

ORDINANCE O2016-__

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NAPA, STATE OF CALIFORNIA, AMENDING NAPA
MUNICIPAL CODE CHAPTER 15.104 "PARKING IMPACT
FEE ON NON-RESIDENTIAL DEVELOPMENT IN THE
PARKING EXEMPT OVERLAY DISTRICT"

WHEREAS, the City is constitutionally authorized to adopt ordinances which implement the City's home rule authority to regulate municipal affairs, including the raising of municipal revenue and the regulation of land use, as set forth in California Constitution Article XI, Section 5; and the City is authorized to adopt ordinances to regulate the public health, safety, and welfare, pursuant to the City's police power authority as set forth in California Constitution Article XI, Section 7; and

WHEREAS, the "Mitigation Fee Act" (California Government Code Sections 66000, *et seq.*) establishes substantive and procedural requirements for the City to establish and impose development impact fees on new development, in order to fund the construction of capital public facilities that mitigate the impacts that new development has on the City's provision of municipal services; and

WHEREAS, consistent with the requirements of the Mitigation Fee Act, in 2005, the City Council adopted Ordinance No. O2005-3, as codified in Napa Municipal Code Chapter 15.104 (Parking Impact Fee), which documents the parameters by which the City establishes and imposes development impact fees on new non-residential development to mitigate the impacts on the City's provision of public parking facilities to serve said development and existing development; and

WHEREAS, consistent with the requirements of Napa Municipal Code Chapter 15.104, the City Council has previously adopted resolutions to document the impacts caused by new development, the public facilities required to be built in order to mitigate the impacts of new development on the City's public parking facilities in the Parking Exempt Overlay District (including the construction of a new parking garage in the vicinity of Pearl and West streets, and a second parking garage in a location to be identified), the estimated cost of the identified public facilities, and the proportionate allocation of those costs (in the form of development impact fees) to new development that generates the need for the public facilities and that receives a benefit from the public facilities; and

WHEREAS, the City established the development impact fee for public parking facilities on January 4, 2005, Resolution R2005-7, which established impact fee funding for public parking facilities within the "PE Parking Exempt Overlay District," the geographical area defined on the City's zoning map and defined in Napa Municipal Code Chapter 17.44 ("Parking Exempt District"); and

WHEREAS, in the course of conducting the 2016 update to R2005-7, the City identified the need to update certain provisions of Napa Municipal Code Chapter 15.104 in order to more accurately estimate the impacts of new non-residential development on the City's ability to construct new public parking facilities to meet parking demand generated by said new non-residential development, consistent with the requirements of the Mitigation Fee Act; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meeting of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Napa as follows:

SECTION 1: Amendment. Napa Municipal Code Chapter 15.104 is hereby amended by repealing the previous language in its entirety, and by adopting new language as set forth below:

**“Chapter 15.104
Parking Impact Fee on Nonresidential Development in the
:PE Parking Exempt Overlay District**

Sections:

- 15.104.010 Purpose and scope of this chapter.**
- 15.104.020 Definitions.**
- 15.104.030 Establishment of fees by implementing resolutions.**
- 15.104.040 Payment of fees.**
- 15.104.050 Use of fees.**

15.104.010 Purpose and scope of this chapter.

- A. The purpose of this chapter, which may be referred to as the “Parking Impact Fee Ordinance,” is to document the substantive and procedural requirements that the City will follow in order to establish, increase, and impose development impact fees on non-residential development projects for the purpose of funding public parking facilities that mitigate the parking impacts of development projects within the Parking Exempt District.
- B. This chapter is adopted pursuant to the City's constitutional home rule authority, as set forth in California Constitution Article XI, Section 5; pursuant to the City's police power authority to regulate matters impacting the public health, safety, and welfare, as set forth in California Constitution Article XI, Section 7; and pursuant to the Mitigation Fee Act, as set forth in California Government Code sections 66000, *et seq.*

15.104.020 Definitions.

As used in this chapter:

“Developer” means the person or entity that is legally responsible for the planning, development, and construction of any development project covered by this chapter. The developer may be the property owner of the real property that is subject of the development project, or a person or entity legally authorized by the property owner; however, the property owner shall be jointly and severally liable with the developer for payment of fees required pursuant to this Chapter.

