

**ORDINANCE NO. 9746 (New Series)**

**AN ORDINANCE TO AMEND THE SAN DIEGO COUNTY  
ADMINISTRATIVE CODE TO ADJUST TRANSPORTATION IMPACT FEE  
ORDINANCE LANGUAGE**

The Board of Supervisors of the County of San Diego ordains as follows:

**Section 1.** The Board of Supervisors finds and determines that it is necessary to amend Section 77.208, Section 77.210, and Section 77.211, and Section 77.215 of the San Diego County Code of Regulatory Ordinances pertaining to the Transportation Impact Fee. The amendments made by this ordinance are intended to adjust language in the Transportation Impact Fee Ordinance.

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**Section 2.** Section 77.208 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

**SEC. 77.208. FEE ESTABLISHED.**

Pursuant to §§ 66000 et seq. of the Mitigation Fee Act, the fee set forth in said TIF Reports and Alternative Fee Schedules adopted by action of the Board of Supervisors shall be paid by development within the TIF Areas established herein. Instructions for estimating a project’s TIF can be found on a link at <http://www.sdcountry.ca.gov/dpw/land/tif.html>.

The fee shall be based on the following:

$$\text{Cost/Trip Total Rate} \times \text{Number of Trips} - \text{Credits \& Reductions} = \text{\$TIF Fee}$$

**COST/TRIP CHART**

**TIF AREA**

	Local	Regional	Total
Alpine	\$134	\$245	\$379
Bonsall	\$467	\$443	\$910
Central Mountain	\$0	\$226	\$226
County Islands	\$0	\$245	\$245
Crest-Dehesa	\$74	\$245	\$319
Desert	\$23	\$226	\$249
Fallbrook	\$450	\$443	\$893
Jamul-Dulzura	\$161	\$245	\$406
Julian	\$0	\$226	\$226
Lakeside (includes Pepper Dr-Bostonia)	\$297	\$245	\$542
Mountain Empire	\$0	\$226	\$226
North County Metro	\$127	\$443	\$570
North Mountain	\$0	\$226	\$226
Otay	\$49	\$245	\$294
Pala-Pauma	\$87	\$443	\$530
Pendleton-De Luz	\$1	\$443	\$444
Rainbow	\$330	\$443	\$773
Ramona	\$439	\$226	\$665
San Dieguito	\$240	\$443	\$683

Spring Valley	\$49	\$245	\$294
Sweetwater	\$96	\$245	\$341
Valle De Oro	\$341	\$245	\$586
Valley Center	\$190	\$443	\$633

**NUMBER OF TRIPS**

Trips shall be the expected number of average daily trips (ADT) based on the SANDAG *Guide of Vehicular Traffic Generation Rates for the San Diego Region*. If an applicant can adequately quantify the number of vehicular trips associated with his project by way of a traffic study or other method approved by the County, he may request calculation of the fee based on the project specific trip rate. In such cases, the DPW Director shall have the authority to grant or deny such requests.

Unless otherwise approved in writing by the County’s designee, trips shall be based on those land uses identified on the approved subdivision map or development permit. If the land use is unspecified, trips shall be based on the highest number of trips for any allowable uses in zoning.

**CREDITS & REDUCTIONS**

After calculation of the total cost per trip, applicants can subtract amounts including but not limited to the following credits and reductions:

**Direct Impact Mitigation**

Applicants shall receive credit for improvements to a TIF facility, including planning, environmental, design, and any construction of, or any improvement made to a TIF facility, whether on-site or off-site of a development project. Such credit shall include similar improvements which result in capacity improvements to a TIF facility or improve circulation on a TIF facility and/or to the construction or improvement of an alternative roadway or roadways which reduce congestion or improve circulation on or result in capacity improvements to a TIF facility. Such construction or improvements shall include but not be limited to new road construction, widening of an existing road, construction or improvement of intersections, through lanes and turn lanes, and construction or modification of signalization at intersections.

**Alternative TIF Facilities**

Applicants that can demonstrate, in a traffic study approved by the County, that a facility not identified in the TIF will reduce trips thereby increasing capacity of TIF identified facilities, will receive credit toward the TIF for constructing such facilities. These improvements may come in the form of Direct Impact Mitigation.

