

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA,
AMENDING SECTION 17.15.330 OF “THE CODE OF THE CITY OF
SANTA CLARA, CALIFORNIA” RELATED TO TRAFFIC IMPACT
FEES**

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

WHEREAS, Section 17.15.330 of the Code of the City of Santa Clara, California, authorizes the City Council to designate areas of the City within which a “Traffic Impact Fee” will be imposed upon new development;

WHEREAS, the Traffic Impact Fee currently applies to new office, industrial, hotel and motel uses;

WHEREAS, in 2017, the City contracted with Hexagon Transportation Consultants, Inc. to complete a comprehensive review and analysis of the City’s existing Traffic Mitigation Program;

WHEREAS, the Department of Public Works has prepared a report entitled “SANTA CLARA TRAFFIC IMPACT FEE NEXUS STUDY“ (the “Study”), which includes the updated report prepared by Hexagon Transportation Consultants, Inc., and is on file in the Office of the City Clerk, available for public inspection, and incorporated herein by this reference;

WHEREAS, the Study proposed expanding the uses for which the fee applies to include retail, single-family residential, and multi-family residential;

WHEREAS, the Study recommends fee levels be adjusted annually in order to keep up with construction costs and inflation;

WHEREAS, the Study recommends certain development projects be exempt from paying the traffic impact fee;

WHEREAS, on July 17, 2018, the City of Santa Clara adopted Resolution _____ making findings in accordance with Government Code 66000 et seq., and adopting the Study and setting the traffic impact fees; and

WHEREAS, the City desires to update the City Code in order to implement the recommendations in

the Report.

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

SECTION 1: That Subsections 17.15.330(b)(8) through 17.15.330(b)(13) of Section 17.15.330 (“Traffic Impact Fees”) of Chapter 17.15 (“Property Developments”) of Title 17 (“Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) are hereby replaced with new Subsections 17.15.330(b)(8) through 17.15.330(b)(16) to read as follows:

- “(8) “Office/R&D use,” in general, means any structure or portion thereof intended for occupancy by a business entity which will primarily provide clerical, professional or business services, and/or research and development activities for the business itself, or which will primarily provide clerical, professional or business services, and/or research and development activities to the public or other business entities. The structure or portion thereof may also include light fabrication areas in the manner of conducting business. The determination will be made from the uses identified as an Office/R&D use in the traffic impact fee schedule.
- (9) “Peak traffic hours” means 4:00 P.M. to 7:00 P.M.
- (10) “Person” means any individual, domestic stock company, partnership of any kind, joint venture, club, business or common law trust, society, legal entity, or any other manner of owning property or conducting business.
- (11) “Retail use” means an establishment that buys and sells commodities and services with off-street parking provided on the site. This includes a group of establishments that is planned, developed, owned and managed as a unit.
- (12) “Residential use, Multi-family” means a building or portion thereof used and designed as a residence for two or more families living independently of each other, including apartment houses, apartment hotels, and flats, but not including automobile courts, motels, hotels, or boarding houses. Each unit in the structure is separated from

other units by one or more common, fire-resistant walls.

- (13) “Residential use, Single-Family” means a detached building, including sleeping, eating, cooking and sanitation facilities, which constitutes an independent housekeeping unit on an individual lot designed for and/or occupied by one household.
- (14) “Square feet” or “square footage” means the square feet on each floor of a building, measured to the outside surfaces of exterior walls, and will include, but not be limited to, rooms, offices, work areas, restrooms, halls, stairways, elevator shafts, service and mechanical equipment rooms, basement, closet, cellar or attic areas. Parking facilities accessory to a permitted or conditional use and located on the same site are excluded from gross square footage calculations.
- (15) “Traffic impact fee schedule” refers to the document, as amended from time to time, on file in the City’s Public Works Department used to determine applicability of the traffic impact fees to particular land uses. If a proposed building use, or use within a portion of the building, does not fall under a use listed in said schedule, but, in the Director of Public Works or City Engineer’s opinion, closely corresponds to a use listed in said schedule, the traffic impact fees will be imposed.
- (16) “Warehousing, Utilities and Communications use” means any structure or portion thereof primarily used for the storage of materials or containing electromechanical and/or industrial space/equipment or facilities used for radio, cellular, television, radar transmissions or any similar technology development yet unforeseen. This includes data centers.”

