



## Legislation Details (With Text)

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**File created:** 1/16/2020      **In control:** Board of Supervisors

**On agenda:** 6/8/2021      **Final action:** 6/8/2021

**Title:** Department of Transportation recommending the Board Approve the Final Passage (Second Reading) of Ordinance 5142 amending County Ordinance code section 12.28.070(B) - Reductions and appeals, to revise the timing and means of certain Traffic Impact Mitigation Fee payments during the appeals process. (Cont. 5/11/2021, Item 17)

**FUNDING:** Traffic Impact Fee Program.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2A - Counsel Approval, 2. 2B - Proposed Ordinance 12.28.070, 3. 2C - Proposed Ordinance 12.28.070 with Redline Changes, 4. A - Ordinance 5045, 5. Proof of Publication, 6. Executed Ordinance 5142

Date	Ver.	Action By	Action	Result
6/8/2021	3	Board of Supervisors	Approved	Pass
5/11/2021	2	Board of Supervisors	Approved	Pass
1/28/2020	1	Board of Supervisors	Approved	Pass

Department of Transportation recommending the Board Approve the **Final Passage** (Second Reading) of Ordinance **5142** amending County Ordinance code section 12.28.070(B) - Reductions and appeals, to revise the timing and means of certain Traffic Impact Mitigation Fee payments during the appeals process. (Cont. 5/11/2021, Item 17)

**FUNDING:** Traffic Impact Fee Program.

### DISCUSSION / BACKGROUND

On May 11, 2021, (Legistar# 20-0120, Item 17), the Board Approved the Introduction (First Reading) of Ordinance 5142, and continued it to June 8, 2021, for Final Passage (Second Reading).

On January 28, 2020, (Legistar# 20-0120, Item 30), the Board provided conceptual approval to amend County Ordinance Chapter 12.28, code section 12.28.070(B) - Reductions and appeals, to revise the timing and means of certain Traffic Impact Mitigation (TIM) Fee payments during the appeals process.

County Ordinance code section 12.28.070(B) states, in part: *“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, and shall include payment of fees as established in TIM Fee Program Schedule.”*

When property owners or developers wish to appeal a TIM Fee, they must pay the fee before the appeals process can commence. But in certain circumstances, especially for individual property

owners, this requirement can be burdensome. Recently, an El Dorado County homeowner who has owned the property for 25 years learned that certain improvements made before the purchase of the property had not been permitted. In a good-faith effort to secure the necessary permits, it was identified that TIM Fees of approximately \$30,000 would need to be paid. The relevant Ordinance Code section mandated that the fees be paid before an appeal could even be initiated.

The proposed amendment to the County Ordinance code section 12.28.070(B) is minor and reads, in part, as follows: *“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 proposed amendment should ease the prohibitive burden on individual property owners while simultaneously preserving the letter and spirit of the TIM Fee Program. An update to the TIM Fee Administrative Manual with more guidance, as established with the assistance of County Counsel, will be forthcoming.

Note that this proposed amendment maintains the TIM Fee Program’s historical name; a sweeping ordinance update to revise the terminology throughout to instead reference the Traffic Impact Fee (TIF) Program is underway.

## **ALTERNATIVES**

The Board could choose not to approve this recommendation which would result in no change to the current ordinance.

## **PRIOR BOARD ACTION**

January 28, 2020 (Legistar# 20-0120 v1, Item 30) - Board provided conceptual approval  
May 11, 2021 (Legistar# 20-0120 v2, Item 17) - Board heard the First Reading and continued the matter to June 8, 2021, for Final Passage (Second Reading).

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel, Planning & Building

## **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

## **FINANCIAL IMPACT**

Cash flow of the collection of the TIF fees would be delayed until the final determination of the appeal, but the net effect on the TIF fund balance would be minimal. It is difficult to determine how many appeals there will be in one year, and how many eventually would lead to a reduction/waiver.

## **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) Obtain the Chair's signature on the original Ordinance and publish the summary ordinance to include the final Board vote within 15 days after Final Passage.
- 2) Send the full ordinance to Municode for codification following Final Passage.
- 3) The Clerk of the Board will provide a copy of the fully executed Ordinance to the Department of Transportation, attention Lindsay Tallman, for further processing.

## **STRATEGIC PLAN COMPONENT**

Good Governance

## **CONTACT**

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Department of Transportation