

Article V-C. - Regional Development Impact Fee.

Sec. 9-50.90.10. - Findings.

- (a) The council of the City of Salinas finds that future development within the county of Monterey to the year 2030 will result in degradation of traffic levels of service on the regional transportation system of streets, arterials, and highways.
- (b) The council of the City of Salinas finds that failure to expand the capacity of the existing circulation system as new development is approved will increase congestion on the regional system, as documented in the Regional Development Impact Fee—Nexus Study Update (the "Study") approved by the board of the Transportation Agency for Monterey County ("TAMC") on March 26, 2008. TAMC commissioned the study, which looks at, among other matters, future development, and the planned future road improvements needed to serve the new development.
- (c) The council of the City of Salinas also finds and declares that the fair-share traffic impact fee to be levied upon new development pursuant to this chapter provides a mechanism to fund new developments' share of regional transportation system improvements that are needed to mitigate congestion and related adverse impacts caused by the new development.
- (d) The council of the City of Salinas finds that exactions from new development are necessary to provide a portion of the funding for the construction of the regional transportation improvements needed to accommodate traffic that will be generated by new development of land within the county.
- (e) The council of the City of Salinas finds that the study has determined the extent to which the new development of land will generate traffic volumes impacting the regional transportation system and that this article establishes a fair and equitable method for distributing the unfunded costs of transportation improvements necessary to accommodate the traffic volumes generated by such development.
- (f) The council of the City of Salinas finds there is a reasonable relationship between the use of the regional development impact fee to pay for the construction of the regional transportation improvement projects and the type of development for which the regional development impact fee is charged in that all new development in the county, both residential and nonresidential, will generate or contribute to the need for the regional transportation improvement projects in different degrees as further described in the study.
- (g) The council of the City of Salinas finds that the cost estimates set forth in the TAMC Regional Development Impact Nexus Fee Study Update dated March 26, 2008 are reasonable cost estimates for constructing the transportation improvement projects, and the regional development impact fees expected to be generated by future development will not exceed the projected costs of constructing the transportation improvement projects.
- (h) The council of the City of Salinas also finds that the fees collected pursuant to this chapter shall only be used to finance the regional transportation improvement projects. The county adopts this article with the expectation that a required minimum number of TAMC member governing bodies will also adopt the RDIF on a uniform basis and that the county and these other TAMC members will use the fees collected in a coordinated manner to provide for financing and construction of the regional transportation improvement projects.
- (i) The council of the City of Salinas has reviewed and considered the certified environmental impact report for the 2005 Monterey County Regional Transportation Plan and Addendum thereto prepared by TAMC, the lead agency for the regional transportation impact fee for purposes of the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, et seq. The city as a responsible agency under CEQA, has followed the process set forth in Section 15096 of Title 14 of the California Code of Regulations and has made the appropriate findings under CEQA.
- (j) The council of the City of Salinas has authorized the execution of a joint powers agreement ("JPA") establishing the Monterey County regional development impact fee agency ("RDIF Agency") to

coordinate the activities of the parties to the JPA in connection with the collection, transmittal and expenditure of the regional development impact fees (as defined herein).

(Ord. No. 2485, § 1.)

Sec. 9-50.90.20. - Terms and definitions.

As used in this article, the following definitions shall apply:

"Applicant" means the person or entity applying for a tract map, parcel map, tentative subdivision map, conditional use permit, land use permit, building permit or other land use entitlement for a new development project and their successors and assigns.

"RDIF agency" refers to the Monterey County regional development impact fee joint powers agency.

"Regional development impact fee," or "the fee," or "RDIF" refers to the fees approved by the governing boards of the county and other TAMC members on new development within their respective jurisdictions and transmitted to the RDIF agency as provided in the JPA. The project list for the regional development impact fee is in Exhibit B of the JPA.

"Regional transportation improvement projects" or "projects" refers to those public improvements required to mitigate the regional impacts of new development on the roads, highways and arterials within the county as specified in Section 9-50.90.70 of this article.

"Strategic expenditure plan" refers to a plan prepared by the RDIF agency, which shall include project cost estimates for the RDIF, other matching funds, a draft timeline for project delivery and, in the event the county-wide sales tax measure for transportation improvements fails to pass, a plan for prioritizing the expenditure of RDIF collected from development within a particular transportation improvement zone on transportation improvement projects within that zone. The strategic expenditure plan is further defined in Section 10 of the JPA.

(Ord. No. 2485, § 1.)

Sec. 9-50.90.30. - Establishment of a regional development impact fee.

- (a) The regional development impact fee is hereby established in the amounts specified in a resolution to be adopted by the city council for the purpose of paying for regional transportation improvement projects identified in Exhibit B of the JPA needed to meet increased demand created by traffic resulting from new development. The revenues raised from the impact fee shall be remitted to the RDIF agency to be held, maintained, used and accounted for as required in Government Code Section 66006 of the Mitigation Fee Act in a coordinated fashion, as provided in the JPA.
- (b) The regional development impact fee shall be automatically adjusted as of July 1 of each year following the first year after the effective date of this article. The adjustment shall be calculated by TAMC as administrator of the RDIF agency, based on the increase or decrease in the Engineering News Record Construction Cost Index for the San Francisco Bay Area for the period ending December 31 of the preceding calendar year.
- (c) In addition to the automatic adjustment set forth above, TAMC may recommend to the county and other TAMC members that the regional development impact fee be increased to reflect revisions to the project list in the Monterey County regional transportation plan, program revenue, increases in land values over the inflationary increase, or other factors.
- (d) Except as provided in Government Code Sections 65961, 66474.2 and 66498.1 or as otherwise provided by state or federal law or the exemptions set forth in Section 9-50.90.40 of this article, no tract map, parcel map, tentative subdivision map, conditional use permit, land use permit, building permit or other land use entitlement for a new development project shall be approved or issued unless payment of the fee is a condition of approval for any such entitlement. Prior to issuance of a

building permit or at such other time as required by law, the City of Salinas shall require the applicant to pay the fee.

