

ORDINANCE NO. _____

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING SECTION 21-01.020 AND CHAPTER 21-04 CAPITAL FACILITIES FEES, AND REPEALING CHAPTER 21-05 SOUTHWEST AREA DEVELOPMENT IMPACT FEE AND CHAPTER 21-06 SOUTHEAST AREA DEVELOPMENT IMPACT FEE

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. Section 21-01.020 of the Santa Rosa City Code, is hereby amended to read as follows:

“21-01.020 Deferral of fees.

(A) The deferral of the payment of any City fee from the time payment is otherwise required is not permissible except as provided in this section.

(1) Fees may be deferred for projects providing affordable housing units as to those affordable units that are under contract with the City. Only those development fees defined as such by California Government Code Section 66000(b), as may be amended or revised from time to time, and including any successor statutes or provision, are subject to deferral. Development fees deferred under this Section 21-01.020(A)(1) shall not be deferred for more than two years from the date when fees were otherwise due and payable. Fee deferral agreements under this Section 21-01.020(A)(1) shall not be assignable except in the discretion of the City Attorney and with prior written consent.

(B) An application for fee deferral under this chapter shall be filed with the Planning and Economic Development Department at least 120 days prior to the date when the fees would otherwise be due.

(C) Any deferral of fees under this Title 21 shall be documented by written agreement in a form approved by the City Attorney and shall be subject to prior approval by the City Council. All fee deferrals shall be secured by a deed of trust and such other security as may be required by the City Attorney. The applicant shall pay all title insurance, recording and any other processing fees. The unpaid fee balance, calculated at the rate in effect at the time payment was otherwise required, shall be due and payable in full upon the sale or any other transfer of the property offered as security for payment of the fee, or upon the placement of permanent financing for the project, or at such other time as may be expressly provided in the written agreement. The fee deferral agreement shall include provisions imposing penalties for delinquent accounts. The City may require such other terms and conditions for the fee deferral as it deems necessary to protect the City’s interests.

(D) The Council will be regularly advised of the total amount of fee deferrals that are outstanding and the status of outstanding fee deferral accounts.

(E) Water and sewer demand fees may be paid in accordance with a payment plan policy, if any, approved by the Board of Public Utilities.”

Section 2. Chapter 21-04 is hereby amended in full to read as follows:

“Chapter 21-04 CAPITAL FACILITIES FEES

21-04.010 Authority.

The ordinance codified in this chapter is enacted pursuant to Government Code Sections 66000 and following, and the authority vested in the City of Santa Rosa, a Charter City, under the California Constitution.

21-04.020 Application.

(A) This chapter creates a capital facilities fee (CFF). A CFF is charged as a condition of building permit approval and certain use permit and other approvals to defray the cost of certain public infrastructure facilities required to serve new development within the City of Santa Rosa. This chapter does not replace subdivision map exactions or other measures and exactions required to mitigate site-specific impacts of a development project; other regulatory, development and processing fees; funding required pursuant to a development agreement; funds collected pursuant to a reimbursement agreement for amounts that may exceed a development's share of public improvement costs; or assessment district proceedings, benefit assessments, or property taxes, unless so specified.

(B) No developer, property owner or other person or entity shall be eligible to receive building permits, nor any occupancy permits, for any development projects subject to this chapter unless such project has first complied with all applicable provisions of this chapter. The requirements of this chapter are imposed as a condition of development approval for each such development project. The City may impose such additional conditions of approval as are necessary or appropriate to implement the purposes of this chapter.

21-04.030 Findings.

The Council of the City of Santa Rosa finds and declares that:

(A) The City of Santa Rosa provides public services and constructs and maintains public facilities for the benefit of residents, businesses, and employees within the City;

(B) City of Santa Rosa general plan includes a description of the general location, capacity, and types of capital facilities planned as a part of the City's development;

(C) In accordance with its general plan, the City of Santa Rosa intends to expand and improve its public facilities to serve new development and to maintain or improve existing levels of service of public facilities, including facilities to alleviate traffic congestion (the level of service standards set forth in the general plan shall be the standards used for determining necessary street and intersection improvements), storm drainage systems and bicycle pathways throughout the City;

(D) The City commissioned and adopted the technical report, as defined in Section 21-04.040 of this chapter, that provides the basis for making the findings required by Government Code Section 66001 and establishes the maximum justified CFF. The technical report identifies the types of public facilities for which the CFF may be used. The technical report may be and has been amended from time to time to reflect current conditions and circumstances;

(E) The public facilities identified in the technical report are necessary to protect the public health, safety, and general welfare, to facilitate orderly urban development, to maintain or

enhance existing levels of service, and to promote economic well-being within the City as a whole;

(F) The CFF is based upon the adopted policy that new development generates additional residents, employees, and structures which in turn place additional cumulative burdens upon the City's infrastructure, and such development should pay its proportionate share of the cost for new or improved public facilities required to meet such burdens;

(G) The public facilities identified in the technical report are part of an integrated system serving and providing benefits to planned development within the entire City.

