

RESOLUTION NO. _____

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 REDUCE FEES TO \$0 FOR PROPERTY OWNERS WHO PARTICIPATE IN THE ADU AMNESTY PROGRAM AND WHO QUALIFY FOR A FINANCIAL HARDSHIP EXEMPTION UNDER THE CRITERIA SET FORTH IN SAN JOSE MUNICIPAL CODE SECTIONS 4.76.400 THROUGH 4.76.470

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 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 José 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 José 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 August 7, 2018, the City Council adopted Resolution No. 78733 which permanently aligned 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 José Municipal Code, as it may be amended from time to time, to ensure consistency between the San José Municipal Code and the Schedule of Parkland Fees regarding the maximum unit square footage and other zoning requirements for these specific unit types; and

WHEREAS, this Resolution reduces fees to \$0 for property owners who participate in the ADU Amnesty Program, as approved by the City Council on January 7, 2019, and who qualify for a Financial Hardship Exemption under the criteria set forth in San José Municipal Code Sections 4.76.400 through 4.76.470, to be effective January 14, 2020;

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

SECTION 1. A new Section 6 is added to EXHIBIT B, “REVISED SCHEDULE OF FEES AND CREDITS”, of Resolution 73587, as amended, to read as follows:

“Section 6. ADU Amnesty Program.

All fees charges pursuant to this Resolution associated with bringing existing unpermitted accessory dwelling units into compliance with the San José Municipal Code, as approved by the City Council on January 7, 2019 (“ADU Amnesty Program”), are hereby reduced to \$0 for property owners who participate in the ADU Amnesty Program and who qualify for a Financial Hardship Exemption under the criteria set forth in San José Municipal Code Sections 4.76.400 through 4.76.470, effective January 14, 2020.”

SECTION 2. 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.

SECTION 3. This Resolution is effective on the same day it is adopted by City Council. The provisions of Resolution No. 73587, as amended, that have not been amended by this Resolution shall remain in full force and effect.

ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk