



ORDINANCE NO. _____

**AN ORDINANCE ADOPTING A NEW CODE FOR EL DORADO COUNTY,
CALIFORNIA, PROVIDING FOR A GENERAL PLAN TRAFFIC IMPACT
MITIGATION (TIM) FEE PROGRAM**

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES
ORDAIN AS FOLLOWS:**

Section 1. Findings

- A. The County Board of Supervisors has long recognized the need for new development to help fund the roadway, bridge improvements, and provide funding to aid in the expansion of transit facilities necessary to serve that new development.
- B. Starting in 1984 and continuing until the present time, the Board has adopted and updated various fee resolutions to ensure that new development on the western slope fund its fair share of the costs of improving the county and state roadways necessary to serve that new development.
- C. In 1998, El Dorado County voters adopted an initiative measure known as Measure Y, the "Control Traffic Congestion Initiative." The initiative added several policies to the former General Plan intended to require new development to fully pay its way to prevent traffic congestion from worsening in the County. The initiative provided that the new policies should remain in effect for ten years and that the voters should be given the opportunity to readopt those policies for an additional 10 years. The policies in the General Plan reflect the voters' intent in adopting Measure Y by (1) applying the Measure Y policies through 2008, (2) providing for the possible readoption of those policies in 2008, and (3) providing alternative policies that will take effect in 2009 if the Measure Y policies are not extended.
- D. The County prepared a General Plan entitled "2004 El Dorado County General Plan: A Plan for Managed Growth and Open Roads; A Plan for Quality Neighborhoods and Traffic Relief", and in July of 2004 adopted that plan. Policies TC-Xa through TC-Xi were included in the 2004 General Plan as a result of Measure Y.
- E. The General Plan requires the adoption of a Traffic Impact Mitigation (TIM) Fee Program to implement Measure TC-B of the General Plan.

- F. Pursuant to Public Resources Code Section 21000 et seq., on August 22, 2006, with Resolution 265-2006, the County certified the Traffic Impact Mitigation Fee Program Supplement to the 2004 General Plan Environmental Impact Report, issued a Supplemental Statement of Overriding Considerations, and made Supplement Findings of Fact.
- G. Pursuant to Government Code Section 66001 et seq., the County adopted the 2004 General Plan Traffic Impact Mitigation Fee (TIM) Program on August 22, 2006, with Resolution 266-2006.
- H. Pursuant to Government Code Section 66001 et seq., the County has directed the preparation of the 2004 El Dorado County General Plan TIM Fee 2015 Update by the Community Development Agency; and
- I. Studies were conducted to analyze the impacts of contemplated future development on existing public facilities in the County, and to determine the need for new public facilities and improvements required by the new development.
- J. Said studies set forth the relationship between new development, the needed facilities, and the estimated costs of these improvements.
- K. Fees shall be adjusted annually by an increase or decrease by either actual project costs or by Engineering News Record- Building Cost Index as appropriate. TIM Fees shall be set and updated by a resolution as adopted by the Board of Supervisors.
- L. General Plan Policy TC-Xb requires the County to “at least every five years, prepare a TIM Fee Program specifying roadway improvements to be completed within the next 20 years to ensure compliance with all applicable level of service and other standards in this plan.”
- M. General Plan Implementation Measure TC-B requires that the County revise and adopt traffic impact fee program(s) for unincorporated areas of the county and adopt additional funding mechanisms necessary to ensure that improvements contained in the fee programs are fully funded and capable of being implemented concurrently with new development as defined by Policy TC-Xf.
- N. General Plan Implementation Measure TC-B requires that the fee program(s) shall be updated annually for changes in project costs, and at least every five years with revised growth forecasts, revised improvement project analysis and list, and revised construction cost estimates to ensure the programs continue to meet the requirements of the General Plan [Policies TC-Xa, TC-Xb, and TC-Xg]

- O. The County has conducted a full review of the project pursuant to the California Environmental Quality Act (CEQA) and has, through Resolution ____-2015, certified a Supplement to the 2004 General Plan Environmental Impact Report which documents the potential increase in the severity of xxx impacts identified in the xxx Environmental Impact Report.
- P. The facts and evidence presented in the reports, analyses, and a public hearing at the Board of Supervisors establish that there is a reasonable relationship between the need for the described public facilities and the impacts of the types of development described, for which the corresponding fee is charged;
- Q. The facts and evidence presented in the reports, analyses, and a public hearing at the Board of Supervisors establish there is a reasonable relationship between the fee's use and the type of development for which the fee is charged (document package on file with the Clerk of the Board of Supervisors and at the Community Development Agency).

