition, or change of use of any wholly or partially residential or nonresidential building or structure in or upon real property in the City that requires any entitlement from or by the City including, without limitation, a building permit, use permit, zoning or rezoning approval, subdivision or re-subdivision map approval, lot line adjustment, architectural permit, general plan amendment, specific plan approval, or any other entitlement or approval.

DWELLING UNIT: A room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.

ENR: Means the construction cost index published in the Engineering News Record, or if such index is no longer published, its successor.

IMPACT FEE OR FEES: Means the fee or fees imposed on a development pursuant to this Article.

IMPACT FEE PROJECT LIST: Means those Park Improvements, funded in part or in whole by Impact Fees, approved by resolution of the Council and maintained on file in the office of the Administrator.

IMPACT FEE SCHEDULE: Means the schedule of impact fee rates per development unit for specific land uses or land use categories approved by resolution or ordinance of the City Council and maintained on file in the office of the Administrator.

LOW INCOME HOUSING UNIT: Means a Dwelling Unit that is restricted, by means of an Affordability Agreement, to be affordable to persons with income of not more than 80% of area median income and to be owned (in the case of owner-occupied housing) or leased (in the case of rental housing) only by such persons.

MODERATE INCOME HOUSING UNITS: Means a Dwelling Unit, other than a Low Income Housing Unit, that is restricted, by means of an Affordability Agreement, to be affordable to persons with income of not more than 120% of area median income and

to be owned (in the case of owner-occupied housing) or leased (in the case of rental housing) only by such persons.

PARK IMPROVEMENT: Includes the planning, design, construction, acquisition, installation, improvement or expansion of any mini parks, neighborhood parks, community parks and special use parks, including associated or appurtenant recreational facilities and equipment and acquisition of land necessary for any Park Improvement.

~~**RESIDENTIAL USE:** Means a "Dwelling," as that term is defined in Section 2.32 of the Zoning Code.~~

Section 4. Amendments to Section 18.258. Section 18.258 of Article XVI of Chapter 18 of the Redwood City Municipal Code is hereby amended to read as follows:

Sec. 18.258 – IMPOSITION AND PAYMENT OF PARKS IMPACT FEE:

A. The impact fee is hereby imposed as a condition of the issuance of any permit for any Development, unless expressly exempted by this Chapter. The rate of the impact fee shall be calculated pursuant to Section 18.259 of this Code.

B. Except as otherwise required by Government Code Section 66007, the impact fee shall accrue when the first discretionary approval is given for a project after the effective date of this Section, or, if no such discretionary approval is required subsequent to the effective date of this Section, when an application is submitted for a building permit for that project at the time of the issuance of a building permit. In either case, the impact fee shall be payable ~~when an application is submitted for a building permit~~ prior to the issuance of a building permit for the project. An impact fee shall be calculated at the rate in effect when the impact fee accrues.

C. Payment of the impact fee may be deferred to the date of approval of the final building inspection of the ~~residential~~ development, provided the owner of the real property for which the fees are required enters into a recordable agreement with the City prior to issuance of the building permit for the development, which shall constitute a lien on the property from the date of recordation and shall be enforceable against successors in interest to the property owner. The agreement shall provide that approval of the final building inspection shall not be granted until the impact fee is paid. The agreement shall also provide that, in any action to collect the impact fee or any portion thereof, the City shall be entitled to all of its costs of enforcement and collection, including reasonable attorney's fees. The City Manager may execute such agreements on behalf of the City in a form acceptable to the City Attorney. Any deferral granted pursuant to subsection B of this Section shall be consistent with the requirements of Government Code Section 66007.

D. Except to the extent a credit is granted pursuant to Article 12 of Chapter 30 of this Code, a credit against the impact fee may be given for dedications of park improvements constructed or provided at private expense and for the value of land dedicated to the City that is necessary or useful to a park improvement. Such credit will

be granted only if, prior to dedication, the City Council determines: (i) that the dedicated land or improvement is included on the Impact Fee Project List, and (ii) that the grant of the credit, in lieu of the fee, will not cause the City to delay the implementation of elements of the program that are of higher priority, in the judgment of the City Council, than the land or eligible facility to be dedicated. At the time the City Council makes these determinations, it must also make a determination of the maximum credit that will be allowed for the dedication, which maximum credit shall not exceed the City Council's reasonable estimate of the fair market value of the park improvement and/or land. The credit shall be applied when the City accepts the land or park improvement. If the City Council has made the determinations required by this subsection, payment of a portion of the impact fee equal to the amount of an expected credit against the impact fee may be deferred to the date of approval of the final building inspection of the development, provided the owner of the real property for which the fee is required enters into a recordable agreement with the City prior to issuance of the building permit for the development, which shall constitute a lien on the property from the date of recordation and shall be enforceable against successors in interest to the property owner. The agreement shall provide that approval of the final building inspection shall not be granted until the impact fee is paid or the credit issued. The agreement shall also provide that, in any action to collect the impact fee or any portion thereof, the City shall be entitled to all of its costs of enforcement and collection, including reasonable attorney's fees. The City Manager may execute the agreement on behalf of the City in a form acceptable to the City Attorney. Any deferral granted pursuant to subsection C of this Section shall be consistent with the requirements of Government Code Section 66007. The amount of any credit granted pursuant to this subsection shall not exceed the lesser of: (i) the actual documented construction costs for the dedicated improvement plus the value of any dedicated land as supported by a professional appraisal produced by an independent consultant selected by the City and paid for by the applicant, or (ii) the maximum credit approved by the City Council pursuant to this subsection.