21-04.040 Definitions.

(A) "Basic infrastructure" means the public facilities identified in the technical report, including a capital improvement project list and cost estimates of the basic infrastructure, which may be funded by the CFF.

(B) "City" means the City of Santa Rosa, including its future boundaries.

(C) "Developer" means the person(s) or legal entity or entities, who also may be the property owner, who is developing a particular project within the City.

(D) "Director" or "Director of Planning and Economic Development" means the Director of the Planning and Economic Development Department and the person(s) within the Department designated by the Director to exercise or carry out any of the Director's powers, authority, and responsibilities under this chapter.

(E) "Technical report" as used in this chapter is defined as the "City of Santa Rosa Impact Fee Program Update", including Appendix A – CFF and Park Impact Fee Support Tables, dated February 2018, prepared by Urban Economics, and any present and future amendments, additions, and updates to said report, all of which are deemed included in the definition of technical report as used in this chapter, which is on file with the Department of Planning and Economic Development and the City Clerk.

(F) Land uses designations and categories as used in this chapter shall be as defined in the City's general plan and zoning code, as amended and updated from time to time. In the event of any conflict between those definitions found in the City's general plan and the City's zoning code, the general plan definition shall control.

21-04.050 CFF determination.

(A) General.

(1) The amount of the CFF for various land use designations, per unit or gross square footage, shall be as established by resolution of the City Council and supported by the technical report and as set forth in the City's current development fee schedule. The maximum justified CFF amounts have been determined by a formula that reflects the impact of new development on the need for infrastructure and facilities that may be supported by the CFF. The impact of new development shall be based on the City's existing facility standard. The existing facility standard is the City's existing inventory of capital assets used to provide the services associated with CFF infrastructure and facilities, expressed per unit of demand represented by, for example, the existing number of residents and workers in the City or the existing number of trips on the transportation network. The maximum justified CFF is the amount needed to maintain the City's existing facility standard as demand increases from new development. These formulas are included in the technical report. The City Council will adopt the CFF by resolution

in amounts up to but not exceeding the maximum justified amounts shown in the technical report. The CFF amounts shall be subject to adjustment based upon changes in estimated or actual costs including, but not limited to, replacement costs of existing capital assets, construction costs, development schedules, availability of supplemental funds and other factors. The adjustment of the CFF schedule may also reflect changes in the basic infrastructure needs, in estimated revenues received pursuant to this chapter, as well as the availability or lack thereof of other funds.

(2) New development will pay only for the construction of those public facilities where there is a reasonable relationship between the facilities funded and the demands and needs generated by the new development.

(3) Each type of new development shall contribute to the funding of the needed facilities in proportion to the need for the facilities created by that type of development.

(4) The types of public facilities eligible for funding by the CFF and the calculations resulting in the CFF amounts shall be as documented in the technical report.

(B) Applications Requiring Payment of CFF.

(1) Building Permit. A developer applying for a permit to construct, or to add to any building or structure, shall pay to the City a CFF in an amount determined in accordance with the then current CFF schedule amounts as adopted by resolution of the City Council. The CFF for new floor area which replaces existing floor area shall be charged based upon the net increase in the gross floor area.

(2) Change of Use. A developer who receives a use permit or other form of approval for a change of use shall pay to the City a CFF in an amount determined by the then current CFF schedule amounts as adopted by resolution of the City Council. In the case of change of use, the developer shall pay only the incremental difference between the applicable CFF for the prior use and the CFF for the new use.

(C) The CFF will be charged for all development projects, except as otherwise provided in this chapter or by law.

(D) Application and calculation of CFF.

(1) Residential. The CFF for residential construction shall be charged for each new dwelling unit, in accordance with the per unit CFF amount set forth in the technical report and the City's current development fee schedule. No CFF shall be charged for remodeling or for an addition to an existing residential unit. If a residential unit is demolished and replaced with more than one residential dwelling unit, even if the total gross square footage has not changed, the Director shall apply the CFF on the number of new units that are over and above the number of demolished units, adjusted for the existing fee amounts by land use category associated with demolished and new units.

(2) Nonresidential Uses. The CFF for nonresidential construction shall be charged on a per square foot basis for all new gross floor area, including all additions where floor area is increased, in accordance with the specific per square foot amount for each nonresidential use type as listed in the technical report and the City's current development fee schedule. As set forth more fully in Section 21-04.070 of this chapter, no CFF shall be charged for remodeling or restoration only, where the floor area is improved or replaced but not increased. Gross floor area is determined by calculating the area of all floors contained within the exterior walls combined with any outdoor or yard areas, covered or uncovered, used for wholesale/retail purposes.

Parking area(s) shall not be included in the calculation. If no floor area is added, but a change in use occurs which requires a use permit, or other permit or approval, the CFF shall be the incremental difference between the applicable CFF for the prior use and the CFF for the proposed new use.

(3) Other Uses.

