

ARTICLE VII. ~~TRAFFIC TRANSPORTATION IMPACT MITIGATION FEES~~

Sec. 15.70.010. Short title.

This article shall be known as the "Town of Los Gatos Transportation Traffic Impact Mitigation Fee Ordinance" and may be so cited.

(Ord. No. 1828, § I(37.01.010), 7-2-90)

Sec. 15.70.015. Purpose.

- (a) The Town Council finds that all new development and expansion of uses contribute to cumulative traffic transportation impacts. These impacts are difficult to measure and mitigate on a project-by-project basis, yet are cumulatively measurable and mitigable. Failure to expand the capacity and/or reduce the demand of the existing circulation system will cause unacceptable levels of service and congestion on streets and intersections, traffic accidents, air pollution, noise, and restrictions on access for emergency vehicles.
- (b) The Town Council finds that the purpose of the traffic transportation impact mitigation fee is to assure that each new development or expansion of use pays its fair share of the transportation improvements needed to accommodate the cumulative traffic impacts. Existing and known future sources of revenue are inadequate to fund a substantial portion of the transportation improvements necessary to reduce vehicle miles traveled and avoid unacceptable levels of service, congestion, and related adverse impacts.
- (c) The Town Council declares the traffic transportation improvement area shall be the Town limits to finance transportation improvements where such improvements have been identified by the Town's general plan and any applicable specific plan.
- (d) The Town Council has determined that traffic transportation impact mitigation fees are necessary in order to finance transportation and traffic improvements within the traffic transportation improvement area.
- ~~(e) In establishing the fees described in this article, the Town Council has found that these fees will replace the intersection capacity in lieu fees and median island fees.~~
- (~~e~~f) These fees are in addition to project specific required capacity improvements and trip-reduction measures.

(Ord. No. 1828, § I(37.01.015), 7-2-90; Ord. No. 2284, § 1, 6-18-19)

Sec. 15.70.020. Scope.

This article establishes cumulative traffic transportation impact mitigation fees through assessments on new developments and expansion of uses authorized through the approval of minor land divisions, major subdivisions, building permits, and all zoning approvals in the Town. This article further provides for the establishment of trust funds to receive the revenues collected by the Town, and authorizes the Council to establish the inventory of capital improvement facilities for which funds may be expended and the amount of fees to be assessed, subject to periodic review.

(Ord. No. 1828, § I(37.01.020), 7-2-90)

Sec. 15.70.025. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building permit shall mean the permit issued or required by the Town for the construction of any structure pursuant to and as defined by the building code.

Development shall mean residential or nonresidential improvements on a site.

Existing development shall mean any already existing habitable residential or nonresidential building or projects which rebuild or remodel the existing development without increasing the trips generated. No fee shall be charged for existing development already existing.

Expansion of use, to determine traffic increases, shall include any increase in the number of living units, gross floor area in a nonresidential development and/or any intensification of use which increases trips generated.

Future growth shall mean the level of future development anticipated in the Town consistent with the general plan and any applicable specific plan and shall be expressed as the difference between the existing and potential land use within the Town. Both the existing and potential land use data shall be used to estimate the number of trips arriving and/or leaving from various planning areas within the Town through the use of a trip generation rate.

~~*Project Generated VMT* shall mean the VMT generated by the development.~~

Site shall mean a plot of ground consisting of one (1) or more lots or parcels on which a common improvement is proposed or exists.

Transportation improvements shall mean those improvements and related actions necessary to implement the circulation element of the Town's General plan, and any applicable specific plan, and the Town's capital improvement plan and shall include and not be limited to: paving, curb and gutter, sidewalks, medians with landscaping, drainage facilities, traffic signals, street lighting, signing, striping, noise walls, bicycle facilities, right-of-way and other improvements or actions necessary to mitigate significant cumulative traffic impacts.

Trip generation rate shall mean the number of vehicle trips over a weekday twenty-four-hour period generated by a particular type of land use and shall be expressed in terms of the number of acres or square feet of land for each land use category. The Town Engineer may exercise reasonable discretion to establish recommended trip generation rates for land use categories consisting of groupings of land uses having similar use and functional characteristics. When the trip generation rate is multiplied by the amount of land, the number of trips, both incoming and outgoing, shall be estimated.

Use shall mean the purpose for which a site or structure is arranged, designed, intended, constructed, erected, moved, altered or enlarged or for which either a site or a structure is or may be occupied or maintained.

~~*Vehicle Miles Traveled (VMT)* shall mean the total number of miles traveled by a motor vehicle over a period of time, generally one year.~~

~~*Vehicle trip end* shall mean an incoming or outgoing trip going to or coming from anywhere within the Town or outside the Town.~~

(Ord. No. 1828, § I(37.02.010), 7-2-90)

Sec. 15.70.030. Fee determination.

- (a) The ~~traffic transportation impact mitigation~~ fee shall be based upon the unfunded cost of the transportation improvements necessary to upgrade the traffic circulation system and achieve Vehicle Miles Traveled

reduction as identified in the Town's Ggeneral pplan and capital improvements plan. The traffic/build-out analysis (prepared as a part of the Environmental Impact Report for the Town's general plan dated February 4, 1985, on file with the Planning Department) identified the projected new vehicle trip ends that will be generated by new growth occurring at the build-out of the Town in accordance with the existing general plan. All of the anticipated trip ends for each land use category were added up to determine the total number of additional trips that the Town's circulation system must accommodate consistent with the general plan.