“Development project” means any proposed construction work that requires a City permit for construction of a building (either new construction or net increase in floor area of an existing building). “Development project” also means any proposed change of use that requires a City permit.

“Director” means the Community Development Director of the City of Napa, or a designee of the Community Development Director or the City Manager.

“Implementing resolution” means a resolution adopted by the City Council that documents compliance with the requirements of Section 15.104.030, below.

“Nonresidential development” means any development project, in whole or in part, to the extent that it is not required to provide onsite parking in the Parking Exempt District, based on the requirements of Chapter 17.44 of this Code.

“Parking Exempt District” means the geographical area identified as the “PE Parking Exempt Overlay District” on the City’s zoning map, as those terms are defined in Title 17 of this Code.

15.104.030 Establishment of fees by implementing resolutions.

Any action by the City to establish, increase or impose a parking development impact fee (“fee”) pursuant to this chapter shall be subject to City Council approval of an implementing resolution which documents compliance with all requirements of the Mitigation Fee Act, including the following:

- A. Identify the purpose of the fee by identifying the types and quantities of development projects creating impacts on the City’s ability to provide public parking facilities, and the public facilities designed to mitigate the impacts that will be funded with the fees generated by the development projects. This will include an identification of the types of development projects subject to the fee, the estimated quantities of development projects that will be subject to the fee, and the estimated impacts of the identified development projects on the City’s ability to provide public parking facilities to serve development in the Parking Exempt

District.

- B. Identify the use of the fee by identifying the specified public facilities to be funded by the fees, including the estimated costs of the components of the specified public facilities, such as: real property acquisition, land use planning, environmental review, design, construction administration, construction, equipment manufacturing and installation, administrative costs (including financial, legal, and general administrative services related to establishment and enforcement of the fee program), and reasonable contingencies.
- C. Determine how there is a reasonable relationship between the City's use of the fee and the types of development projects on which the fee is to be imposed by demonstrating how the development projects will benefit from the specified public facilities to be funded by the fees.
- D. Determine how there is a reasonable relationship between the need for the specified public facilities and the types of development projects on which the fee is to be imposed, by demonstrating how the development projects create a demand for the construction of the specified public facilities to be funded by the fees.
- E. Determine how there is a reasonable relationship between the amount of the fee and the cost of the specified public facility attributable to the development projects on which the fee is to be imposed. This shall include two elements: (i) a quantification of the estimated reasonable cost of providing the specified public facility (including the component costs identified above); and (ii) an identification of the method by which the City quantifies the proportionate responsibility of each development project for the cost of the specified public facilities, which may be satisfied by establishing a formula which reasonably quantifies the proportionate responsibility of various types of development projects using standardized units of measurement.

15.104.040 Payment of fees.

- A. Each developer for a nonresidential development project shall pay the parking impact fee ("fee") in the amount in effect when the fee is paid (as set forth in the implementing resolution), except to the extent that the developer submits sufficient documentation that the developer is entitled to an adjustment in the fee amount, pursuant to this section.
- B. The fee for each unit of development within a development project shall be paid in-full prior to the issuance of the building permit required for that unit of development, unless otherwise authorized by the Mitigation Fee Act. If a building permit is not required for all or a portion of a development project, or if a developer receives a building permit from the City for a unit of development and the fee has not been paid, the developer shall pay the fee within 30 days of

written notice from the City. The fee shall be paid no earlier than either: (1) the date on which a complete application is filed for the building permit; or, (2) if no building permit is required, the date on which a complete application is filed for the City permit for the development project.

