

RESOLUTION NO. 074532

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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**RESOLUTION ESTABLISHING RATES FOR AN AFFORDABLE HOUSING IMPACT
FEE PROGRAM FOR NEW RESIDENTIAL AND NON-RESIDENTIAL
DEVELOPMENT**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, the provision of safe and stable housing for households at all income levels is essential for the public welfare of the County; and

WHEREAS, housing in San Mateo County has become steadily more expensive and housing costs have gone up faster than most residents' incomes; and

WHEREAS, federal and state government programs do not provide enough affordable housing to address the needs of very low, low, or moderate income households, resulting in a severe shortage of adequate, affordable housing for extremely low, very low, lower, and moderate income households, and

WHEREAS, the San Mateo County Board of Supervisors has adopted its 2014-2022 General Plan Housing Element which contemplates, among other things, an ordinance to provide a mechanism to increase the supply of affordable housing in the County; and

WHEREAS, to implement the affordable housing goals, policies and programs of the County's Housing Element, the Board of Supervisors has considered and adopted an Ordinance that, among other things, authorizes the imposition of affordable housing impact fees for certain residential and non-residential Development Projects to mitigate the impact of such projects on the need for affordable housing in the County (the "Affordable Housing Impact Fee Ordinance"), which is codified at Chapter 5.154 of Title 5 of the San Mateo County Ordinance Code; and

WHEREAS, because new market-rate housing developments result in new residents who purchase goods and utilize services in the community, increasing local employment and attracting employees, of whom a quantifiable number will have very low, low, or moderate incomes and cannot afford market-rate housing; and

WHEREAS, because non-residential commercial development also attracts employees, of whom a quantifiable number will have very low, low, or moderate incomes, new non-residential developments similarly increase the demand for and exacerbate the shortage of housing available for people at these income levels while also reducing the supply of land potentially available for housing development; and

WHEREAS, to ensure that such future Development Projects mitigate their impact on the need for affordable housing in San Mateo County, and to ensure that any adopted housing impact fees do not exceed the actual affordable housing impacts attributable to the Development Projects to which the fees relate, the County participated in the preparation of a nexus study through the countywide 21 Elements collaboration project; and

WHEREAS, the County has received and considered reports from Strategic Economics and Vernazza Wolfe Associates, Inc. dated September 2015 entitled "Residential Impact Fee Nexus Study" and " Commercial Linkage Fee Nexus Study" (together, the "Nexus Studies"); and

WHEREAS, the Nexus Studies use widely accepted methodologies that this Board finds appropriate to determine the maximum amounts needed to fully mitigate the burdens created by residential and non-residential development on the need for affordable housing; and

WHEREAS, to ensure that Development Projects remain economically feasible, the recommended housing impact fees as shown in the attached Exhibits "A" and "B" are lower than the maximum amount needed to fully mitigate the burdens created by new development on the need for affordable housing as determined by the Nexus Studies; and

WHEREAS, the Board of Supervisors desires to adopt housing impact fees for certain new residential and non-residential Development Projects as authorized by the Affordable Housing Impact Fee Ordinance, which fees do not exceed the justified fees needed to mitigate the actual affordable housing impacts attributable to the Development Projects to which the fees relate, as determined by the Nexus Studies; and

WHEREAS, the Affordable Housing Impact Fee Ordinance authorizes the Board of Supervisors to adopt, by resolution, housing impact fees for residential and non-residential development, and the Board of Supervisors desires to do so; and

WHEREAS, the Affordable Housing Impact Fee Ordinance further authorizes the Board of Supervisors to adopt by resolution a fee for processing applications for waivers from or modifications to the housing impact fees, and this Board desires to do so; and

WHEREAS, the County has determined that the payment by Residential Development Projects and Non-Residential Development Projects of “Area Standard Wages” which are defined as the general prevailing wage determinations for San Mateo County as made by the State of California Director of the Department of Industrial Relations, will increase certain households' ability to afford housing in the County, thereby reducing the impact of those Residential Development Projects and Non-Residential Development Projects on the need for affordable housing in the County; and

WHEREAS, in recognition of the reduced impact of projects paying Area Standard Wages, the Board of Supervisors desires to reduce the Housing Impact Fee for all Residential Development Projects and Non-Residential Development Projects that voluntarily enter into an agreement with the County to pay Area Standard Wages consistent with this Resolution; and

