

ORDINANCE NO. \_\_\_\_\_

CITY COUNCIL, CITY OF SOUTH SAN FRANCISCO, STATE OF CALIFORNIA

AN ORDINANCE AMENDING CHAPTER 8.67 OF THE  
SOUTH SAN FRANCISCO MUNICIPAL CODE  
REVISING THE METHOD OF CALCULATION FOR THE  
PARKLAND ACQUISITION FEE AND A PARK  
CONSTRUCTION FEE FOR NEW DEVELOPMENT  
PROJECTS AND REVISING THE TIMING FOR  
CALCULATION OF THE FEES

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WHEREAS, parks and recreational facilities are vital to the health and welfare of a community; and

WHEREAS, the City of South San Francisco (“City”) aims to provide sufficient levels of parks and recreational facilities for its residents and employees working in the City; and

WHEREAS, the City’s General Plan and Parks and Recreation Master Plan aim to provide three acres of parks and recreational facilities per 1,000 residents; and

WHEREAS, the City General Plan and Parks and Recreation Master Plan also aim to provide one-half acres of parks and recreational facilities per 1,000 employees; and

WHEREAS, Guiding Policy 5.1-G-1 of the City’s General Plan provides that the City should “[d]evelop additional parkland in the city, particularly in areas lacking these facilities, to meet the standards of required park acreage for new residents and employees;” and,

WHEREAS, Implementing Policy 5.1-1-2 of the City’s General Plan provides that the City should “[m]aintain parkland standards of 3.0 acres of community and neighborhood parks per 1,000 new residents, and 0.5 acres of parkland per 1,000 new employees;” and

WHEREAS, Goal #1 of the Parks and Recreation Master Plan provides that the City “should provide a minimum of 3 acres of developed park land per 1,000 residents and 0.5 acres of parkland per 1,000 new employees”; and

WHEREAS, new development projects attract new residents and employees to the city, which generates increased demand for parks and recreational facilities and impacts existing park service levels; and

WHEREAS, in 2016 the City contracted with the Municipal Resources Group (MRG) to analyze the relationship between new development in the City and the cost of public facilities to serve that growth and determined that there is a reasonable nexus between the Parkland Acquisition Fee and Park Construction Fee and the types of new development that are

responsible for paying the fee (*Park Land Acquisition and Park Construction Fees Report 2016*, hereafter “2016 Study”); and

WHEREAS, in 2016, the City adopted an ordinance imposing a Parkland Acquisition Fee and a Park Construction Fee (“Park Fee Ordinance”) to pay for the cost of acquiring and constructing park facilities needed to support new development under the authority of Sections 66000 et seq. of the California Government Code (“Mitigation Fee Act”); and

WHEREAS, such development impact Fees are not a “tax” as defined in Section 1, paragraph (e) of Article XIII C of the California Constitution (“Proposition 26”) because such Fees and charges are imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable cost to the local government of providing the service or product, and/or such Fees and charges are imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable cost to the local government of providing the service or product, and/or such Fees and charges are imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections and audits, enforcing agricultural marketing orders and the administrative enforcement and adjudication thereof; and/or such fees and charges are imposed as a condition of property development; and

WHEREAS, the City subsequently amended the Park Fee Ordinance in 2017 and 2018 to impose the Fees on non-residential development projects and to adjust the discount factors applied to the Fees, as well as other refinements; and

WHEREAS, the City has determined that City park and recreation facilities are reaching capacity and refurbishing and expanding certain existing park facilities is a cost-effective and efficient way to serve future residents and employees, and to maintain existing levels of service; and

WHEREAS, the City commissioned an additional park fee analysis to supplement the 2016 Study in order to confirm the method for utilizing Park Fees for refurbishment and expansion projects, analyze the types of refurbishment and expansion projects that the City can utilize park Fees for, restructure the existing park fee reduction factors to increase Park Construction Fees to fund refurbishment projects, and reduce Park Acquisition Fees commensurately, while not increasing the total amount of park Fees, and to update the average construction cost per acre to reflect current market conditions (“2019 Supplemental Report”); and

WHEREAS, the City will adopt a separate resolution to set the Fees at adjusted rates consistent with the amendments provided for in this Ordinance; and