- (e) Regional development impact fees shall be imposed and collected by the City of Salinas and, along with any interest earned on the fees while in the possession of the City of Salinas, shall be transmitted by the city to the RDIF agency no later than the tenth business day of each month for all fees collected during the prior month. The fees shall be placed by the RDIF agency in the regional transportation impact fee trust fund. All interest or other earnings of the fund shall be credited to the fund.

(Ord. No. 2485, § 1.)

Sec. 9-50.90.40. - Exemptions.

In addition to any exemptions from the levy of development impact fees provided by law, including, as applicable, the levy of development impact fees which are the subject of a vested subdivision map, the following development projects are exempt from payment of the fee required by this article:

- (a) The reconstruction of any building so long as the reconstructed building both continues a use of the same category as the prior use and generates the same or fewer trips as the original building and reconstruction commences and so long as the permit for reconstruction is issued within one year from destruction of the building.
- (b) Development within the Fort Ord Reuse Agency ("FORA") area that is subject to transportation improvement fees for transportation projects within the FORA plan area.
- (c) Development pursuant to a development agreement that was entered prior to the effective date of the joint powers agreement in accordance with the terms of the development agreement in effect prior to the effective date of the joint powers agreement.

(Ord. No. 2485, § 1.)

Sec. 9-50.90.50. - Credits or reimbursements.

An applicant who constructs all or part of one of the transportation improvement projects may be eligible for a credit or reimbursement, as provided herein.

- A. Credit or Reimbursement for Regional Transportation Impact Projects Funded by the RDIF. An applicant may be eligible for a credit to be applied against payment of the regional transportation impact fee if the applicant dedicates right-of-way for and/or constructs all or a part of one of the transportation improvement projects that is, at the time the applicant enters into an agreement with the city for construction of such project, included in the strategic expenditure plan of the projects to be funded.
 - (1) An applicant may be eligible for a reimbursement if the cost of constructing such a transportation improvement project, or a part of such project, exceeds the amount of the regional transportation impact fee to be paid by the applicant. The amount of reimbursement shall equal the difference between the cost of constructing all or a part of the regional transportation improvement project and the regional development impact fee for the development project.
 - (2) Reimbursement shall be from regional development impact fee revenues only, and the right to reimbursement shall be terminated ten years from the date the applicant entered into the agreement for construction of the project.
 - (3) The amount of credit, or the credit and reimbursement together, shall be in an amount equal to the cost of the regional transportation improvement project or portion thereof, as calculated by the RDIF agency. The credit, or the credit and reimbursement together, shall

be calculated at the time the applicant enters into an agreement for construction of the regional transportation improvement project. The credit shall be granted at the same time. Once calculated, the amount of reimbursement shall not increase for inflation nor shall it accrue interest.

- B. Reimbursement for Projects Not Funded for Construction at the Time of Project Construction. If an applicant constructs all or a part of a transportation improvement project that is not, at the time the applicant enters into an agreement for construction of such project, included in the strategic expenditure plan as a project to be funded, the developer may be eligible for reimbursement from the RDIF, provided that the strategic expenditure plan is subsequently revised to include the improvement as a project to be funded.
- (1) In such event, the amount of reimbursement shall be calculated by the city engineer and approved by the RDIF agency for development within the boundaries of the City of Salinas and shall be equal to the cost of the project or portion thereof, as set forth in the strategic expenditure plan.
 - (2) The amount of the reimbursement shall be calculated when the applicant enters into an agreement for construction of the transportation improvement project. Once calculated, the amount of reimbursement shall not increase for inflation nor shall it accrue interest. Reimbursement shall be from regional development impact fee revenues only, and the right to reimbursement shall be terminated ten years from the date the developer entered into the agreement for construction of the project.

(Ord. No. 2485, § 1.)

Sec. 9-50.90.60. - Severability.

If any section, subsection, sentence, clause or phrase of this article is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the portions of this article not held to be unconstitutional or invalid. The city council hereby declares that it would have passed this article and each section, subsection, clause or phrase thereof irrespective of the fact that one or more sections, subsections, clauses or phrases thereof be declared unconstitutional or invalid.

(Ord. No. 2485, § 1.)

Sec. 9-50.90.70. - List of projects on the regional transportation system.

The regional development impact fee shall be used to fund all or a portion of the list of transportation improvement projects described in Exhibit B of the JPA.

(Ord. No. 2485, § 1.)

Sec. 9-50.90.80. - Administrative costs.

The RDIF agency may establish a processing fee or administrative surcharge to defray the reasonable cost of administration of the RDIF program by the RDIF agency in an amount not to exceed one percent of the fees collected by the city and RDIF authorized by this section may be utilized for this processing fee, in accordance with Government Code Section 66014 and as otherwise provided by law.

(Ord. No. 2485, § 1.)