WHEREAS, at least ten days prior to the date this resolution is being heard, data was made available to the public indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including general fund revenues, in accordance with Government Code Section 66019; and

WHEREAS, at least fourteen days prior to the date this resolution is being heard, notice was provided to any persons or organizations who had requested notice, in accordance with Government Code Section 66019; and

WHEREAS, notice of the hearing on the proposed fee was published twice in the manner set forth in Government Code Section 6062a, as required by Government Code Sections 66004 and 66018; and

WHEREAS, the Board of Supervisors has reviewed the information contained in this Resolution and the accompanying staff report and any attachments at meetings held on May 24, 2016 and June 7, 2016, and the staff report accompanying this Resolution and referenced documents have been presented to and considered by the Board of Supervisors in support of the findings and approvals set forth in this Resolution; are hereby incorporated by reference in this Resolution; and, together with the above recitals any public testimony received, form the evidentiary basis and establish the analytical route for reaching the ultimate findings and conclusions contained in this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the San Mateo County Board of Supervisors as follows:

1. The foregoing recitals are true and correct and incorporated into this Resolution by this reference.
2. The findings of the Nexus Studies have been considered and are hereby incorporated into this Resolution by this reference.
3. The facts and substantial evidence in the record establish that there is a reasonable relationship between the need for affordable housing and the impacts of the development described in the Nexus Studies for which the corresponding fee is charged, and that there is also a reasonable relationship between the housing impact

fee's use and the type of development for which the fee is charged, as is described in more detail in the Nexus Studies.

4. The Nexus Studies set forth cost estimates, in 2015 dollars, that are reasonable for constructing affordable housing, and the fees expected to be generated by new development will not exceed these costs.

5. All capitalized terms in this Resolution that are not otherwise defined shall have the definitions set forth in the Affordable Housing Impact Fee Ordinance.

6. The Board of Supervisors hereby adopts those Housing Impact Fees for Residential Development Projects shown on Exhibit "A," attached hereto and incorporated by reference herein.

7. The Board of Supervisors hereby adopts those Housing Impact Fees for Non-Residential Development Projects shown on Exhibit "B," attached hereto and incorporated by reference herein.

8. Payment of the Housing Impact Fees for Development Projects, as defined in the Affordable Housing Impact Fee Ordinance, shall be due at the time of issuance of the first Building Permit for the Development Project. The fees shall be calculated based on the fee schedule in effect at the time the Building Permit is issued.

9. All Housing Impact Fees collected shall be deposited into the County's Affordable Housing Fund to be used to increase and preserve the supply of housing affordable to very low, low, and moderate income households (including necessary administrative costs related to the increasing and preserving of the supply of such housing). The County Manager is directed to disburse 50% of the fund balance after deduction of reasonable administrative costs in the Affordable Housing Fund to the

Housing Endowment and Regional Trust of San Mateo County at such times and in such manner as the County Manager deems appropriate, but in no case less than annually.

10. The Board of Supervisors hereby adopts the “Exemptions and Reductions” set forth in Exhibit “C,” attached hereto and incorporated by reference herein.

11. The Board of Supervisors hereby determines, pursuant to Section 5.154.150(B) of the Affordable Housing Impact Fee Ordinance, that the following percentages of Affordable Housing Units, if provided by a developer of a Residential Development Project under Section 5.154.150 of the Ordinance in lieu of the Housing Impact Fee, where the project types and affordability categories have the same meaning as employed in the Nexus Study, will mitigate the impacts of residential development on the need for affordable housing:

Type of Unit	Moderate Income	Low Income	Very Low Income
Single Family, Duplex, Townhouse	15%	—	—
Condominium and Apartment	—	12.5%	10%

12. The Board of Supervisors hereby determines, pursuant to Section 5.154.150(B) of the Affordable Housing Impact Fee Ordinance, that the following percentages of Affordable Housing Units, if provided by a developer of a Non-Residential Development Project under Section 5.154.150 of the Ordinance in lieu of the Housing Impact Fee, where the project types and affordability categories have the

same meaning as employed in the Nexus Study, will mitigate the impacts of residential development on the need for affordable housing:

Required Affordable Housing Units per 100,000 sq. ft.				
	Moderate Income	Low Income	Very Low Income	Total
Office	3	5	2	10
Retail etc.	—	2	2	4
Hotel	—	2	2	4