WHEREAS, in accordance with Section 66019 of the Mitigation Fee Act, at least fourteen (14) days prior to the public hearing at which this Ordinance was introduced, notice of the time and place of the hearing was mailed to interested parties who filed written requests with the City for mailed notice of meetings on new or increased fees or service charges; and

WHEREAS, ten (10) days advance notice of the public hearing at which this Ordinance was introduced was given by publication in accordance with Government Code Section 6062a; and

WHEREAS, in accordance with Section 66016 of the Mitigation Fee Act, at least ten (10) days prior to the public hearing at which this Ordinance was introduced, the 2019 Supplemental Report was made available to the public for review; and

WHEREAS, pursuant to the Mitigation Fee Act, the City seeks to adopt this Ordinance to refine the park fee calculations in order to better mitigate the impacts caused by new development by providing for the payment of revised development impact fees necessary for the City to acquire property and construct, refurbish, and expand new and existing parks and recreational facilities and to maintain desirable levels of parks and recreational facilities for new and existing residents and employees; and,

WHEREAS, the action taken by this Ordinance has no potential for physical effects on the environment because it involves an adoption of certain fees and/or charges imposed by the City, does not commit the City to any specific project, and said fees and/or charges are applicable to future development projects and/or activities, each of which future projects and/or activities will be fully evaluated in full compliance with the California Environmental Quality Act (“CEQA”) when sufficient physical details regarding said projects and/or activities are available to permit meaningful CEQA review (See CEQA Guidelines, Section 15004(b)(1)). Therefore, approval of the Fees and/or charges is not a “project” for purposes of CEQA, pursuant to CEQA Guidelines, Section 15378(b)(4); and, even if considered a “project” under CEQA, is 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 approval of the updated Fees and/or charges may have a significant effect on the environment.

NOW, THEREFORE, the City Council of the City of South San Francisco does hereby ORDAIN as follows:

## **SECTION 1.**                      **Findings**

A.        After considering the 2019 Supplemental Report, the testimony received at the noticed public meeting at which this Ordinance was considered, the accompanying staff report, the General Plan, the General Plan EIR, the Parks and Recreation Master Plan and all correspondence received at or prior to the public meeting (the “Record”), the Council approves and adopts the 2019 Supplemental Report; and the City Council further finds that the future development in the City will generate the need for the park and recreational facilities necessitating adoption of this Ordinance.

B.        The City currently provides park and recreational facilities to the community and the Fees set forth in this Ordinance will be used to maintain current levels and assist the City in meeting its stated goals for park and recreational facilities under the General Plan, Parks and Recreation Master Plan and other applicable plans. As such, the Parkland Acquisition Fee and Park Construction Fee adjusted under this Ordinance as it relates to development within the City is not a “project” within the meaning of CEQA (Pub.Res. Code §21080(b)(8)(D)).

C. In adopting this Ordinance, the City Council is exercising its powers under Article XI, §§5 and 7 of the California Constitution, Chapter 5 of Division 1 of the Government Code (“Mitigation Fee Act”), commencing with Section 66000, collectively and separately.

D. The Record establishes:

1. In accordance with Section 66001, subdivision a, paragraph 1 of the Mitigation Fee Act, the purpose of the Parkland Acquisition Fee and Park Construction Fee, set forth in this Ordinance, is to provide funding to achieve the City’s goal of maintaining existing service levels and to ensure adequate park and recreational facilities are provided in the future to meet the needs of South San Francisco residents and employees as established in the General Plan and Parks and Recreation Master Plan. Standards for the desired level of parks and recreational facilities have been identified which have been used as the basis to establish the Fees under this Ordinance.

To the extent that the amendments provided for in this Ordinance result in an increase in the Park Construction Fee, the City will continue to use the proceeds of the Park Construction Fee for the purpose of constructing new park facilities on new parkland acquired by the City and will also use the proceeds of the Park Construction Fee for the purpose of refurbishing and expanding existing park facilities to serve new residents and employees, to maintain the existing level of service for all residents and employees, and to ensure continued levels of service that are consistent with the General Plan.

2. In accordance with Section 66001, subdivision a, paragraph 2 of the Mitigation Fee Act, the Fees collected pursuant to this Ordinance shall be used to acquire parkland and construct, refurbish, and expand park and recreational facilities, including expanding playgrounds, constructing improvements to sports fields and sports courts, adding passive park facilities such as picnic and sitting areas, installing night lighting, paths, grading, drainage and irrigation, and implementing other similar refurbishment and expansion projects, to maintain existing levels of service and meet the levels identified in the General Plan, Parks and Recreation Master Plan and the Fee Study.

