

ORDINANCE NO. 28604

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JOSÉ AMENDING SECTIONS 14.29.010 THROUGH 14.29.040 OF CHAPTER 14.29 OF TITLE 14 OF THE SAN JOSÉ MUNICIPAL CODE IN ORDER TO ADD A TRAFFIC IMPACT FEE FOR NEW REGIONAL RETAIL AND HOTEL DEVELOPMENT WITHIN THE NORTH SAN JOSÉ AREA DEVELOPMENT POLICY BOUNDARIES

WHEREAS, on June 21, 2005, the City Council of the City of San José adopted Ordinance No. 27493 adding Chapter 14.29 to Title 14 of the San José Municipal Code establishing a traffic impact fee on new industrial and residential development within the North San José Area Development Policy boundaries; and

WHEREAS, the Council adopted the traffic impact fee to offset the impacts on traffic from new industrial and residential development within the boundaries of and subject to the North San José Area Development Policy, as identified in the North San José Area Development Policy dated June 2005 and adopted by the City Council on June 21, 2005 (hereinafter "Policy"); and

WHEREAS, on June 16, 2009, the Council adopted an Amended North San José Area Development Policy to authorize, among other changes, regional retail and hotel uses within the North San José Area Development Policy boundaries; and

WHEREAS, as a result of the Amended North San José Area Development Policy to allow regional retail and hotel uses within the area boundaries, the Council desires to revise Ordinance No. 27493 to add a traffic impact fee for regional retail and hotel uses to offset the impacts on traffic from such new development within the boundaries of and subject to the North San José Area Development Policy; and

WHEREAS, the Plan was evaluated pursuant to the Environmental Impact Report prepared in accordance with the California Environmental Quality Act of 1970, as amended, for the North San José Area Policy certified by the Planning Commission on June 7, 2005 and upheld on appeal by the City Council on June 21, 2005 (hereinafter “FEIR”) under File Nos. GPT04-04-06a; GPT04-04-06b, GP04-04-06a and GP04-04-06b; and

WHEREAS, the City has prepared an Addendum to the FEIR, including related traffic impact analysis, pursuant to the California Environmental Quality Act of 1970, as amended, for the development and related traffic impacts thereof of the Amended North San José Area Development Policy (“Addendum”), which Addendum identifies no environmental impacts other than those identified in the FEIR; and

WHEREAS, the potential environmental impacts related to the proposed Amended North San José Area Development Policy were analyzed in the Addendum entitled “Addendum to the North San José Development Policies Update Final Environmental Impact Report,” and were considered along with the FEIR by the City Council on June 16, 2009; and

WHEREAS, the improvements specified in the NSJ Traffic Impact Fee Plan, as revised, and the traffic mitigations specified in the FEIR are in addition to any future development project-specific impacts that may be identified with regard to individual development applications.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 1. Section 14.29.010 of Chapter 14.29 of Title 14 of the San José Municipal Code is hereby amended to read as follows:

14.29.010 Purpose and Findings

On June 21, 2005, the City Council adopted the June 2005 North San José Area Development Policy authorizing the intensification of development subject to and within the boundaries of the North San José Area Development Policy. The potential intensification of development within the Policy area will allow for the development of a maximum of twenty-six million seven-hundred thousand square feet of new industrial office/research and development space, a maximum of one million seven hundred thousand square feet of new commercial space, and a maximum of thirty two thousand new residential units. On June 16, 2009, the Council adopted an Amended North San José Area Development Policy to include regional retail uses and hotel uses within the Policy area. It is the intent and purpose of the City Council in adopting this Chapter to provide in part for the major traffic improvements deemed necessary as a result of the adoption of the June 2005 North San José Area Development Policy and all amendments thereto through the adoption of a North San José Traffic Impact Fee to be charged to all new industrial, residential, regional retail, and hotel development subject to the Policy in the manner specified in the June 2005 North San José Traffic Impact Fee Plan accepted by the City Council on June 21, 2005, and as amended in May 2009 and accepted as amended by the City Council on June 16, 2009.