- C. The fee to be paid for a development project shall be charged on the basis of the estimated number of parking spaces generated by the net new development. The net new parking demand shall be calculated as follows:
1. Calculate the parking demand generated by the development project pursuant to Chapter 17.54 (particularly Section 17.54.040(D)).
 2. Calculate the parking demand generated by any existing structure on the same site as the development project, pursuant to Chapter 17.54 (particularly Section 17.54.040(D)). For the purpose of this section, the parking demand generated by the existing structure shall be decreased by the number of any onsite parking spaces that will be eliminated by the development project.
 3. The net new parking demand for the development project shall equal the parking demand generated by the development project, less a credit for the parking demand generated by the existing structure that is replaced by the new development.
 4. When calculating net new parking demand, no credit shall be provided for existing residential buildings.
 5. To the extent that a development project provides onsite parking spaces (in accordance with Chapter 17.44), the project shall receive a credit against the parking demand generated by the development project.
- D. A developer subject to the fee may apply to the City Council for an adjustment or waiver of the fee if the application is filed in accordance with this subsection 15.104.040(D). The application must be filed in writing with the Director no later than 10 days prior to the first public hearing for any discretionary permit or approval for the development project. The developer shall bear the burden of proving that there is no substantial evidence to support a reasonable relationship, or nexus, between the impacts of the development project and the fee imposed on the development project, based on the criteria set forth in Section 15.104.030. The City Council may adjust or waive the fee in accordance with this subsection if the Council determines that the developer has met its burden of proof. In addition to the procedures to apply for an adjustment or waiver of a fee, pursuant to this subsection 15.104.040(D), a developer may protest a fee by complying with the requirements of the Mitigation Fee Act (notably, California Government Code Sections 66020 through 66025), and filing an appeal pursuant to Napa Municipal Code Chapter 3.04.

15.104.050 Use of fees.

- A. The fees imposed by the City pursuant to this chapter shall be used by the City to pay, in whole or in part, the cost of providing specified public facilities, as described in the implementing resolution.
- B. Fee revenue shall be collected, separately accounted, and used by the City in accordance with the requirements of the Mitigation Fee Act (California Government Code Sections 66000, *et seq.*).
- C. In order to more effectively mitigate the impact of development projects, and maximize the use of fee revenues, fee revenues may be used as temporary loans from one fee fund to another fee fund only if the City Council makes the following findings:
 - (1) Based upon planned phasing of the public facilities, and anticipated timing of fee revenues to be collected, it is in the City's best interests to allow the temporary loan.
 - (2) All requirements of the Mitigation Fee Act have been satisfied, including a specification of the amount loaned, the date of repayment, and the interest rate to be paid."

SECTION 2: Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 3: Effective Date. This Ordinance shall become effective thirty (30) days following adoption.

SECTION 4: CEQA. The City Council hereby determines that the adoption of this ordinance is not in-and-of-itself a "project" (pursuant to CEQA Guidelines Section 15378) since it does not result in a physical change in the environment. However, the adoption of this ordinance is part of a larger "project" that will be subject to environmental review in accordance with CEQA at the "earliest feasible time" prior to "approval" consistent with CEQA Guidelines Sections 15004 and 15352. The earliest feasible time for Council's evaluation of environmental impacts will be after Council identifies a site for a parking structure that will serve development in the Downtown Parking Exempt District, and prior to Council's approval of construction for that parking structure. Furthermore, development that is contemplated to create additional parking demand subject to the Parking Impact Fee was adequately examined in the Final Environmental Impact Report for the Downtown Napa Specific Plan (State Clearinghouse #2010042043) adopted by City Council on May 15, 2012; and the Mitigated Negative Declaration for the 1300 Main Street Building adopted by City Council on June 7, 2016 (Resolution R2016-80).

ATTACHMENT 2

City of Napa, a municipal corporation

MAYOR: _____

ATTEST: _____
CITY CLERK OF THE CITY OF NAPA

STATE OF CALIFORNIA }
COUNTY OF NAPA } SS:
CITY OF NAPA }

I, Dorothy Roberts, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public meeting of the City Council on the 2nd day of August, 2016, and had its second reading and was adopted and passed during the public meeting of the City Council on the 20th day of September, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
Dorothy Roberts
City Clerk

Approved as to Form:

Michael W. Barrett
City Attorney