Section 2. 2004 El Dorado County General Plan TIM Fee Program

The collection process as described below for improvement of roadways and intersections identified in the 2004 El Dorado County General Plan TIM Fee Program is as follows:

- A. Purpose. The TIM Fee Program is a fee program used to fund roadway improvements needed to accommodate growth anticipated over the next twenty years. Improvements funded by the TIM Fee Program include new roadways, roadway widenings, roadway intersection improvements and transit. A TIM Fee program is legally required to meet guidelines as established by Assembly Bill 1600 (California Government Code Sections 66000-66008).
 - 1. This article establishes a road network TIM Fee Program for unincorporated El Dorado County, and requires the payment of specified fees for coordinated transportation improvements as a condition of development within the El Dorado County road network, the area shown in the El Dorado County TIM Fee Program Schedule.
 - 2. The intent of this fee program is to amend the existing street improvement schedule contained in 2004 El Dorado County General Plan TIM Fee Program, by defining specific, additional traffic circulation improvements required within County.
 - 3. The fee requirements established in this article shall be applicable to all new development located within the boundaries of the County. The fee requirements are reflected in the TIM Fee Schedule adopted by resolution.

New development projects undertaken by El Dorado County and other public agencies which must obtain permits from El Dorado County are subject to requirements of this article.

B. Definitions

For the purpose of this article, certain terms or words used herein shall be defined as follows:

“Approval” means an actual use entitlement granted by El Dorado County, not an acceptance of an application as complete.

“Board” means the El Dorado County Board of Supervisors.

“Building permit” means the permit required by El Dorado County to do or cause to be done any work regulated by the County’s building codes.

“Director” means the El Dorado County Community Development Agency (CDA) Director or his or her designee.

“District” means any of the several local fee areas within the El Dorado County road network boundaries, as shown in the El Dorado County TIM Fee Program Schedule.

“ Dwelling unit equivalent” (DUE) means a measure of traffic utilization of the transportation system. This factor is based upon the number of peak-hour trips, trip length, and proportion of new trips. The DUE factor is used to quantify road network usage for each land use type by using as a measure the road network usage of a single family dwelling unit.

“New development” means the original construction of residential buildings, original construction of commercial, industrial or other nonresidential buildings, or, the expansion, alteration, enlargement, conversion or replacement of existing buildings or the construction of new accessory buildings. New development includes a change in building use that results in an increase in PM peak-hour usage of the road network.

“TIM Fee Program Schedule” shall mean the zone boundary and fee schedule on file with the Director.

C. Imposition of Fee.

1. A fee shall be charged to and paid by all new development in the El Dorado County road network. The Director (or designee) shall determine if the development lies within the El Dorado County road network, the specific district, the type of development, and the corresponding fee to be charged in accordance with this article.
2. When an application for a building permit is filed to convert an existing development to another type of development that falls within a different land use category listed in the El Dorado County TIM Fee Program Schedule, the Director (or designee) shall determine the amount of TIM

fee under this subsection. The amount of the traffic impact fee shall be the difference obtained by subtracting the TIM fee calculated for the existing development from the TIM fee calculated for the proposed development. If the difference is zero or a negative number, no TIM fee shall be owed or refunded.

3. When an application for a change in the use of a building or property is submitted, a determination shall be made by the Director (or designee) if the change results in additional traffic generation triggering the requirements for additional TIM Fees. The amount of the traffic impact fee shall be the difference obtained by subtracting the TIM fee calculated for the existing building or property use from the TIM fee calculated for the proposed building or property use. If the difference is zero or a negative number, no TIM fee shall be owed or refunded.

D. Amount of Fee

1. Fees for all new development within the El Dorado County TIM Fee Program shall be calculated using the information and formulas shown in the El Dorado County TIM Fee Program Schedule. The Director may also use such additional information as is necessary to assist in determining the fees for any new development. The Director may require the representative of such new development to provide such information or data.
2. Fees paid in accordance with this article are collected to fund an entire TIM Fee program and are not intended for any specific improvement project. The fees paid shall be the most current fees as established by the Board, regardless of any prior TIM fees paid. However, such prior fees paid shall be counted toward the current fee obligation.

E. Time of Collection of Fees. Fees for all development projects which require building permits shall be paid prior to the issuance of building permits. Fees for development projects, which do not require building permits, shall be paid before any other applicable County approval is made final.

F. Use of Fee. The fee collected shall be used for the following purposes: (1) to pay for the capital improvements listed in the TIM Fee Program, including planning, design, administration, environmental compliance, and construction; or (2) to acquire right-of-way for those improvements listed in the TIM Fee Program for which funding is expressly provided for right-of-way; or (3) to reimburse El Dorado County for construction of such capital improvements listed in the TIM Fee Program; or (4) to reimburse other development projects for construction of such capital improvements. Funding for the fee program for any improvement project is limited to the amounts shown in the TIM Fee Program, unless expressly approved by the Board.

G. Fee Review and Adjustments.

1. The fees assessed pursuant to this article and the cost estimates within the capital improvement program shall be adjusted annually in accordance to General Plan Implementation Measure TC-B.
2. No later than the end of the 3rd fiscal quarter of each year, the Director (or designee) shall determine a proposed annual adjustment. The Director (or designee) shall use the actual project costs or the Engineering News Record- Building Cost Index as appropriate as the basis of the Director's (or designee) determination. The Director (or designee) shall review the estimated cost of projects included in the capital improvement program, the continued need for such improvements, and the reasonable relationship between such need and the impacts of the various types of new developments, both pending and anticipated. The Director (or designee) shall notify the Board at a public meeting of the proposed fee adjustment. No fee adjustment shall be effective until approved by the Board. Any fee adjustment approved by the Board shall be effective on July 1st of the year in which the action is taken, or at such other time as is provided by law.