**Previously Mitigated Project**

Projects which have mitigated cumulative impacts prior to implementation of the TIF may receive credit toward the TIF. Projects that analyzed and mitigated for cumulative

impacts may submit previous traffic studies to the County. Amount of credit granted will be proportional to past mitigation compared to mitigation required by TIF. If the project mitigated to the full extent of the TIF required mitigation, full credit will be granted.

Upon the effective date of this ordinance, if approved, project applicants for permits requesting adjustment of the adopted fee, other than as provided for in section 77.208, must have completed a cumulative traffic study and already fully mitigated cumulative impacts. Applicants claiming exemption from the fee must demonstrate to the County that all cumulative impacts were clearly identified, through a cumulative traffic study, and fully mitigated through physical improvements, or contribution to future road network improvements in an amount equal to the fee. However, if the project has changed from the time of original approval so that the proposed use is now more impactful to traffic, applicants must pay a portion of the TIF equal to the cumulative impact increase. For approved projects with identified cumulative mitigation measures that have not yet been implemented, the County may, at its option and, upon further environmental review if necessary, require either completion of the originally identified mitigation, or payment of the TIF.

### **Trip Generation Analysis**

Applicants have an opportunity to perform a narrowly focused trip generation study to determine a project specific number of trips for fee calculation.

### **Opt out**

In lieu of paying the TIF, a developer may choose to prepare cumulative traffic studies in accordance with the new CEQA guidelines, which no longer recognize de minimus findings, and construct appropriate mitigation. Analysis must be equivalent to that of the TIF.

Adjustment of fees may be made pursuant to Section 77.213 of this Division.

**Section 3.** Section 77.210 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

### **SEC. 77.210. DEVELOPER CONSTRUCTION OF TRANSPORTATION FACILITIES.**

Whenever a developer of a development project would be required by application of County ordinance or policy, as a condition of approval of a development permit to construct or finance the construction of a portion of a TIF Facility, the County may impose an additional requirement that the developer install the improvements with supplemental size, length or capacity in order to ensure efficient and timely construction of the transportation facilities network. Similarly, when development project impacts create an accelerated need for transportation improvements, the County may require accelerated construction of TIF Facilities to assure project conformance with California Environmental Quality Act (CEQA). If such a requirement is imposed, the developer will be entitled to compensation for eligible construction costs that exceed the total

development impact fee required for the developer's project. The developer may request reimbursement, or a credit against fees, for work to be done or paid for by the developer and said request shall be submitted in writing to the DPW Director. The County will enter into a reimbursement agreement with the developer and grant either a cash reimbursement or credit against the fee otherwise levied by this Division on the development project, or some combination thereof.

(a) The reimbursement request shall contain a description of the project with a detailed cost estimate that itemizes those costs of the construction attributable to the TIF Facility and excludes any work attributable to non-TIF facilities. The estimate is preliminary and the amount of reimbursement or credit against fees is subject to final determination by County's designee. Additional information shall be provided to the County by the developer upon request of the County.

(b) The developer is also required to:

- i. Prepare plans and specifications for approval by the County;
- ii. Secure and dedicate any right-of-way required for the transportation facility project;
- iii. Secure all required permits and environmental clearances necessary for the transportation facility project;
- iv. Provide performance bonds for 100 percent of the value of the transportation facility project (the County shall give full credit against payment of the TIF for the cost of any TIF Facility work covered by the performance bond);
- v. Pay all fees and costs for construction of the transportation facility project.

(c) The County will not be responsible for any of the costs of constructing the transportation facility project. The developer shall advance all necessary funds to construct the transportation facility project. Cost includes cost of Civil Engineering, Soils Engineering, Landscape Architecture, Surveying, Utility Engineering/Coordination, and Environmental Consulting in addition to construction costs.