13. Residential and Non-Residential Development Projects where the developer voluntarily enters into an "Area Standard Wage Participation Agreement" ("Agreement") with the County, shall be entitled to a reduction of twenty-five percent (25%) of the Housing Impact Fee that would otherwise be applicable to the development project, if the Agreement (1) applies to construction of the development project and related public works that are within the customary jurisdiction of the construction trades and crafts, whether performed on or offsite, but need not include off-site work performed by materialmen, as defined under California law; and (2) provides that all employees performing construction work for a project subject to the Agreement shall be paid not less than the Area Standard Wage or the highest prevailing rate of per diem wages as determined and published by the California Department of Industrial Relations subject to California Labor Code Section 1733 from the commencement of construction until the issuance of the later of either a final certificate of occupancy or a

final inspection, but excluding tenant improvements. Nothing in this Resolution shall be construed to prohibit payment of more than Area Standard Wages, and nothing in this Resolution shall preclude enforcement by the California Division of Labor Standards Enforcement for any matter over which the Division has jurisdiction.

14. The Board of Supervisors may review Housing Impact Fees from time to time. For any annual period during which the Board of Supervisors does not review the Housing Impact Fee, fee amounts shall be adjusted once by the Community Development Director based on the percentage increase in the Engineering News-Record Construction Cost Index for San Francisco, California.

15. The Board of Supervisors hereby adopts a fee for processing applications for waivers from, or modifications of, the Housing Impact Fee, as applied to any particular Development Project, as shown on Exhibit "D," attached hereto and incorporated by reference herein. Waivers from, or modifications of, the Housing Impact Fee shall be considered on a case by case basis and shall be granted only when the standards for administrative relief set forth in Section 5.154.180 of the San Mateo County Ordinance Code are met.

16. The Board of Supervisors finds that all of the Housing Impact Fees adopted pursuant to this Resolution do not exceed the actual affordable housing impacts of the development projects to which those Housing Impact Fees relate, as further set forth in the Nexus Studies.

17. The Community Development Director shall have the authority to issue guidelines, rules or regulations from time to time in furtherance of this Resolution.

18. Adoption of this Resolution is exempt from the California Environmental Quality Act because the adoption of this resolution is not a project, in that it is a government funding mechanism which does not involve any commitment to any specific project (CEQA Guidelines Section 15378(b)(4)), and because it can be seen with certainty that there is no possibility that the fees may have a significant effect on the environment, in that this resolution contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures (CEQA Guidelines Section 15061(b)(3)).

19. This Resolution shall take effect on August 8, 2016, but only if the Affordable Housing Impact Fee Ordinance is and remains effective as of that date.

Exhibit "A"

Housing Impact Fees for Residential Development Projects

Type of Residential Unit	Fee Per Square Foot of Net New Residential Floor Area
Single-Family Detached Home (1 unit)	\$0 per square foot for first 2,500 sq ft \$5.00 per each square foot over 2,500
Single-Family Detached Home (2 to 4 units)	\$5 per square foot for first 2,500 sq ft \$12.50 per each square foot over 2,500
Single-Family Detached Home (5 or more units)	\$15
Townhomes & Condominiums (4 or fewer units)**	\$5 per square foot for first 2,500 sq ft \$12.50 per each square foot over 2,500
Apartments (any development size)	\$10

** Townhome and Condominium Developments that are 5 or more units are subject to the Inclusionary Housing Ordinance

Calculation of Square Footage: Housing impact fees for residential projects shall be calculated using the net new square footage of "Residential Floor Area" for the dwelling unit to which the housing impact fee relates. For purposes of this Resolution, "Residential Floor Area" is defined as follows:

- § For Single-Family Detached Homes, Townhomes, and Condominiums, Residential Floor Area includes all horizontal areas of the several floors of such buildings measured from the exterior faces of exterior walls or from the center line of party walls separating two (2) buildings, minus the horizontal areas of such buildings used exclusively for parking. For Apartments, Residential Floor Area includes all horizontal areas of the several floors of such buildings measured from the exterior faces of exterior walls or from the center line of party walls separating two (2) buildings, minus the horizontal areas of such buildings used exclusively for covered porches, patios, or other outdoor space, amenities and common space, parking, elevators, stairwells or stairs between floors, hallways, and between-unit circulation.