- (b) The traffic/transportation -impact mitigation fee shall be calculated through development of a Nexus Study that takes into account projected development for various land uses and the cost of the necessary transportation improvements to support the development. The following factors shall be included: in accordance with the following procedure:
- (1) ~~The Town Engineer shall determine the estimated cost of the transportation improvements necessary to implement the circulation element of the Town's general plan.~~
 - (2) ~~The Town Engineer may also take into account the relative benefit of particular transportation improvements to different land uses in order to allocate the cost of such improvements fairly and equitably among the different land uses.~~
 - (3) ~~The Town Engineer in conjunction with the Town Finance Manager shall determine the current and anticipated funding available to pay the costs of constructing the transportation improvements. In determining the amount of funding available, the Town Engineer shall include funding from other governmental entities and Town revenues earmarked for roadway construction purposes.~~
 - (4) ~~The Town Engineer shall determine the difference between the estimated costs and the estimated current and anticipated future funding available to complete the transportation improvements.~~
 - (5) ~~The extent to which the estimated cost exceeds the estimated current and anticipated future funding shall be the unfunded cost of the transportation improvements to be raised via traffic impact mitigation fees.~~
- (c) ~~The Town Engineer shall determine the fee for each land use in accordance with the following procedure:~~
- (1) ~~The fee per vehicle trip end shall be calculated by dividing the unfunded cost of transportation system improvements by the total number of trip ends expected to be generated by future growth.~~
 - (12) For non-residential land uses, the unadjusted traffic/transportation -impact mitigation fee shall be calculated by multiplying the fee per trip end by the trip generation rate per land use category calculated per 1000 square feet of development.
 - (2) For single and multi-family development the transportation impact mitigation fee shall be calculated on a square foot basis using the average size of housing units based on building permits issued by the Town for the prior three years.
 - (3) ~~The unadjusted traffic/transportation -impact mitigation fee may then be adjusted by the Town Engineer, in a reasonable exercise of discretion, to make the fee reflect more accurately the interrelationships between the land use category, traffic impacts, transportation improvement costs, the Town's Ggeneral pplan, and any applicable specific plan, local and regional social, economic, and commercial needs, the Town's capital improvement plan, and a fair and equitable mitigation fee distribution. In addition, the Town Council expressly reserves its full legislative discretion to adjust or categorize the traffic/transportation -impact mitigation fees to be assessed to the maximum extent permitted by law.~~
- (4) The Town will utilize its best efforts to maintain records for the purposes of determining credits that may be due to any particular property. However, except as otherwise specifically provided by law, the

ultimate burden and responsibility for establishing entitlement to any credit shall rest with the person claiming entitlement to a credit.

- (5) Unusual circumstances may result in this policy placing an undue burden on a developer or landowner. In such cases, the Town reserves the right to enter into an agreement to deviate from the policy as may be approved by the Town Council.

(Ord. No. 1828, § I(37.03.010), 7-2-90)

Sec. 15.70.XXX. Credits.

- (a) Credits toward transportation impact mitigation fees may be applied based on trip generation at the time of entitlement application. Properties not generating trips at the time of application will not receive credit.
- (b) Developments that propose deed restricted low- and very-low income housing units, as defined by the County of Santa Clara, shall receive 50-100% credit against the Transportation Mitigation Impact Fee for those deed restricted units.

Sec. 15.70.035. Amount and payment of fee.

- (a) The Town Council shall by resolution set forth the specific amount of ~~traffic~~transportation -impact mitigation fees. These fees are subject to periodic review by the Town Council.
- (b) All projects which are determined by the Town Engineer to ~~have the potential to generate additional present and future vehicle trips generate one or more new vehicle trips per day~~ are required to pay the ~~traffic~~transportation -impact mitigation fee.
- (c) The fee shall be paid in full to the Town of Los Gatos prior to issuance of the building permit for the development. If no building permit is required for a change of use, the fee shall be paid in full prior to issuance of a certificate of use and occupancy.
- ~~(d) No final subdivision map, parcel map or certificate shall be filed for recording until the traffic impact mitigation fee has been paid in full.~~

(Ord. No. 1828, § I(37.03.015), 7-2-90; Ord. No. 2284, § 1, 6-18-19)

Sec. 15.70.040. Establishment of trust fund.

There is hereby established a special trust fund into which all ~~traffic~~transportation -impact mitigation fees and any interest thereon collected pursuant to this article, shall be deposited in a separate account in a manner to avoid any commingling of the fees with other revenues and funds of the Town.

(Ord. No. 1828, § I(37.04.010), 7-2-90)

Sec. 15.70.045. Use of monies in trust fund.

- (a) Money in the trust fund established in this article shall be used solely for construction of identified traffic and transportation improvement projects.
- (b) The monies in the fund shall be eligible for expenditure only for projects related to mitigating the cumulative impacts of new development. These funds cannot be used for routine repairs and maintenance.

(Ord. No. 1828, § I(37.04.015), 7-2-90; Ord. No. 2284, § 1, 6-18-19)

Sec. 15.70.050. Preclusion of additional mitigation measures not guaranteed.

This article shall not preclude the imposition of additional mitigation measures to address significant direct impacts of any development or expansion of use or to address otherwise unfunded transportation improvements, nor shall this article preclude adoption of statement of overriding considerations where desirable and appropriate.

(Ord. No. 1828, § 1(37.04.020), 7-2-90)

