

RESOLUTION NO. RES-2019-154

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA IMPLEMENTING A COMMERCIAL LINKAGE FEE FOR COMMERCIAL DEVELOPMENT AS PROVIDED IN CHAPTER 21-02 OF THE SANTA ROSA CITY CODE – FILE NO. PRJ19-036

WHEREAS, in October 2016, the City Council accepted the Housing Action Plan, which includes a variety of programs aimed at addressing the City’s ongoing unmet housing needs. Program 1 of the Plan is to “increase inclusionary housing”, which directed the consideration of the following policy options: (1) seek inclusionary units in for-sale housing projects, (2) require a minimum of 15 percent of the for-sale projects total units be affordable to a mix of low and moderate income households, (3) specify additional regulatory and financial incentives and alternative compliance measures as may be needed to maximize production of affordable housing units, and (4) encourage innovation in achieving increased inclusionary housing; and

WHEREAS, persons of low and moderate income are experiencing continued difficulty in locating and maintaining adequate, safe and sanitary affordable housing within Sonoma County, with additional housing units at all market levels needed to stem the current housing crisis having been identified before the October 2017 fires; and

WHEREAS, the City Council has an interest in incentivizing development of affordable and workforce housing projects; and

WHEREAS, the purpose of a Commercial Linkage Fee is to mitigate the demand, and provide an additional funding source for workforce housing resulting from new commercial businesses which hire employees at various wage levels who have a need for housing at various price levels; and

WHEREAS, the mitigation of affordable housing impacts linked to commercial development helps (1) implement the goals and objectives of the General Plan Housing Element of the City of Santa Rosa; (2) mitigate the housing impacts caused by new, changed and expanded Commercial development in the City; (3) provide housing affordable to persons who earn between 80-120% of the area median income; and

WHEREAS, increasing the production and availability of affordable housing is difficult: prices and rents for affordable housing remain below the level needed to attract new construction, while escalating land costs and diminishing land availability for development hinder the provision of affordable housing units solely through private action; and

WHEREAS, Federal and State housing finances and subsidy programs are not sufficient by themselves to satisfy the affordable housing needs associated with employment resulting from commercial development, programs to expand affordable housing opportunities can be accomplished through public-private partnership action. The Commercial Linkage Fee establishes a feasible means by which developers of commercial development projects assist in increasing the supply of low-and moderate-income housing, and increasing the supply of housing in proximity to employment centers; and

WHEREAS, while it is appropriate to impose some of the cost of the increased burden of providing housing for low- and moderate-income people necessitated by such development directly upon the sponsor of a development, Council has taken into account other factors in addition to the simple calculation of contribution, including impact on construction costs, special factors and hardships associated with certain types of development and legal issues; and

WHEREAS, the housing fees contained in this chapter are designed to create a rational relationship between the amount of housing need created by the land use and the size of the fee, taking into account the effect of such fee requirements on providing affordable housing opportunities and the economic feasibility of imposing such requirements; and

WHEREAS, the City prepared and the Council has reviewed and considered the findings and determinations as set forth in the Commercial Linkage Fee Nexus and Feasibility Study, dated May 2019, prepared by Strategic Economics, Inc., and the comments, statements and other evidence presented by all persons, including staff reports and members of the public, who appeared and addressed the Council at the study session held on August 27, 2019 and the public hearing held on October 1, 2019, and all comments and materials submitted prior thereto, which the Commercial Linkage Fee Nexus and Feasibility Study recommended for addition to the City's Housing Impact Fee; and

WHEREAS, on October 1st 2019 the Council introduced an ordinance to amend Chapter 21-02 of the City Code to update the Housing Allocation Plan inclusionary requirements, expand financial incentives and alternative compliance measures to encourage inclusionary (on-site) affordable housing development, update the Housing Impact Fee and add a new Commercial Linkage Fee to increase Housing Authority revenue to fund affordable housing projects within the City; and

WHEREAS, City Code Section 21-02.90, which upon the effective date of the introduced ordinance, will provide for the establishment of a Commercial Linkage Fee to be used by the Housing Authority only for the development of affordable housing within the City; and

WHEREAS, Council finds that the proposed Commercial Linkage Fee resolution is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this resolution may have significant effects on the environment, and that no further environmental review is required.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Santa Rosa hereby sets the Commercial Linkage Fee, in anticipation of, and subject to, the adoption of the introduced ordinance, as follows:

1) Definitions:

- a) **Addition** means adding gross square feet to an existing commercial development project or building subject to the Commercial Linkage Fee.