(d) The developer shall secure at least three qualified and responsible bids for work to be done and shall award the construction contract to the lowest qualified bidder. Should the construction contract be awarded to a qualified bidder who did not submit the lowest bid for the transportation facility project portion of the contract, the developer will only receive Transportation Impact Fee reimbursement or credit based on the lowest responsible bid for the transportation facility portion of the contract. The developer is allowed to combine the supplemental work with other work being completed for the project in order to obtain the most competitive bids, but costs of the TIF improvement must be segregated within such bids.

(e) All bids must be reviewed by the County. If the lowest bid received exceeds the total estimated cost of the facility as set out in the TIF Reports, the County may require the developer to obtain a revised bid or if necessary, submit a redesign of the facility to bring the cost into the estimated range. If the total actual cost of construction is less than the total estimated cost of the facility, the County shall allow the developer full credit for the cost savings. Estimated cost of the facility will be based on the County's

current year Department of Public Works Unit Price List.

(f) When all work has been completed to the satisfaction of the County, the developer shall submit verification of payments made for the construction of the transportation facility project to the County. The County's designee shall make the final determination relative to expenditures that may be eligible for credit or cash reimbursement.

(g) If the amount of the applicable credit is less than the deferred fee obligation and the TIF Fee is otherwise due and payable, then the developer shall have 30 days to pay the deferred fee. If the deferred fees are not paid within the 30-day period, the County may make a demand against the security and apply the proceeds to the fee obligation.

**Section 4.** Section 77.211 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

**SEC. 77.211. CONSTRUCTION CREDITS.**

When a transportation facility, or portion thereof, as described in the TIF Reports, is constructed by the developer, either as a requirement of a development permit or by written agreement with the County, the County shall grant either construction credits or a cash reimbursement to the developer for eligible construction costs. In most cases, the County's preferred reimbursement mechanism will be use of construction credits. The developer must request reimbursement from the County to initiate this process. The terms of construction credit issuance will be described in a reimbursement agreement between the developer and the County.

The County will either: (1) incrementally apply credit which the developer has accrued in lieu of collecting the required Transportation Impact Fees as each building permit is issued, based upon the fee schedule in effect at the time of the building permit issuance; or (2) convert excess credit into equivalent dwelling units (EDU) at the applicable fee rate in effect at the time of conversion, for developer's use against future development impact fee obligations within the same TIF Region in which the facilities were constructed.

Credit will be limited to the total actual construction cost, provided, however, any credit in excess of the estimated TIF Facility cost must be pre-approved by the County prior to construction and conform to Section 77.210 of this Division. An applicant may, with the approval of the County, also receive credit for cost overruns or change orders that result in a total construction cost in excess of the cost originally estimated for the TIF Facility. Estimated cost of the facility will be based on the County's current year Department of Public Works Unit Price List.

Construction credits are transferable, at the holder's sole and absolute discretion, but may only be applied within the same TIF Region in which the facilities were constructed. As referenced in Section 77.202 and Section 77.210(a) of this Division, no TIF Facility credit will be given for non-TIF facilities, unless such facilities are approved by County as an alternative to a listed facility.

**Section 5.** Section 77.211 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

**SEC. 77.215. APPLICABILITY.**

This Division shall apply to all development permits, including building permits, associated with the generation of traffic, as determined by the County. However, examples of building permits to which this Division shall not apply, include but are not limited to: alterations or additions to an existing single family dwelling, or rebuilding of a destroyed single family dwelling that does not change its classification of occupancy; permits for accessory buildings such as garages, barns, workshops, agricultural buildings; and building permits for signs, tanks, wells or similar structures. The Director of Public Works is authorized to prepare and maintain a list of all permits types to which the fee will apply.

This Division shall not exempt any new development except as required by state or federal law. In cases where a development is specifically exempt by law from this Division, but said development has transportation impacts required to be mitigated by CEQA, the County can accept TIF payment for mitigation purposes.

The requirement of this chapter shall not apply to projects for which fees for an unexpired building plan check were paid on or before March 29, 2005 regardless of whether they obtain their building permit prior to the effective date of this ordinance.

**Section 6.** Effective Date. This Ordinance shall take effect and be in force sixty (60) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in San Diego Commerce a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 14<sup>th</sup> day of DECEMBER 2005.