

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SANTA CLARA,
CALIFORNIA, AMENDING SECTION 17.35.080
(PROCEDURES) OF CHAPTER 17.35 (PARKS AND
RECREATIONAL LAND) OF TITLE 17 (DEVELOPMENT) OF
“THE CODE OF THE CITY OF SANTA CLARA,
CALIFORNIA” TO AUTHORIZE DEFERRAL OF CERTAIN
PARK IN-LIEU FEE PAYMENTS SUBJECT TO CONDITIONS**

WHEREAS, the Mitigation Fee Act (“Act”) regulates fees for development projects, including the timings of fee and charge payments imposed by local agencies on residential developments for the construction of public improvements; and

WHEREAS, California State Legislature recently amended the Act to streamline certain residential development projects, including, but not limited to a delay in timing for payment of impact fees for qualified residential development projects; and

WHEREAS, the deferral of fee payments to a later date is intended to lower financing costs for builders by reducing upfront costs, thereby encouraging more housing development projects; and

WHEREAS, when a fee payment under the Act is not paid fully prior to issuance of a building permit, the local agency issuing the building permit may require the property owner to execute a contract to pay the fee or charge as a condition of issuance of the building permit; and

WHEREAS, the Code of the City of Santa Clara (“SCCC”) section 17.35.080 sets forth the City’s timing and procedure for parkland dedication or fees in lieu thereof; and

WHEREAS, the SCCC serves to promote the public health, safety and welfare of the community; and

WHEREAS, recent amendments to the Act requires changes to SCCC section 17.35.080

to comply with the new laws; and

WHEREAS, the City desires to bring its code into compliance with state law, and desires to facilitate housing development project construction especially during the current economic downturn to reduce barriers for housing development project construction and achieve the City's 6th Cycle California Regional Housing Needs Allocation; and

WHEREAS, to temporarily assist in the facilitation of housing development project construction the City desires to allow deferrals for park in lieu fees beyond what is required by the Act; and

WHEREAS, the proposed amendment to SCCC section 17.35.080 is attached hereto as **Exhibit A** and incorporated by this reference ("SCCC Code Amendment") and is intended to bring the SCCC into compliance with state law and allow the City to accomplish its goal to temporarily facilitate housing development project construction during the current economic downturn; and

WHEREAS, on November 4, 2025, the City Council considered the SCCC Code Amendment along with the staff report and supporting documentation, staff presentations, information included in the record and all interested persons were given an opportunity to give testimony and provide evidence in support of and in opposition to the proposed SCCC Code Amendment; and

WHEREAS, on November 4, 2025, the City Council waived a first reading and approved in the form presented the introduction of this Ordinance for the SCCC Code Amendment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: The recitals set forth above are true and correct and are hereby incorporated herein by this reference as if fully set forth in their entirety.

SECTION 2: The City Council of the City of Santa Clara hereby amends Section 17.35.080 (Procedure) of Chapter 17.35 (Park and Recreation Land) of Title 17 (Development) of The Code of the City of Santa Clara as provided in **Exhibit A**, by adding the text shown in double underline (example) and deleting the text shown in strikeout (~~example~~).

SECTION 3: Ordinances Repealed. With exception of the provisions protected by the savings clause, all ordinances (or parts of ordinances) in conflict with or inconsistent with this ordinance are hereby repealed.

SECTION 4: Savings clause. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

SECTION 5: CEQA. Adoption of the SCCC Code Amendment is not a project as defined by the CEQA pursuant to CEQA Guideline section 15378 because it does not have any potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and it involves only organizational and administrative activities of the City; it does not involve or otherwise authorize any construction or physical activity that could impact the environment. And even if adoption of the SCCC Code Amendment was considered to be a project under CEQA, it would be exempt from CEQA review pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that adoption of the SCCC Code

Amendment would have a significant effect on the environment given that it does not involve or authorize any construction or physical activity that could impact the environment.

SECTION 6: Effective date. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of “The Charter of the City of Santa Clara, California.”

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST:

NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:
Exhibit A: SCCC Code Amendment

Exhibit A
AMENDING SECTION 17.35.080 OF THE CODE OF THE CITY OF SANTA CLARA

17.35.080 Procedure.

(a) Upon receiving a complete application for a residential development or subdivision, the Director of Parks and Recreation shall determine the conditions necessary to comply with the requirements for parkland dedication or fees in-lieu thereof as set forth in this chapter and said conditions shall be proposed to the approving authority as conditions of approval for the project. The establishment of such conditions for projects that do not involve a subdivision shall comply with the procedures set forth in Government Code Section 66001 et seq.

(b) At the time of project approval, the approving authority shall consider the recommendation of the Director of Parks and Recreation and make a final determination as to the land to be dedicated and/or fees to be paid by the developer.

(c) Any in-lieu fees imposed under this chapter shall be due and payable to the City prior to issuance of a building permit for each dwelling unit. The in-lieu fee due for each dwelling unit is determined based on the number of units within the dwelling unit and eligible credit for the dwelling unit as authorized in this Chapter. Notwithstanding the foregoing, (1) when required by applicable state law, or (2) upon request of a project developer for projects that receive building permits prior to December 31, 2027; and provided that the conditions set forth in subsection (d), below are satisfied, a developer's obligation to pay in-lieu fees may be deferred to the date which is the earlier to occur of: (i) approval of the first temporary certificate of occupancy, (ii) the final building inspection, or (iii) the issuance of a final certificate of occupancy for the project.

(d) To qualify for the fee deferral described in subsection (c), above, the City Manager must determine the deferral will not negatively affect the City's park expansion efforts, and the owner, or lessee if the lessee's interest appears of record, of the real property for which the fees are required must enter into a recordable agreement with the City that provides for the terms of deferral ("Fee Deferral Agreement"). The Fee Deferral Agreement shall be executed and recorded prior to issuance of the building permit for the development. The Fee Deferral Agreement shall constitute a lien on the property from the date of recordation and shall be enforceable against successors in interest to the property owner or lessee. Among other terms approved by the City Manager and the City Attorney, the Fee Deferral Agreement shall provide that approval of the first temporary certificate of occupancy for each separate dwelling (if there are multiple buildings) shall not be granted until the in-lieu fees are paid for that dwelling. The Fee Deferral Agreement shall also provide that, in any action to collect the in-lieu fee or any portion thereof, the City shall be entitled to all its costs of enforcement and collection, including reasonable attorney's fees. The City Manager is authorized to execute the Fee Deferral Agreement and release of lien agreement on behalf of the City in a final form acceptable to the City Attorney.

~~(d)~~ (e) Refunds. In the event a developer does not use a building permit for construction of a dwelling unit, the City will refund the fee collected for that dwelling unit at the time of expiration of the building permit. In addition, the City shall commit the funds to the uses authorized under this chapter within five years of the latter of the date the fee was paid, the issuance of buildings permits on one-half of the lots created by the subdivision, or the construction of one-half of the dwelling units for developments not involving subdivisions. If

such fees are not committed within this time, they, without any deductions, shall be distributed and paid to the then record owners of the properties in the same proportion that the size of their lot bears to the total area of all lots within the development.