- b) **Expanded or Additional Commercial Development or Floor Area** means construction that results in a net increase in the gross square footage of an existing commercial space or any conversion of any space to a commercial use subject to the Commercial Linkage Fee.
- c) **Gross Square Feet or Gross Square Footage** means the area included within the surrounding walls of a commercial development. This area does not include enclosed parking for vehicles.
- d) **Commercial Linkage Fee** means the fee assessed, pursuant to this resolution, on commercial development in order to mitigate the impact of the additional demand for affordable housing caused by such activity.
- e) **Nexus Study** means the Commercial Linkage Fee Nexus and Feasibility Study performed by Strategic Economics for the City of Santa Rosa in May 2019 as may be amended from time to time.

2) Application and Calculation of Fee

Unless Commercial Development is exempt from this fee per Section 21-02.100.B of the City Code, an Applicant must pay to the City the required Commercial Linkage Fee as a condition of the building permit for which a Building Permit Application has been submitted in order to mitigate the need for affordable housing that is generated by or attributable to such projects. The provisions of this resolution are subject to the requirements set forth in California Government Code Section 66000, et seq.

- a) **Payment of Fees Required.** Every person constructing or causing to be constructed within the City commercial development projects and/or expanded commercial development projects as defined in Chapter 21-02 of the City Code shall pay to the City a fee computed as set for in this resolution.
- b) **Determination of Commercial Development Projects.** The fee requirement shall be applied to development projects involving the construction of a new commercial building, and construction of additional gross square footage to existing commercial buildings. If a development is exempt from the fee at initial construction, but later converts to a commercial development project, the converted square footage will be deemed net new commercial square footage.
- c) **Application of Fee.** A fee of \$3.00 per square foot shall be applied to all commercial development as provided in this resolution. The fee shall be applied as detailed in section 2.f. to all building permits or Business Tax Certificates issued on or after the applicable effective date of this resolution.
- d) **Adjustment of Fee.** Effective starting the first year after the adoption of this resolution, the Commercial Linkage Fee for all commercial development citywide, including Downtown, as defined in City Code Section 21-02.030, will be adjusted annually each

July 1st based on the percentage change in the Bureau of Labor Statistics San Francisco/Oakland/San Jose Consumer Price Index — all Urban Consumers (CPI -U).

- e) **Computation of Fees.** The fee charged for commercial development may be revised from time to time by resolution of the City Council and adjusted consistent with the provisions of such resolution and the elements of this resolution that remain unchanged.
- f) **Time of Collection.** The fee paid shall be based on the rate in effect at the time the building permit application is submitted or, if a building permit is not required, the fee shall be based on the rate in effect at the time of Business Tax Certificate application. Fees are due at or before building permit issuance or, if a building permit is not required, at or before a Business Tax Certificate issuance.

3) Fee Credit or Refund

- a) **Fee Credit.** A developer of any project subject to the fee requirements may apply to receive a credit against the total amount of fees due, or a portion thereof, if said developer provides affordable housing through some other means agreeable to the City.
- b) **Refund of Fee.** If the Commercial Linkage Fee is paid and the building permit is later canceled or voided, or the permit which triggers the application of the fee fails to vest within the terms of said permit, the Assistant City Manager overseeing the Planning and Economic Development Department or such other person as may be designated by the City Manager, upon written request of the developer, order return of the fee if (1) the fees paid have not been committed, and (2) work on the private development project has not progressed to a point that would permit commencement of a new, changed or expanded use for which a fee would be payable.

4) Use of Funds

- a) All commercial linkage fees paid under chapter 21-02 shall be paid to the City and shall be used by the City's Housing Authority only for the development of housing situated within the City limits that is affordable to households of lower and moderate incomes, including, but not limited to, the acquisition of property, costs of construction, including costs associated with planning, administration and design, as well as actual building or installation costs, and program administration. Housing assisted with commercial linkage fees shall be subject to a minimum 55-year affordability agreement with the Housing Authority.

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NOW, THEREFORE, BE IT FURTHER RESOLVED that, consistent with California Government Code section 66017, this resolution shall be effective sixty (60) days after adoption.

IN COUNCIL DULY PASSED this 1st day of October, 2019.

AYES: (5) Mayor Schwedhelm, Vice Mayor Rogers, Council Members Combs, Fleming Sawyer

NOES: (0)

ABSENT: (2) Council Members Olivares, Tibbetts

ABSTAIN: (0)

ATTEST: _____
Acting City Clerk

APPROVED: _____
Mayor

APPROVED AS TO FORM:

City Attorney