

ORDINANCE NO. 1614

ORDINANCE AMENDING CHAPTER 7.84 REGARDING TRAFFIC

IMPACT FEES

The Board of Supervisors of the County of Amador ordains as follows.

Section 1. Chapter 7.84 of the Amador County Code is hereby repealed.

Section 2. Chapter 7.84 is hereby added to said Code as follows.

“Traffic Impact Fees

7.84.010 Purpose and declaration of intent.

A. In order to implement the goals and objectives of the county’s general plan, for the county to meet its requirement to mitigate significant adverse impacts as set forth in the California Environmental Quality Act, and to mitigate impacts caused by new development within the county, public road impact fees may be necessary. The fees will be used only to finance construction, improvement, and maintenance of public roads as defined herein. This chapter accomplishes this purpose by authorizing the imposition of a public road impact fee on development projects to be used to mitigate development projects’ impact on public roads.

B. This chapter is enacted pursuant to and shall be administered in compliance with Chapters 5, 6, 7, 8, and 9 (commencing with section 66000) of the Government Code collectively entitled the ‘Mitigation Fee Act’.

C. The board of supervisors finds and determines that:

1. New development projects will cause the need for new and/or additional construction, improvement, and maintenance of public roads within the county including those within incorporated cities in the county in order to mitigate the development projects’ impact on those public roads.
2. Funds for construction, improvement, and maintenance of public roads used in part by traffic from new development projects are not sufficient which will result in inadequate public roads and levels of service within the county. This chapter, while recognizing this problem, does not have the purpose of allowing or mandating the imposition of a traffic impact fee on those development projects which do not impact public roads and when such a fee is imposed, it may be imposed only to the extent necessary to mitigate said impact.
3. The fee shall be based on the trip-ends generated by the development project as determined by the standard text ‘Trip Generation’, most recent edition, published by the Institute of Transportation Engineers.

4. The public health, safety, peace, morals, convenience, comfort, prosperity and general welfare of all county residents, including those living in incorporated cities, will be promoted by the adoption of this chapter, with the fee to generate a portion of the funds necessary for the construction, improvement, and maintenance of public roads.

7.84.020 Definitions.

Words, when used in this chapter and in resolutions adopted thereunder, shall have the following meanings:

‘Capital improvement plan’ means the capital improvement plan described in Section 7.84.110 of this chapter.

‘Development project’ means any project undertaken for the purpose of development which has the potential for impacting the county’s public roads.

‘Impact’ means physical injury and wear and tear or reduction in level of service.

‘Public road impact fee’ means a monetary exaction, other than a tax or assessment, which is charged by the county to the development project in connection with its approval for the purpose of offsetting the degrading of public roads caused by the development project. Public road impact fees are referred to herein as the ‘fee’. The ‘base fee’ is for a single-family residence which is determined to generate ten trip-ends per day.

‘Public roads’ means county roads, city streets, state highways, public bridges, public rights-of-way, and appurtenant surface transportation infrastructure and supporting improvements located in Amador County.

7.84.030 Establishment of the public road impact fee.

The board of supervisors shall establish and amend the fee by resolution which is a legislative act. Prior to approving or amending a fee, the board of supervisors shall hold at least one regularly scheduled public meeting at which oral or written presentations may be made. Notice of said meeting shall be given as provided in Government Code Section 66016. No new fee shall be imposed sooner than sixty days following the board’s final action on the adoption of or increase in the fee.

7.84.040 Collection of public road impact fee.

A. The fee authorized by this chapter shall be collected at the earliest time permitted by law. Except as set forth in subsection B of this chapter for residential development projects, that time shall be when an entitlement, such as a final subdivision map, rezoning, use permit, or building permit is finally approved and the impact caused by the development project is known. The foregoing notwithstanding, a fee imposed on a development project at the entitlement stage does not foreclose the imposition of an additional fee if additional development is to be carried out on the site.

B. Imposition of Fees on a Residential Development Project.

- b. Identify the use to which the fee is to be put, including the identification of public roads on which the fee is to be expended. In the alternative, the county may refer to its capital improvement plan or general plan;
- c. Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
- d. Determine how there is a reasonable relationship between the need for the public road and the type of development project on which the fee is imposed;
- e. Determine how there is a reasonable relationship between the amount of the fee and the cost of the public road or portion thereof attributable to the development project upon which the fee is imposed.

C. The county shall expend a fee for public roads collected pursuant to subsection B of this section solely and exclusively for the purpose for which the fee was collected.

7.84.070 Conditions for reimbursement.

A. The county auditor shall report to the board once each fiscal year any portion of a fee remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. The board shall make findings once each fiscal year with respect to any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to identify the purpose to which the fee is put, and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.

B. A refund of unexpended or uncommitted fees for which a need cannot be demonstrated along with accrued interest may be made to the current owner of the development project on a prorated basis. The county auditor may refund unexpended and uncommitted fees that have been found by the board to be no longer needed, by direct payment or by offsetting other obligations owed to the county by the current owner of the development project.

C. If the administrative costs of refunding unexpended and uncommitted fees exceed the amount to be refunded, the county, after a public hearing, for which lawful notice has been given, may determine that the revenue shall be allocated for some purpose other than for which the fees were collected that serve the development project on which the fee was originally imposed.

