

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

ORDINANCE NO. 88-023

(1413 & 2575)

AN ORDINANCE ADDING CHAPTER 11 TO TITLE VII
OF THE SAN LEANDRO MUNICIPAL CODE AND
ESTABLISHING AND IMPOSING A DEVELOPMENT
FEE FOR STREET IMPROVEMENTS ON NEW
DEVELOPMENT PROJECTS IN THE CITY OF SAN LEANDRO

The City Council of the City of San Leandro does ORDAIN as follows:

Section 1. The City Council of the City of San Leandro hereby finds and declares:

Findings

A. The City Council finds and determines that the traffic to be generated by projected levels of land development in San Leandro will exceed the present capacity of the City's streets to carry traffic safely and efficiently. There is a substantial public and governmental interest in maintaining a system of city streets which can satisfactorily accommodate projected levels of traffic.

B. In order to predict traffic volumes and infrastructure needs, the City of San Leandro undertook a comprehensive review of the City's streets and traffic patterns as they currently exist and as they are projected to exist 10-15 years in the future. The results of this study are embodied in the 1988 Master Plan of City Streets (MPCS). The Council takes official notice of the MPCS for purposes of this ordinance and it is incorporated herein by reference. The MPCS includes extensive independent research and corroborative evidence from other local and regional studies.

C. The MPCCS provides a basis for estimating San Leandro's projected traffic needs and the street improvements necessary to accommodate that traffic. The study also estimates the construction costs of the proposed street improvements and develops a basis for determining a fair allocation of those costs among the users of the streets.

D. The MPCCS projects that there will be approximately a 14% rise in population and a 17% rise in employment in San Leandro by the year 2005. Concurrently there will be new residential, commercial and industrial development. The MPCCS has found that all categories of development will generate additional traffic. The MPCCS concludes that this forecasted new development will generate approximately 11,000 new p.m. peak hour trips through the city per day.

E. The current system of streets in San Leandro is not sufficient to accommodate the amount of traffic to be generated by the new development. Many streets and intersections are already at or near capacity. Without significant street improvement, as well as implementation of other traffic mitigation strategies, the level of service available on the city's streets will seriously deteriorate, resulting in a failure to attract economic development, a decrease in land values, a decrease in tax revenues, more traffic accidents, lower levels of employee productivity, and impairment of the public health, safety and welfare.

F. The City Council finds that the estimated cost of accommodating the increased traffic through street widening, installation of traffic signals and other traffic mitigation is \$30,000,000 in 1988 dollars. However, traditional transportation improvement funding sources will not keep pace with the need for and cost of street improvements caused by new development. The City therefore determines that it is appropriate and in the public interest to require that all new developments contribute to the cost of mitigating traffic problems by imposing a Development Fee for Street Improvement. The City has determined that it shall raise a portion of the needed funds through funding mechanisms other than the development fee, such as property taxes, special assessment districts and state and federal subventions. Although the City has the authority to adopt a fee structure designed to fully fund the needed public improvements, the City Council finds that such a fee structure could be a disincentive to planned growth. The City has chosen a fee based upon projected p.m. peak hour trips generated. This fee will raise approximately one-third of the projected cost of providing the needed traffic improvements.

G. The purpose of the fee is to provide funds for increasing street capacity to accommodate additional traffic generated by new development. Fee revenues will only be used for this purpose.

H. The City Council finds that there is a reasonable relationship between the need for the improvements to be funded by the fee and the type of development projects upon which the fee is imposed. Specifically, every project on which the fee is imposed generates increased traffic throughout the city. This increased generation of traffic in turn requires that traffic improvements be made to accommodate it. There is a reasonable, direct and causal connection between the need for the improvements and the type of development project upon which the fee is imposed.

I. The City Council finds that there is a reasonable relationship between the fee's use and the type of development for which the fee is charged. The fee will be used exclusively to construct new traffic improvements, such as street widening, signalization, interchange improvements and maintenance thereof; right of way acquisition; and the engineering, planning and administrative costs directly related to such improvements. The use of the funds will therefore relate to and be of general and special benefit to the development projects upon which the fee is imposed.

J. The City Council finds that there is a reasonable relationship between the amount of the fee and the cost of the projected required improvements. Using the Institute of Transportation Engineers' (ITE) publication entitled Trip Generation (1985) and the Caltrans' publication Progress Reports

on Trip Ends Generation Research Counts, the City Council has determined the number of p.m. peak hour trips per unit or per gross square foot of floor area generated by each category of land development (residential, commercial or industrial). The City Council then determined the fee rate for each land use category in dollars per unit or per gross square foot. Thus the fee per project is less than but proportional to that project's generation of traffic.

K. The City Council finds that the traffic fees to be charged pursuant to this ordinance do not exceed the estimated reasonable cost of implementing the traffic mitigation program projected in the MPCs. The City Council further finds that this basis for fee calculation assures that each new development bears at least a part of the burden of its individual, incremental share of improvements needed to accommodate the cumulative traffic impacts caused by all new development.

Section 2. Chapter 11 is hereby added to Title VII of the San Leandro Municipal Code to read as follows:

ARTICLE I. GENERAL PROVISIONS

Section 7-11-100: PURPOSE AND INTENT.

The purpose of this Chapter is to carry out the findings and intentions of the City Council as found in the recitals hereto and to protect the general health, safety and welfare.

Section 7-11-105: DEFINITIONS.

