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ORDINANCE NO. 5142

**AN ORDINANCE AMENDING THE EL DORADO COUNTY ORDINANCE CODE
TITLE 12 – STREETS, SIDEWALKS AND PUBLIC PLACES;
CHAPTER 12.28 – TRAFFIC IMPACT MITIGATION (TIM) FEE;
SECTION 12.28.070 – REDUCTIONS AND APPEALS**

THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES

ORDAIN AS FOLLOWS:

Section 1. Title 12 – Streets, Sidewalks and Public Places, Chapter 12.28 – Traffic Impact Mitigation (TIM) Fee, Chapter 12.28.070 – Reductions and appeals of the El Dorado County Ordinance Code is hereby amended as follows:

Sec. 12.28.070. - Reductions and appeals.

- A. Reduction and/or appeals of the TIM fees may be granted by the Director to a development project under any one of the following scenarios:
 - 1. The requirements of this chapter have been incorrectly applied to a development project; and/or
 - 2. That application of the requirements of this chapter to a development project is unlawful under and/or conflicts with federal, State, or local law and/or regulation including constituting an unlawful taking of property without just compensation.

- B. Applications for reductions and/or appeals. Application for reduction and/or appeals of the TIM fee must be made no later than the date of application for the building permit for the development project on a form provided by the County. The applicant shall include in that application payment in full of fees as established in the TIM Fee Program Schedule. The applicant may request to establish an alternative arrangement to pay the fees due by providing the Director a bond, letter of credit, or other security that demonstrates the applicant will pay the full amount when due. The applicant shall also provide documentation as to why it would be a financial hardship to pay that amount during the pendency of the appeal. The Director may, in their sole discretion, determine that it would be a financial hardship for the applicant to pay the fees in full

and that the proposed bond, letter of credit, or other security is sufficient. Additional guidance on financial hardship thresholds and documentation are found in the TIM Fee Administrative Manual.

The burden of establishing by satisfactory factual proof the applicability and elements of this section shall be on the applicant. The applicant must submit full information in support of their submittal for both the fee appeal and alternative fee payment arrangement as requested by the Director. Failure to raise each and every issue related to the fee appeal that is contested in the application and provide appropriate support evidence will be grounds to deny the application and will also preclude the applicant from raising such issues in court. Failure to timely submit such an application shall constitute a failure to exhaust administrative remedies that shall preclude such person from challenging the TIM fees in court. The Director may require at the expense of the applicant, review of the submitted materials by a third party.

- C. The County shall mail the applicant a final, written determination on the application for a reduction and/or appeal. If the applicant had established an alternative arrangement to pay the fees in full as described above, and the Director denied the application in whole or in part, the applicant shall, within seven days of the date of the final written determination, submit payment in full to the County. The applicant may appeal the Director's decision to the Hearing Officer. The Hearing Officer's decision is final and not administratively appealable.

Section 2. This ordinance shall become effective thirty (30) days following adoption hereof.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the 8th day of June, 2020, by the following vote of said Board:

ATTEST

Kim Dawson

Clerk of the Board of Supervisors

By


Deputy Clerk

Ayes: Parlin, Hidahl, Turnboo, Thomas, Novasel

Noes: None

Absent: None


Chair, Board of Supervisors
John Hidahl

APPROVED AS TO FORM
DAVID LIVINGSTON
COUNTY COUNSEL

By: _____

Daniel Vandekoolwyk
Deputy County Counsel