SECTION 2: That Subsection 17.15.330(c)(1) (“Imposition of Fee”) of Section 17.15.330 (“Traffic Impact Fees”) of Chapter 17.15 (“Property Developments”) of Title 17 (“Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(c)(1) “Imposition of Fee. Traffic impact fees, for the area(s) designated by resolution of the City Council and at the rates set forth by resolution of the City Council, are hereby imposed upon every person (person having equitable or legal title, or other interest as owner, lessee, or otherwise) who causes new development, as defined hereinabove, to be used for office/R&D; warehousing, utilities and communications; industrial; hotel or motel; retail; single-family residential; or multi-family residential usage, as each is defined herein.

Mixed uses within a building or on a particular floor will have the traffic impact fees imposed on the area devoted to each use category of the traffic impact fee schedule as determined by the City Engineer. The floor space not in actual use, i.e., restrooms, hallways, etc., will be prorated for imposition of traffic impact fees on the basis of the mixed-use situation existing in the remainder of the building or on the floor.”

SECTION 3: That Subsection 17.15.330(c)(2) (“Exceptions”) of Section 17.15.330 (“Traffic Impact Fees”) of Chapter 17.15 (“Property Developments”) of Title 17 (“Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended as follows:

“(C) “Other uses exempted by City Council resolution.”

SECTION 4: That Subsection 17.15.330(c)(4) (“Periodic Adjustments to Traffic Impact Fees”) of Section 17.15.330 (“Traffic Impact Fees”) of Chapter 17.15 (“Property Developments”) of Title 17 (“Development”) of “The Code of the City of Santa Clara, California” (“SCCC”) is hereby amended to read as follows:

“(c)(4)(A) “Periodic Adjustments to Traffic Impact Fees. The traffic impact fees shall be adjusted periodically to reflect the current status of traffic impact requirements, projected development square footage, construction and land costs, and other factors. The Director of Public Works or City Engineer shall make an annual

review, or more frequent review if he/she deems it necessary, of the traffic mitigation program and make recommendations for amendment, if any. Among the purposes of said periodic review will be the adjustment of the traffic impact fee schedule in light of the traffic mitigation program scope and costs. The review will be submitted with recommendations to the City Council.

After receiving said report and making it available for public distribution and review, the City Council shall give notice and no less than ten days after public notice has been given, conduct a public hearing in which it shall consider these reports, receive testimony and information from any interested members of the public, and receive such other evidence as it may deem necessary. At the conclusion of that hearing, the City Council shall determine what changes, if any, are to be made to the traffic mitigation program with respect to projections of new development, the traffic system projects proposed, the estimated cost of construction, and/or adjustments to the traffic impact fees.

(c)(4)(B) Annual Escalator. Unless otherwise modified by the City Council, traffic impact fees will automatically adjust for inflation annually at the start of each fiscal year, using the latest Construction Cost Index for San Francisco, published by Engineering News Record (ENR). If this index ceases to exist, the Director of Public Works shall substitute another construction cost index, which in his or her judgment is as nearly equivalent to the original index as possible. The automatic fee adjustment will occur when the City conducts its annual update of the municipal fee schedule, unless it is otherwise modified by the City Council during their approval of the municipal fee schedule.”

SECTION 5: 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 6: Effective date. This ordinance shall take effect sixty (60) 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.”

PASSED FOR THE PURPOSE OF PUBLICATION this ____ day of _____, 2018, by the following vote:

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| AYES: | COUNCILORS: |
| NOES: | COUNCILORS: |
| ABSENT: | COUNCILORS: |
| ABSTAINED: | COUNCILORS: |

ATTEST:

JENNIFER YAMAGUMA
ACTING CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:
Santa Clara Traffic Impact Fee Nexus Study

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