H. Supplemental Fees. From time to time, the Director (or designee) may determine that a proposed new development project would have a significantly greater impact on public facilities than would be reflected in the fees established herein. Within fifteen (15) days of making such a determination but prior to issuing any county permit, the Director shall forward such a new development project to the Board for review and action. The Board may concur with the Director's determination and impose a supplemental fee for a project upon the making of necessary findings pursuant to Government Code Section 66001. The determination shall be based upon the application for a development permit, or upon the application for a building permit if no development permit is required, and any additional information requested by the board. The Board may require the project applicant to submit engineering data, calculations, or other project information which, in its judgment, is necessary to make a determination.

I. Dispute Resolution. Any dispute regarding a determination by the Director shall be resolved by the Board.

J. Trust Fund. Subject to subsection Q of this section, 3 separate interest-bearing trust fund shall be maintained as Zone 1-7 trust fund, Zone 8 trust fund, and a separate Highway 50 trust fund. Upon receipt by El Dorado County, fees collected shall be segregated and deposited in the three trust funds by the CDA.

K. Phasing. If a project is phased, payment of fees pursuant to this article may be similarly phased.

- L. Reimbursement Agreements. Shall be considered for new development projects which are required to fund or construct improvements included in the CIP which provide capacity significantly in excess of project needs. Such agreements shall include a provision for El Dorado County to recapture preparation and administration costs attributable to these agreements. Reimbursement agreements shall apply only to the value of improvements that exceeds the new development project's fee obligation. The fee obligation shall be exclusive of amounts to be recaptured by reimbursement.
- M. Priorities. El Dorado County's CDA shall review the El Dorado County road network CIP during the department's annual budget preparation period. Such review shall be for the purpose of recommending to the Board funding priorities for the coming fiscal year among the projects identified in the CIP.
- N. Credit Against Fee Obligation. If approved by the Director, credit for construction of improvements as described in the current CIP by new development may be granted credit against the TIM fees owed and shall be calculated by the Director (or designee). The amount of such credit shall be calculated using actual costs. The Director (or designee) shall determine the basis for calculating the amount of credit for other improvements (such as intersections, signalization, etc.). For all improvements, such credit shall be limited to amounts shown in the current CIP.
- O. Termination of the El Dorado County Road Network TIM Fee Program. This TIM Fee Program shall be terminated by the Board when:
1. The TIM Fee Program including such projects as may be added at a later date by the Board, has been constructed; and/or
 2. Sufficient funding to construct all projects listed in the TIM Fee Program project list has been collected.
- P. Excess Funds. Should excess funds be collected prior to dissolution of this fee program, those excess funds shall be used for construction of transportation improvements within the El Dorado County road network area.
- Q. Transfers. Transfers and/or noninterest earning loans shall be allowed between the different TIM Fee Zone funds upon the recommendation of the Director and shall comply with the following:
1. The transfer or loan is to provide funding for a specific capital improvement project already contained within the TIM Fee zone of one of the other districts;
 2. The Director determines in writing that special circumstances exist to justify the transfer or loan. "Special circumstances" shall include, but not be limited to, opportunities to obtain grants or other funding, coordination with other project(s) and/or project timing;

3. Transferred or loaned funds will be repaid as funds become available; and
4. The Board is notified of and approves the transfer or loan.

Section 3. Capital Improvement Program

- A. Project priorities for the El Dorado County road network districts shall be established by the Board.
- B. The Board shall allocate the funds collected pursuant to this article.
- C. Land development projects within the El Dorado County road network shall be required to construct roadways, dedicate rights-of-way, adjust or relocate building sites, modify proposed parking and circulation, provide parking lot connectors between adjacent developments, and otherwise accommodate projects which are a part of the adopted capital improvement program for the El Dorado County road network zone.

Section 4. Other Applicable Sections of County Code

This article does not supersede, replace, or invalidate other applicable sections of County Code (such as the zoning ordinance, street improvement ordinance, etc.).

Section 5. Compliance with California Environmental Quality Act

The Board of Supervisors finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c) (2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c) (3) because the activity is not a project as defined in Section 15378 of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) since it has no potential for resulting in physical change to the environment, directly or indirectly.

Section 6. Severability

If any provision of this ordinance, or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Ordinance No. _____
Page 9

Section 7. Effective Date

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 ____ day of _____, 2015, by the following vote of said Board:

ATTEST
JAMES S. MITRISIN
Clerk of the Board of Supervisors

By _____
Deputy Clerk

Ayes:
Noes:
Absent:

Chair, Board of Supervisors

APPROVED AS TO FORM
ROBYN TRUITT DRIVON
COUNTY COUNSEL

By _____
Name
Title

I CERTIFY THAT:
The foregoing instrument is a correct copy
of the original on file in this office

Date _____
ATTEST: JAMES S. MITRISIN,
Clerk of the Board of Supervisors of the
County of El Dorado, State of California.

By _____ Deputy Clerk