7.84.080 Subsequent events allowing changes in the fee already imposed.

A. When application is made for a new development project following the expiration of a previously approved development project for which a fee was paid shall not be required unless the fee schedule has been amended during the interim or an additional fee as set forth in subsection B hereof is warranted, in which event the appropriate decrease or increase shall be imposed.

B. In the event that subsequent development occurs with respect to property for which fees have been paid, additional fees shall be required only for additional square footage of development or more intensive use that was not included in computing the prior fee. Also, the fee on any development project shall be reduced

1. A fee imposed on a residential development project shall not be required to be paid until the earliest of the following dates: (a) when the dwelling is able to be occupied, meaning when public utility-supplied electrical power is connected to the dwelling, (b) when the final inspection is made and the certificate of occupancy is issued, or (c) a dwelling constituting all or part of the development project is occupied. 'Final inspection' and 'certificate of occupancy' as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 Edition, or as said code may be amended from time to time.
2. If the residential development project contains more than one single-family dwelling, the county, at the time of the imposition of the fee, may determine that the fee should be paid at an earlier date than set forth in subsection (B)(1) of this section as set forth in Government Code Section 66007.

7.84.050 Additional conditions.

- A. The fee is not intended to, and shall not, limit the discretion of the county's approving bodies to impose conditions of approval in addition to the base fee to mitigate traffic impacts on public roads when approving development projects.
- B. Said conditions may only be imposed when the approving body finds that:
 1. The development project exceeds the projected growth for the area as set forth in the general plan; or
 2. A public road impacted by the development project is unsafe at the time of approval of the development project; or
 3. The development project will directly and substantially add to traffic congestion at a specific location outside of the area of the development project.
- C. Said conditions may require the payment of money to the traffic impact fee fund or the construction of improvements by the developer at the time of final approval of the development project.

7.84.060 Conditions for collection.

- A. Unless specific findings allowing the imposition of fees in addition to the base fee for the reasons set forth in Section 7.84.050 are made for any development project, the base fee shall be imposed and added to the traffic impact fee fund to be expended on projects set forth in the capital improvement plan without the approving body's being required to make additional findings.
- B. In establishing and imposing a fee as a condition of approval of a development project when findings are made pursuant to Section 7.84.050 the county shall follow the procedures set forth in Government Code Section 66001. Said procedures are herein summarized.
 1. In any action imposing a fee as a condition of approval of a development project, the county shall do all of the following:
 - a. Identify the purpose of the fee;

by its pro rata share of any traffic mitigation or traffic impact fee imposed and collected by the county on a development project approved before the effective date of the ordinance codified in this chapter of which the subject development project is a part.

C. When a fee is paid for a development project and that project is subsequently reduced so that it is entitled to a lower fee, the county shall issue a partial refund of the fee.

D. When a fee is paid for a development project and the project is subsequently abandoned, the payor shall be entitled to a refund of the fee paid, less the administrative portion of the fee.

7.84.090 Public road impact fee fund.

Fees paid pursuant to this chapter shall be held by the county auditor in a separate public road impact fee fund to be expended for the purpose for which they were collected. The county auditor shall retain interest accrued on fees and allocate it to the accounts for which the fees were imposed. Upon receipt of a fee the county shall deposit, invest, account for, and expend the fee pursuant to Government Code Section 66006.

7.84.100 Natural disaster fee exemption.

No fee shall be imposed on the reconstruction of any residential, commercial, or industrial development project that is damaged or destroyed as a result of a natural disaster as declared by the Governor.

7.84.110 Capital improvement plan.

A. The board of supervisors shall adopt by resolution a capital improvement plan which indicates the approximate location, size, time of availability, and estimates of costs for public roads to be financed with fees.

B. The public works director shall annually submit the capital improvement plan to the board of supervisors for adoption at a noticed public hearing.

C. The fee adopted by the board of supervisors shall be annually reviewed by the board for consistency with the capital improvement plan and amendments necessary shall be made by resolution of the board.

7.84.120 Construction.

This chapter, the capital improvement plan, and any resolution adopting or amending a fee and any subsequent amendments thereto shall be construed together.

7.84.130 Adjustment to or waiver of fees.

A. A developer of any project subject to the fee described in this chapter may apply to the board of supervisors for reduction or adjustment to that fee, or a waiver of that

fee, following the procedures set forth in Government Code Sections 66020 and 66021.

7.84.140 Acceptance of real property in lieu of fee.

The county may accept, by dedication or grant, real property from the developer in lieu of fees otherwise imposed pursuant to this chapter provided that the developer shall show proof satisfactory to the county that the value of the real property offered by the developer is at least equal in value to the fee for which the real property is a substitute.”

Section 3. This ordinance shall be published within fifteen days after the date hereof in a newspaper of general circulation printed and published in the County of Amador, State of California, and shall become effective thirty days after the date hereof.

The foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 5th day of April 2005, by the following vote:

AYES: Richard M. Forster, Rich F. Escamilla, Louis D. Boitano, and
Richard P. Vinson

NOES: None

ABSENT: Mario Biagi



Chairman, Board of Supervisors

ATTEST:

MARDELL ANDERSON, Clerk of the
Board of Supervisors, Amador County,
California



Deputy