3. In accordance with section 66001, subdivision a, paragraph 3 of the Mitigation Fee Act, there is a reasonable relationship between the Fees’ use (to pay for acquisition of parkland and construction, refurbishment, and expansion of park and recreational facilities) and the type of development for which the Fees are imposed in that the Fees will be applied to development projects in the city, which will generate demands for park and recreational facilities.

To the extent that the amendments provided for in this Ordinance result in an increase in the Park Construction Fee and those Fees are used for refurbishment and expansion projects, the Park Construction Fee is levied upon new residential and non-new residential (commercial) development projects. New residents in new residential development projects and new employees in new non-residential development projects will place additional demands on park and recreational facilities, which are near or at

capacity. Expanding playgrounds, improving sports fields and sports courts, building passive park facilities, installing lighting, paths, grading, drainage and irrigation, and implementing other similar refurbishment and expansion projects will address and mitigate the additional impacts and demands created by future residential and nonresidential development projects.

4. In accordance with Section 66001, subdivision a, paragraph 4, there is a reasonable relationship between the need for the parkland acquisition and park construction Fees and the types of development projects on which the Fees are imposed in that the Fees will be applied to new development projects in the city, which will attract new residents and employees that will place a greater demand on park and recreational facilities.

To the extent that the amendments provided for in this Ordinance result in an increase in the Park Construction Fee and those Fees are used for refurbishment and expansion projects, the Park Construction Fee is levied upon new residential development projects and new non-residential development projects, which generate new residents and new employees in the community. The refurbished and expanded park facilities will serve the needs of new residents in residential development projects and new employees in non-residential development projects by expanding active and passive park facilities and areas and by enhancing access and adding hours of use for residents and employees.

5. In accordance with Section 66001, subdivision b of the Mitigation Fee Act, there is a reasonable relationship between the amount of the Fees and the cost of providing the parkland and park and recreational facilities attributable to the development in the city upon which the Fees are imposed in that the Fees have been calculated by apportioning the cost of parkland acquisition and park facilities construction, refurbishment, and expansion to the number of residents and employees attracted by each type of new residential unit and additional square footage in each type of new non-residential space.

To the extent that the amendments provided for in this Ordinance result in an increase in the Park Construction Fee and those Fees are used for refurbishment and expansion projects, the Park Construction Fee has been updated with 2019 estimated park construction costs specific to the types of park facilities and improvements to be undertaken by the City of South San Francisco.

The Park Construction Fees are calculated by apportioning the cost of constructing park facilities and improvements to the number of residents generated by each type of new residential unit and the number of employees generated per one-thousand square feet in each type of non-residential development project. Confirming that Park Construction Fee can be used for refurbishment and expansion construction projects does not alter the calculation of the Park Construction Fee and each new development project will be charged a Park Construction Fee commensurate with its impact on all park and recreational facilities.

6. The cost estimates set forth in the 2016 Study and the 2019 Supplemental Report are reasonable estimates for acquiring parkland and constructing, refurbishing, and expanding park and recreational facilities and the Fees expected to be generated by future development will not exceed the projected cost of acquiring parkland and constructing, refurbishing, and expanding park and recreational facilities.

7. The method of allocation of the Fees to particular developments bears a fair relationship and is roughly proportional to each development's burden on and benefits from the park and recreational facilities to be funded by the Fees, in that the Fees are calculated based on the number of residents and employees each particular development will attract.

8. The 2019 Supplemental Report is a detailed analysis of how using Park Construction Fees to expand and refurbish parks and recreational facilities and services is an efficient and cost-effective way to address demands for such facilities generated by new development in the City and identifying the parks and recreational facilities necessary to accommodate that development.

9. The Fees are consistent with the General Plan and, pursuant to Government Code Section 65913.2, the City Council has considered the effects of the Fees with respect to the City's housing needs as established in the housing element of the General Plan.

10. The annual fee adjustments provided for in the Ordinance reasonably approximate the fluctuations in market costs in that it allows for adjustments in accordance with the All Urban Consumers Consumer Price Index, San Francisco-Oakland-San Jose (AUC-CPI) and the Engineering News Record Construction Cost Index (CCI) for the San Francisco area.