SECTION 2. Section 14.29.020 of Chapter 14.29 of Title 14 of the San José Municipal Code is hereby amended to read as follows:

14.29.020 Definitions

The definitions set forth in this Section shall govern the application and interpretation of this Chapter:

- A. “Hotel” shall have the same definition as in Section 20.200.540 of this Code.
- B. “Industrial” means any use of land specified as an industrial use in Title 20 of this Code.
- C. “Multi-Family Attached” means any residential dwelling unit that has a vertical overlap with another residential dwelling unit.
- D. “North San José Area Development Policy Boundary” means that project area within the corporate limits of the City of San José consisting of approximately four thousand nine hundred eighty-seven acres and generally bounded by Interstate 880 to the South and East, Route 87 and the Guadalupe River to the West, and by Highway 237 to the North, as specified and depicted in the North San José Area Development Policy adopted by the City Council on June 21, 2005, and as amended by the City Council on June 16, 2009, and in the Environmental Impact Report for the North San José Development Policies Update certified by the Planning Commission on June 7, 2005 and upheld on appeal by the City Council on June 21, 2005, and the Addendum to the North San José Development Policies Update Final Environmental Impact Report considered along with the certified Environmental Impact Report by the City Council on June 16, 2009. The North San José Area Development Policy and the Environmental Impact Report, and all addenda thereto, are maintained for public review in the Office of the Planning Division of the Department of Planning, Building and Code Enforcement.
- E. “North San José Traffic Impact Fee” means the fee adopted by the City Council pursuant to this Chapter.
- F. “North San José Traffic Impact Fee Plan” is the fee study entitled, North San José Traffic Impact Fee Plan, dated June 2005, accepted by the City Council on June

21, 2005, and as revised May 2009 and accepted by the City Council on June 16, 2009. The North San José Traffic Impact Fee Plan and revisions thereto are maintained for public review in the Office of the Planning Division of the Department of Planning, Building and Code Enforcement.

G. “Regional Retail/Large Scale Commercial” means any commercial establishment or use with a single occupancy of greater than 100,000 square feet.

H. “Residential” means any use of land specified as a residential use in Title 20 of this Code.

I. “Single-Family Detached” means any residential dwelling unit that does not have a vertical overlap with another residential dwelling unit.

SECTION 3. Section 14.29.030 of Chapter 14.29 of Title 14 of the San José Municipal Code is hereby amended to read as follows:

14.29.030 Application of Chapter

This Chapter establishes the requirements for the North San José Traffic Impact Fee for all industrial, residential, regional retail/large scale commercial, and hotel development within the North San José Area Development Policy Boundary occurring after the effective date of this ordinance, July 28, 2005, as amended. The North San José Traffic Impact Fee is limited to providing funding in the amounts and for those improvements specified in the North San José Traffic Impact Fee Plan. Nothing in this Chapter shall restrict the ability of the City to require dedication of land, payment of fees or construction of improvements for needs other than, or in addition to, the improvements specified in the North San José Traffic Impact Fee Plan.

SECTION 4. Section 14.29.040 of Chapter 14.29 of Title 14 of the San José Municipal Code is hereby amended to read as follows:

14.29.040 Traffic Impact Fee Requirement

A. Commencing July 28, 2005, prior to the issuance of any building permit for industrial, residential, regional retail/large scale commercial, and hotel development in the North San José Area Development Policy Boundary, the North San José Traffic Impact Fee shall be paid in the following amount based upon the use of land:

<u>Land Use</u>	<u>Fee</u>
Industrial:	\$10.44 per sq. ft. of building space
Residential:	
Single-Family Detached.....	\$6,994.00 per dwelling unit
Multi-Family Attached.....	\$5,596.00 per dwelling unit
<u>Regional Retail/Large Scale Commercial:</u>	<u>\$14.62 per sq. ft. of building space</u>
<u>Hotel:</u>	<u>\$3,161 per guest room</u>

B. The North San José Area Traffic Impact Fee specified in subsection A above shall be increased by 3.3 percent per annum compounded on July 1 of every odd numbered year.

C. No building permit shall be issued for industrial, regional retail/large scale commercial, hotel, or residential construction within the North San José Area Development Policy Boundary unless and until the North San José Traffic Impact Fee has been paid in full.

PASSED FOR PUBLICATION of title this 16th day of June, 2009, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA,
LICCARDO, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: CHIRCO, NGUYEN.

DISQUALIFIED: NONE.

CHICK REED
Mayor

ATTEST:

LEE PRICE, CMC
City Clerk