

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING TOWN CODE CHAPTER 15, ARTICLE VII, 'TRAFFIC IMPACT MITIGATION FEES'

WHEREAS, the Town's traffic impact mitigation fees are codified at Town Code Sections 15.70.010 and following;

WHEREAS, an update to these Sections is proposed in order to update the Town's transportation impact fee program;

WHEREAS, in accordance with Assembly Bill 602, revisions to the fee program are required to, among other things, scale the fee based on the square footage of proposed projects and adopt a nexus study and update it every eight years;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. Chapter 15, Article VII, "Traffic Impact Mitigation Fees," of the Town Code is amended to read as follows:

TRANSPORTATION IMPACT FEES

Sec. 15.70.010. Short title.

This article shall be known as the "Town of Los Gatos Transportation Impact 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 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 transportation impact 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.

- (c) The Town Council declares the transportation improvement area shall be the Town limits to finance transportation improvements where such improvements have been identified by the Town's capital improvement plan.
- (d) The Town Council has determined that transportation impact fees are necessary in order to finance transportation and traffic improvements within the transportation improvement area.
- (e) 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 transportation impact fees 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.

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, 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.

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

Sec. 15.70.030. Fee determination.

- (a) The transportation impact fee shall be based upon the unfunded cost of the transportation improvements necessary to upgrade the traffic circulation system as identified in the Town's General Plan and capital improvements plan.
- (b) The transportation impact 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:
 - (1) For non-residential land uses, the transportation impact fee shall be calculated per 1000 square feet of development.
 - (2) For single and multi-family development, the transportation impact 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 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.

- (4) 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. 15.70.035. Amount and payment of fee.

- (a) The Town Council shall by resolution set forth the specific amount of transportation impact fees. These fees are subject to periodic review by the Town Council.
- (b) All projects which are determined by the Town Engineer to generate one or more new vehicle trips per day are required to pay the transportation impact 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.

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

Sec. 15.70.040. Credits.

- (a) Developers may request credits toward transportation impact fees based on improvements proposed as part of a development project. Such requests will be reviewed by the Town Engineer in accordance with Town policy.
- (b) Developments that propose deed restricted low- and very-low-income housing units, as defined by the County of Santa Clara, shall receive 50% credit against the Transportation Impact Fee for those deed restricted units.

Sec. 15.70.050. Establishment of trust fund.

There is hereby established a special fund into which all transportation impact 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. 15.70.055. Use of monies in trust fund.

- (a) Money in the fund established in this article shall be used solely for construction of identified 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. 15.70.060. Preclusion of additional mitigation measures not guaranteed.

This article shall not preclude the imposition of additional 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, § I(37.04.020), 7-2-90)

SECTION II. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Section and shall not affect the validity of the remaining portions of this Section. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

SECTION III. CEQA.

This Ordinance is not a project subject to CEQA because it relates to the creation of a government funding mechanism which does not involve any commitment to a specific project which may result in potentially significant physical impact on the environment (CEQA Guidelines Section 15378(b)(4)).

Section IV. Publication.

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The Town Council hereby directs the City Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 pf the Government Code of the State of California.

SECTION V. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 16th day of January, 2024, and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the ____ day of ____ 20 , by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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