## **SECTION 2. Amendments**

The City Council finds that the foregoing recitals are true and correct and are incorporated into the Ordinance by this reference. The City Council hereby amends Chapter 8.67 to the South San Francisco Municipal Code to read as follows. Sections and subsections that are not amended by this Ordinance are not included below, and shall remain in full force and effect.

- 1. Revise Section 8.67.010(b) as follows with additions in double-underline and deletions in ~~strikethrough~~:**

### **8.67.010 Purpose.**

(b) The specific purpose of the park construction fee is to mitigate the impact of development projects on park facilities by collecting sufficient funds to construct adequate park

facilities and improvements in the city, refurbish and expand existing facilities to maintain existing levels of service, and provide three acres of improved parkland per one thousand residents and one-half acres of improved parkland per one thousand new employees.

**2. Revise Section 8.67.050(c) as follows with additions in double-underline and deletions in ~~strikethrough~~:**

**8.67.050 Application of parkland acquisition fee and parks and recreation construction fee.**

(c) A development project ~~that has submitted a complete application prior to the effective date of the ordinance codified in this chapter~~ shall pay the applicable parkland acquisition fee and park construction fee in effect at the time of approval of the project, unless another date is agreed to in writing by mutual consent of the parties. ~~the application was filed with the city, at the time specified by Section 8.67.040 of this chapter.~~

**3. Revise Section 8.67.060(b) as follows with additions in double underline and deletions in ~~strikethrough~~:**

(b) Parkland Acquisition Fee for Residential Development. The parkland acquisition fee for residential development shall be calculated by multiplying the number of units in a development by the average number of residents per unit as shown in Formula Table 8.67.060(a) above, then by 0.003 (equal to three acres per one thousand residents), then by the average fair market value (FMV) per acre of land in the city, and reduced by a factor as may be set by resolution of the City Council ~~0.30~~. The average FMV per acre of land in the city shall be determined pursuant to subsection (f) below.

**Formula 8.67.060(b)**

Units in Development X Average Residents per Unit X 0.003 (3 acres/ 1,000 people) X Average FMV per acre X any applicable discount factor adopted by resolution of the City Council ~~0.70~~ = Parkland Acquisition Fee\*

Formula 8.67.060(b)							
Units in Development	X	Average number of residents per Unit	X	.003 (3 acres per 1,000 people)	X	Average FMV per acre of land	X <u>.70 (1.0 minus any applicable discount factor adopted by resolution of the</u>
							= Parkland Acquisition Fee for Residential Development

						<u>City Council</u>	
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4. **Revise Section 8.67.060(c) as follows with additions in double-underline and deletions in ~~strikethrough~~:**

(c) Park Construction Fee for Residential Development. The park construction fee for residential development shall be calculated by multiplying the number of units in the development by the average number of residents per unit as shown in Formula Table 8.67.060(a) above, then by 0.003 (equal to three acres per one thousand residents), then by the average construction cost per acre, and reduced by a factor as may be set by resolution of the City Council ~~of 0.30~~. The average cost of construction per acre in the city shall be determined pursuant to subsection (f) below.

**Formula 8.67.060(c)**

Units in Development X Average Residents per Unit X 0.003 (3 acres/ 1,000 people) X Average Construction Cost per acre X any applicable discount factor adopted by resolution of the City Council ~~0.70~~ = Park Construction Fee for Residential Development

Formula 8.67.060(c)							
Units in Development	X	Average number of residents per Unit	X	.003 (3 acres per 1,000 people)	X	Average Construction Cost per acre of land	X <del>.70</del> <u>(1.0 minus any applicable discount factor adopted by resolution of the City Council)</u> = Park Construction Fee for Residential Development

5. **Revise Section 8.67.060(d) as follows with additions in double-underline and deletions in ~~strikethrough~~:**

(d) Parkland Acquisition Fee for Non-Residential Development. The Parkland Acquisition Fee for non-residential development shall be calculated by multiplying the total square feet of the development divided by 1,000, by the average number of employees per 1,000 square feet shown in Formula Table 8.67.060 (b) above, then by .0005 (equal to 0.5 acres per



1,000 employees), then by the average fair market value (FMV) per acre of land in the city, reduced by a factor of ~~as may be set by resolution of the City Council~~. ~~.75~~. The average FMV per acre of land in the city shall be determined pursuant to subsection (f) below