State Density Bonus: For Residential Development Projects that are granted a density bonus pursuant to California Government Code Section 65915, *et seq.* (the "State Density Bonus Law"), the Housing Impact Fee shall apply to all market-rate units, including any additional market-rate units provided under the State Density Bonus Law. The required Housing Impact Fee shall be reduced proportionately to the extent that any Affordable Units mitigate the market rate units' impact on the need for affordable housing in the unincorporated County. The Community Development Director may issue guidelines from time to time regarding the calculation of any fee reduction.

Exhibit "B"

Housing Impact Fees for Non-Residential Development Projects

Non-Residential Use	Fee Per Square Foot of New Net Gross Floor Area
Hotel	\$10
Retail, Restaurants and Services	\$5
Office, Medical Office and Research and Development Uses	\$25

All Housing Impact Fees for Non-Residential Development Projects, including new construction and conversion of a residential use to a non-residential use, shall be calculated using the gross floor area of net new non-residential space, excluding structured parking. Projects up to and including 3,500 square feet of net new gross floor area shall be exempt from payment of the fee; projects generating in excess of 3,500 square feet of net new gross floor area shall pay the fee per square foot on the total net new gross floor area.

Exhibit "C"

Exemptions & Reductions

In accordance with section 5.154.140(C)(5) of the Affordable Housing Impact Fee Ordinance, the following specific Development Projects are exempt from the payment of the Housing Impact Fee:

1. Public Facilities as defined by Section 6102.68.3 of the San Mateo County Zoning Regulations, including, but not limited to, facilities and grounds owned or operated by park and recreation districts, schools, fire departments, churches, municipal institutions, and community organizations including clubs, lodges and similar uses;
2. Institutional Uses as defined by Section 6102.49.1 of the San Mateo County Zoning Regulations, including, but not limited to, houses of worship, schools and colleges, recreational facilities, cultural institutions and private hospitals;
3. Child Care Centers, including Family Child Care Homes as defined by Section 6102.96.2 of the San Mateo County Zoning Regulations;
4. Recreational facilities for public use and enjoyment within commercial or industrial developments;
5. Housing for the Elderly, housing for the disabled; nursing homes, rest homes, residential care facilities, and skilled nursing facilities as defined by Sections 6102.48.7 and 6102.48.8 of the San Mateo County Zoning Regulations;
6. A new dwelling unit which a developer proposes to make available that will be rented at an affordable rent or sold at an affordable ownership cost to very low, low or moderate income households with a deed restriction meeting County standards;
7. Accessory Dwelling Units/Second Units built in compliance with Chapter 22.5 of the San Mateo County Zoning Ordinance that are less than 2,500 square feet in size are exempt;
8. Property eligible for the California Property Tax Welfare Exemption in that it is (1) used exclusively for charitable purposes, and (2) owned or held in trust by non-profit organizations operating for those purposes and that have a current tax exempt letter from the Internal Revenue Service or the Franchise Tax Board.
9. Residential and Non-Residential Development Projects where the developer voluntarily enters into an "Area Standard Wage Participation Agreement" ("Agreement") with the County meeting all requirements of Paragraph 13 of this Resolution shall be entitled to a reduction of twenty-five percent (25%) of the Housing Impact Fee that would otherwise be applicable to the development project;
10. Replacement structures of equal or less square footage; provided, however, that replacement structures exceeding the square footage of the structures they

replace shall be subject to the Housing Impact Fee as calculated in Paragraphs 10 and 11 below;

11. Addition of square footage to existing residences shall be charged the fee provided in Exhibit A on the net new square footage only, at the rate of \$0 for each square foot of net new square footage until the structure exceeds 2,500 square feet, and then the rate of \$5.00 for each square foot thereafter, as provided by Exhibit A;
12. Addition of up to and including 3,500 square feet to existing Non-Residential Development Projects, provided, however, that additional square footage in excess of 3,500 square feet shall subject the entire additional square footage to the applicable fee for Non-Residential Development Projects.

Exhibit "D"

Fee for Waivers and Modifications

Waivers and Modifications of Requirements of Affordable Housing Impact Fee Ordinance:

Initial Deposit of \$1,500

To be charged on a cost recovery basis, where the staff charges their time and other costs against the initial deposit, recovering the actual cost of project review.

