

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHULA VISTA MUNICIPAL CODE CHAPTER 17.10
("PARKLANDS AND PUBLIC FACILITIES") TO EXEMPT
AFFORDABLE UNITS FROM PARKLAND ACQUISITION
AND DEVELOPMENT FEES

WHEREAS, new housing developments are required to provide usable open space, pursuant to Chula Vista Municipal Code ("CVMC") Chapter 19.28; and

WHEREAS, as an alternative method of compliance, housing developments may instead be assessed an in-lieu fee, known as the Parkland Acquisition and Development ("PAD") fee, to be used for the offsite acquisition and improvement of parkland in Chula Vista, pursuant to CVMC Chapter 17.10; and

WHEREAS, CVMC Chapter 17.10 currently allows that City Council may, by resolution, waive all or any portion of the PAD in-lieu fee in the interests of stimulating the construction of housing for low- and moderate-income families; and

WHEREAS, the production of housing affordable to low- and moderate-income households is an area of critical need for Chula Vista residents, as reflected in the City of Chula Vista's Regional Housing Needs Allocation ("RHNA") targets set forth in its 2021-2029 Housing Element of the General Plan (the "Housing Element"); and

WHEREAS, PAD in-lieu fees are a constraint on the production of housing affordable to low- and moderate-income families; and

WHEREAS, various affordable housing programs administered by the State of California treat an exemption or waiver from development fees as a local monetary contribution to a project, thereby increasing the competitiveness of such projects for state funding; and

WHEREAS, the current discretionary procedures for a waiver of such fees impose administrative costs on City of Chula Vista staff and may create uncertainty and delays in project completion, and could be improved through a streamlined process providing a categorical exemption for 100% affordable housing projects; and

WHEREAS, for the reasons described above, establishing a categorical exemption for 100% affordable housing projects serves a public purpose;

NOW, THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I. Findings

The City Council of the City of Chula Vista finds that the proposed amendments to the CVMC identified in this ordinance No. _____ qualifies for the "common sense" exemption under State CEQA Guidelines Section 15061(b)(3). The action involves updates, modifications, and organizational changes to the CVMC. Furthermore, the action of updating and modifying the

CVMC with procedural and clerical changes will not result in an intensification of uses or a change in development potential within the City above what already is permitted under the existing land use and zoning policies of the CVMC that are being updated. Based on an analysis of the nature and type of these procedural and clerical changes to the CVMC, there is a certainty that there is no possibility that the action may have a significant effect on the environment.

Section II. The Chula Vista Municipal Code Section 17.10.070 is hereby amended to read as follows:

17.10.070 In-lieu fees for land dedication and/or park development improvements.

A. *In-Lieu Fees for Land Dedication.* If, in the judgment of the City, suitable land does not exist within the subdivision or within the development if it is not part of a subdivision, or for subdivisions containing 50 lots or less, the payment of fees in lieu of land shall be required. In such cases, the required fee(s) shall be based on the area to be dedicated as set forth in CVMC [17.10.040](#). However, when a condominium project, stock cooperative or community apartment project exceeds 50 dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than 50.

Where the City deems that a combination of dedication and payment, as provided in this chapter, would better serve the public and the park and recreation needs of the future residents of a particular subdivision or residential development, it may require such combination; provided, however, the City Council may, by resolution, waive all or any portion of said dedication or in-lieu fee requirements in the interests of stimulating the construction of housing for low- and moderate-income families.

B. *In-Lieu Fees for Park Development Improvements.* If, in the judgment of the City, suitable land does not exist within the subdivision or within the development if it is not part of a subdivision, or for subdivisions containing 50 lots or less, the payment of fees in lieu of developing improvements shall be required. In such cases, the amount of the required fee(s) shall be based on the improvements required in CVMC [17.10.050](#). However, when a condominium project, stock cooperative or community apartment project exceeds 50 dwelling units, improvements may be required notwithstanding that the number of parcels may be less than 50.

Where the City deems that a combination of improvements and payment, as provided in this chapter, would better serve the public and the park and recreation needs of the future residents of a particular subdivision or residential development, it may require such combination.; provided, however, the City Council may, by resolution, waive all or any portion of said improvements or

in-lieu fee requirements in the interests of stimulating the construction of housing for low- and moderate-income families.

In the event the City determines that the improvement of the parkland shall be delayed for a substantial period of time after the parkland has been dedicated, the subdivider or building permit applicant shall not be required to install such improvements, but instead shall pay the required fee(s) for the value of improvements required in CVMC [17.10.050](#).

C. *Land Uses Exempt from In-Lieu Fees.* “Accessory Dwelling Units” and “Junior Accessory Dwelling Units” as defined in CVMC [19.58.022](#) and [19.58.023](#), respectively, are exempt from payment of in-lieu fees for parkland dedication and park development as they offer lower cost housing supply to low- and moderate-income families. Housing developments in which 100% of units, except any units reserved exclusively for use by staff, are restricted as affordable to persons or families of low or moderate income, as defined in California Health and Safety Code Section 50093, shall also be exempt from payment of in-lieu fees for parkland dedication and park development, provided that such units are restricted through a regulatory agreement, recorded in the official records of San Diego County, with the City of Chula Vista, the Chula Vista Housing Authority, the California Tax Credit Allocation Committee, or the California Department of Housing and Community Development. (Ord. 3424 § 3, 2018; Ord. 3303 § 1 (Att. A), 2014; Ord. 2945 § 5, 2004; Ord. 2886 § 1, 2002).

Section III. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section IV. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section V. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section VI. Publication

Ordinance

Page 4

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Stacey Kurz
Director, Housing and Homeless Services

Marco A. Verdugo
City Attorney