Section 5. Amendments to Section 18.259. Section 18.259 of Article XVI of Chapter 18 of the Redwood City Municipal Code is hereby amended to read as follows:

Sec. 18.259 – CALCULATION OF PARKS IMPACT FEE:

A. The impact fee imposed upon a development shall be calculated by subtracting any pre-existing impact credits for that development (calculated pursuant to subsection C of this Section) and any affordable housing credit (calculated pursuant to subsection D of this Section) from the sum of the base amounts (calculated pursuant to subsection B of this Section) for all uses constituting that development. If the pre-existing impact credits for a development exceed the base amounts for that development, then the fee shall be zero.

B. A base amount shall be calculated for each residential and nonresidential use included in a development, and any addition or modification to a residential use that includes the addition of one or more bedrooms, in accordance with the Impact Fee Schedule. ~~With respect to any residential use, the base amount shall be calculated by~~

~~multiplying the planned number of dwelling units (after the completion of the project) on the parcels comprising the development by the then applicable rate for that use as set forth in the Impact Fee Schedule.~~

C. The existing impact credit for a development shall be the sum of the base amounts that would be imposed on a project comprised of the structures that existed on the parcels comprising the development prior to the construction proposed in connection with the development.

D. The affordable housing credit for a development shall be the equal to (i) the base amounts that would be imposed upon a project comprised of only the low income housing units that are a part of the development; plus (ii) fifty percent (50%) of the base amounts that would be imposed upon a project comprised of only the moderate income housing units that are a part of the development; ~~minus (iii) the existing impact credit for the development as calculated pursuant to subsection C of this Section. If this calculation yields an amount less than zero, then the affordable housing credit for the development shall be zero.~~

E. The rate of the fee shall be established from time to time by resolution or ordinance of the city council in the manner required by Government Code Sections 66004 and 66018 and other applicable law.

F. Beginning July 1, 2023~~08~~, and on each July 1st thereafter, the rate of the fee shall increase without further action by the city according to the following formula:

$$\text{Council-Approved Rate} * \frac{\text{Most Recent ENR}}{\text{ENR at Council-Approval}}$$

Where the "Council-Approved Rate" is the rate contained in the most recently adopted Impact Fee Schedule, "Most Recent ENR" is the most recently published Construction Cost Index for the San Francisco Bay Area in the Engineering News Record when the calculation is made and "ENR at Council-Approval" is the Construction Cost Index published for the month in which the Council adopted the Impact Fee Schedule including the "Council-Approved Rate." The Administrator shall calculate the increased fee annually and give notice of that calculation in the manner required by law for the publication of ordinance of the City Council.

Section 6. CEQA Finding. The City Council finds that the adoption of the amendments to the Parks Impact Fee Ordinance are not considered a project under Public Resources Code Section 21065 and CEQA Guidelines Section 15378 because the amendments do not have the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and the amendments create government funding mechanisms which do not involve any commitment to any specific project. They are also exempt from CEQA as

there is no possibility for causing a significant effect on the environment, per Section 15061(b)(3).

No specific park projects are associated with these amendments to the Parks Impact Fee Ordinance. The proposed project is policy-oriented and would establish a park standard and create a funding mechanism for future park development. When and if specific park projects are developed and proposed for implementation, the environmental impacts of such facilities would be evaluated in accordance with CEQA and City practice.

Section 7. Relationship to Prior Law. The terms of this Ordinance shall apply to all Developments (as that term is defined in section 18.257 of the Redwood City Municipal Code) in the City, except with respect to any portion of a project for which a building permit has been issued.

Section 8. Severability. If any provision, section, paragraph, sentence or word of this Ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance, and their application to other persons or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this Ordinance are severable.

Section 9. Effective Date. This Ordinance shall become effective thirty days after the date of its adoption.

* * *

ORDINANCE NO. 2508

At a Joint City Council/Successor Agency Board/Public Financing Authority Meeting thereof held on the 13th day of June 2022 by the following votes:

AYES, and in favor of the passage and adoption of the foregoing ordinance:

AYES: Aguirre, Gee, Hale, Howard, Reddy and Smith

NOES:

ABSENT: Espinoza-Garnica

ABSTAINED: None

RECUSED: None



Giselle Hale
Mayor of the City of Redwood City

Attest:



Pamela Aguilar, CMC
City Clerk of Redwood City

I hereby approve the foregoing Ordinance
this 14th day of June 2022.



Giselle Hale
Mayor of the City of Redwood City