(a) The CFF for other uses applies to all uses not specified above and not included in the Council resolution establishing CFF amounts for specific use designations. The CFF for other uses shall be calculated by the Director as a proportion of the CFF for commercial uses. Because the CFF is predominantly used for transportation improvements, the exact proportion will depend on the ratio of the trip generation rate for such "other use" to the commercial use trip generation rate, according to trip generation rates contained in the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. For instance, if the trip generation for an "other use" is 40 percent of the commercial use trip generation rate, that "other use" would pay 40 percent of the commercial CFF rate; if the trip for an "other use" is 120 percent of the commercial use trip rate, that "other use" would pay 120 percent of the commercial CFF rate.

(b) The Director is authorized to review and determine: (i) the proper characterization of each "other use," consistent with the general plan; and (ii) the appropriate trip generation rate and CFF rate for each "other use."

(4) Mixed Uses. When a single project or building will contain more than one of the specified uses, the Director shall determine the CFF by applying to each use category the applicable fee for that individual use, or other uses as described above.

21-04.060 Use of CFF revenue.

The CFF revenues shall be used to fund those portions of the public facilities identified in the technical report.

(A) The revenues from each CFF paid under this chapter shall be distributed in accordance with the percentages stated to the following five accounts which shall be established and maintained as part of the financial records of the City: roadways and intersections, 62.8 percent; storm drainage, 12.7 percent; public safety, 12.8 percent; transit, bicycle and pedestrian, 10.7 percent; and administrative costs, one percent.

(B) The fees distributed to a particular account and any interest earned thereon may only be used to:

- (1) Fund the types of projects of that account as identified in the technical report; or
- (2) Reimburse the City of Santa Rosa to offset administrative costs associated with collecting, depositing, distributing and otherwise administering such fee revenues and in periodically reviewing and updating the technical report, in an amount not to exceed one percent, plus any applicable interest.

21-04.070 Exemptions.

The following actions and uses are exempt from the requirement to pay the CFF:

(A) Alteration, remodeling or reconstruction of a nonresidential structure which does not increase the gross floor area above what was in existence and in use on the effective date of this chapter.

(B) A development project which the developer establishes to the City's satisfaction

will not generate any additional need for public facilities, services or amenities, or any other impact for which a mitigation and/or fee is otherwise required. The burden of establishing by satisfactory proof the applicability and elements of this subsection shall be on the developer. No exemption or limit shall be granted pursuant to this section unless a finding is made, based on satisfactory factual proof provided by the developer, that the requirements of this subsection have been satisfied.

(C) No CFF shall be due if the CFF was previously paid in full for a particular property and use, and no refund has been issued.

(D) There are no other exemptions to the CFF.

21-04.080 Time of payment.

The CFF shall be paid to the City no later than the time of final inspection or, if no building permit is required, upon the approval of a use which requires a use permit or other permit or approval authorizing the change in use.

21-04.090 Authority for additional mitigation.

Fees collected pursuant to this chapter do not replace other development impact fees, including but not limited to specific area development impact fees, if any, school impact fees, and utility demand fees or connection charges, except as the Council may specifically provide, nor do such fees limit requirements or conditions to provide site-specific mitigation of site-specific impacts imposed upon development projects as part of normal development review and approval processes.

21-04.100 Refund of fee.

(A) If a building permit or use permit or other permit or approval expires, is canceled, or is voided without change in use, development or construction having occurred thereunder, and any CFF paid pursuant to this chapter have not been expended, the Director shall, upon the written request of the developer, order the refund of the CFF actually paid by the developer, less administrative costs. A written refund request shall only be honored if actually received by the Director within a period of 60 calendar days from the date of the expiration, cancellation, or voiding of the building permit(s) or other permit(s) or approval(s) for which the CFF was paid. Following the expiration of the 60-day period, no refunds shall be granted on the basis of expired, cancelled or voided permits or approvals. If a partial refund is granted under the provisions of this section, the property involved shall be credited with the amount paid but not refunded against any future CFF due for the same or subsequent use.

(B) During the annual review of the CFF pursuant to Section 21-04.110 of this chapter, the City Council shall make the findings required by Government Code Section 60001 (or any successor statute) with respect to any fee revenue not expended five years or more after it was paid. If the City Council cannot make the required findings, it shall authorize a refund of the unexpended fee revenue to the then current record owner of the property for which the fee was paid, or otherwise allocate the unexpended revenues, as provided in Government Code Section 66001.

21-04.110 Annual review.

The CFF, the accumulated fee funds and their appropriation, and supporting documentation, including the technical report, shall be reviewed annually by the City Council.”

Section 3. Chapter 21-05 Southwest Area Development Impact Fees is hereby repealed in its entirety.

Section 4. Chapter 21-06 Southeast Area Development Impact Fees is hereby repealed in its entirety.

Section 5. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b)3 in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 6. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on May 22, 2018.

IN COUNCIL DULY PASSED AND ADOPTED this ____ day of _____, 2018.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
City Clerk

APPROVED: _____
Mayor

APPROVED AS TO FORM:

City Attorney