Formula 8.67.060 (d)												
Total square feet	/	1,000 square feet	X	Average number of employees per 1,000 square feet	X	.0005 (0.5 acres per 1,000 employees)	X	Average FMV per acre of land	X	<u>.25-(1.0 minus any applicable discount factor adopted by resolution of the City Council)</u>	=	Parkland Acquisition Fee for Non-Residential Development

**6. Revise Section 8.67.060(e) as follows with additions in double-underline and deletions in ~~strikethrough~~:**

(e) Park Construction Fee for Non-Residential Development. The Park Construction Fee for non-residential development shall be calculated by multiplying the total square feet of the development divided by 1,000, by the average number of employees per 1,000 square feet shown in Formula Table 8.67.060 (b) above, then by .0005 (equal to 0.5 acres per 1,000 employees), then by the average construction cost per acre of land in the city, reduced by a factor of as may be set by resolution of the City Council ~~.75~~. The average construction cost per acre of land in the city shall be determined pursuant to subsection (g) below.

Formula 8.67.060 (e)												
Total square feet	/	1,000 square feet	X	Average number of employees per 1,000 square feet	X	.0005 (0.5 acres per 1,000 employees)	X	Average Construction Cost per acre of land	X	<u>.25 (1.0 minus any applicable discount factor adopted by resolution of the City Council)</u>	=	Park Construction Fee for Non-Residential Development

**7. Revise Section 8.67.060(i) as follows with additions in double-underline and deletions in ~~strikethrough~~:**

(i) Annual Construction Cost Adjustment. Park Construction Fees paid pursuant to this section ~~may will~~ be adjusted annually by the same percentage as the latest increase or decrease in the Engineering News Record Construction Cost Index (CCI) for the San Francisco area. The adjustment shall be based on a comparison of the most recent CCI to the CCI in the month of adoption of the fee, or the index used for the prior adjustment of the fee. The finance director shall compute the increase or decrease in the such fee and such adjustment shall be approved by resolution of the City Council. ~~The first adjustment will take effect on the second July 1<sup>st</sup> following the adoption of this resolution and each subsequent July 1<sup>st</sup>.~~

**8. Add a new Section 8.67.060(j) as follows:**

(j) Annual Average Fair Market Value per Acre Adjustment. Parkland Acquisition Fees paid pursuant to this section may be adjusted annually by the same percentage as the latest increase or decrease in the All Urban Consumer Price Index, San Francisco-Oakland-San Jose (AUC-CPI). The adjustment shall be based on a comparison of the most recent AUC-CPI to the AUC-CPI in the month of adoption of the fee, or the index used for the prior adjustment of the fee. The finance director shall compute the increase or decrease in the fee and such adjustment shall be approved by resolution of the City Council.

**9. Add a new Section 8.67.060(k) with additions in double-underline as follows:**

(k) Discount Factor Resolution and Posting. The City Council, at its discretion, may elect to reduce the amount of fees imposed pursuant to this Chapter to a lower amount by adopting a discount factor for all projects subject to the applicable fees. Such discretionary fee reduction may be adopted by the City Council by resolution and may be adjusted or eliminated at any time in the sole discretion of City Council. Any such resolution adopted pursuant to this subsection (k) shall be posted on the City's website.

**10. Revise Section 8.67.070(b) as follows with additions in double-underline and deletions in ~~strikethrough~~:**

**8.67.070      Use of parkland acquisition fee and park construction fee.**

(b) Parks Construction Fee. The park construction fee shall be used for the purpose of constructing parks and recreation facilities, refurbishing and expanding existing facilities to maintain existing levels of service, and ~~to~~ adequately providing such facilities on three acres of parkland per one thousand residents and one-half acres of parkland per one thousand new employees of the city.

**SECTION 3.      Publication and Effective Date**

Pursuant to the provisions of Government Code Section 36933, a summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting

at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting. This Ordinance shall become effective sixty (60) days from and after its adoption.

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Introduced at a regular meeting of the City Council of the City of South San Francisco held the 26<sup>th</sup> day of June, 2019.

Adopted as an Ordinance of the City of South San Francisco at a regular meeting of the City Council held the \_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

As Mayor of the City of South San Francisco, I do hereby approve the foregoing ordinance this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Karyl Matsumoto, Mayor