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ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE REDUCTION AND APPEAL RELATED TO THE
TRAFFIC IMPACT MITIGATION (TIF) PROGRAM**

THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO ORDAINS AS FOLLOWS:

Section 1. Section 12.28.070 of the El Dorado County Ordinance Code "Reductions and appeals" is hereby amended as follows:

12.28.070 - Reductions and Appeals

- A. An applicant for a development project may apply to the Director for a reduction or appeal of the TIF applicable to that development project under either, or both, of the following scenarios:
1. The requirements of this chapter have been incorrectly applied to a development project.
 2. That application of the requirements of this chapter to a development project is unlawful under or conflicts with federal, State, or local law or regulation including constituting an unlawful taking of property without just compensation.
- B. Applications for reductions or appeals. An applicant shall submit an application for reduction or appeal of the TIF no later than ninety (90) days after the issuance of the building permit for the development project on a form provided by the County, or by the timelines established in Government Code § 66020, subdivision (d), as it now reads or may thereafter be amended. The applicant is encouraged to submit that application no later than the issuance of the building permit. The applicant shall include in that application payment in full of fees as established in the TIF Program Fee Schedule, except as provided in Subsection C below.
- C. 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 TIF Program Administrative Manual.

- D. 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 TIF in court. The Director may require at the expense of the applicant, review of the submitted materials by a third party.
- E. The County shall mail the applicant a final, written determination on the application for a reduction 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 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 _____ day of _____, 20__, by the following vote of said Board:

ATTEST

Kim Dawson

Clerk of the Board of Supervisors

Ayes:

Noes:

Absent:

By _____

Deputy Clerk

Chair, Board of Supervisors

APPROVED AS TO FORM

DAVID LIVINGSTON

COUNTY COUNSEL

By: _____

Title: _____