For the purposes of this Chapter, the following words or phrases shall be construed as defined in this section.

(a) "Accessory Uses" means any project requiring a building permit which is clearly incidental to the primary purpose of the structure such as fences, pools, patios and automobile garages.

(b) "Building Permit" means a permit required by and issued pursuant to Chapter 5, Title VII of this Code.

(c) "New Development" means any new construction or use of land or buildings that requires the issuance of a building permit or other use entitlement.

(d) "P.M. Peak Hour Trips" means the number of one-way vehicular trips generated by a given land use during the one-hour period of highest traffic volume during the p.m. hours.

(e) "Rehabilitation Project" means any remodeling, expansion, or addition on a Rehabilitation Project site which enhances the appearance, quality or utility of the existing improvements and in which:

- (i) The afternoon peak hour trip generation is not more than twenty-five percent (25%) greater than the existing trip generation;
and

(ii) The total cost of the proposed work is less than twenty-five percent (25%) of the replacement value of the existing improvements on the site, or in which the building square footage of the proposed project is less than twenty-five percent (25%) of the square footage of the existing building on the site.

(f) "Rehabilitation Project Site" means an area, including parking, loading and landscaped areas, not more than 10,000 square feet for all land uses, provided that in the case of industrial uses, "site" shall mean an area not more than one acre.

(g) "Small Projects" means any project for which the required street improvement fee would be \$1,000 or less.

(h) "Street Improvement" includes but is not limited to the construction of or improvement to rights-of-way, traffic signals, overcrossings, interchanges, underpasses, curbs, gutters, sidewalks, pavement, and drainage improvements incidental to street improvements necessary to provide traffic circulation consistent with the Master Plan of City Streets. For the purpose of this definition street includes highway or road.

(i) "Use Entitlement" means a conditional use permit, variance, amendment to the General Plan, rezoning ordinance or other discretionary approval for use or development of property.

Section 7-11-110: ESTABLISHMENT OF FEE.

(a) A Development Fee for Street Improvement is hereby established to carry out the purposes of this Chapter.

(b) The fee required by this section is imposed on any new development of property and as a condition to the issuance of any building permit or other use entitlement.

(c) The fee authorized by this section is also imposed on all development projects for which building permits or other entitlements for use or development were issued previously subject to a condition requiring the developer pay an interim traffic impact fee. To the extent that any person paid an interim fee in an amount greater than would now be due under the Fee Schedule as authorized by this Chapter, the City shall refund the difference with interest in an amount determined by the Finance Director.

(d) The development fee for street improvement is imposed in addition to any other means or legal authority of financing street improvements which may be imposed on the development of property by this Code, the Zoning Ordinance or the general laws.

Section 7-11-115: TIME OF FEE PAYMENT.

The development fee for street improvement is payable before the issuance of any building permit or other use entitlement unless the City Manager determines that the fee shall be collected prior to the issuance of the certificate of occupancy. Administrative regulations may provide a means for paying the required fee in installments.

Section 7-11-120. FEE SCHEDULE.

The amount of the fee shall be determined in accordance with the Development Fee for Street Improvement Schedule which shall be established by resolution of the City Council. The fee shall be determined by multiplying the units or total gross square footage of the development project by the fee rate per unit or gross square foot established in the Fee Schedule. The Schedule shall from time to time be amended by resolution of the City Council to reflect any increase in the cost of mitigating additional traffic generation.

Section 7-11-125: CREDITS.

(a) For new development consisting of an addition, extension or enlargement of an existing structure, the fee shall be paid only on any additional dwelling units or additional square footage resulting from such addition, extension or enlargement.

(b) A credit against the fee may be given for any right-of-way dedication contributed by the developer in excess of his obligation to make such contributions under Sections 7-8-100 through 7-8-115 of this Code. The credit provided for in this section shall be equal to the value of the right-of-way dedicated as determined in the sole and absolute discretion of the City Engineer.

(c) A credit may be given for street construction costs where street widening is required in excess of fourteen feet (14 ft.). The credit shall be equal to the standard quantities

and cost, as determined in the sole and absolute discretion of the City Engineer, to construct street improvements in excess of fourteen feet (14 ft.).

(d) A credit may be given for projects with excessively high frontage improvement costs. Frontage improvement costs shall be deemed excessive when, in combination with the fee required under this ordinance, such costs exceed one-third of the value of the property in the after condition. The credit shall equal the amount required, when subtracted from the sum of the applicable fee and frontage cost improvements, to make this sum equal to one-third the value of the property in the after condition. These calculations shall be made in the sole and absolute discretion of the City Engineer.

(e) A credit may be given for prior uses of property that have been terminated less than two (2) years from the date of the application for the new building permit or use entitlement. The credit shall be equal to the amount that would have been due for the prior use under the Fee Schedule in existence at the time of the application for the new building permit or use entitlement.

(f) Further rules governing credits shall be established by administrative regulation. The burden of proof shall be upon the person seeking to establish a credit under the provision of this section.

Section 7-11-130: EXEMPTIONS.

Projects exempted from the imposition of the traffic impact fee include:

(a) Projects for which the imposition of the fee would be in violation of the Constitution and laws of the United States or the State of California.

(b) Projects for the construction of public buildings and facilities.

(c) Rehabilitation Projects on Rehabilitation Project sites.

(d) Accessory Uses.

(e) Projects which require only zone changes or general plan amendments necessary to accomplish consistency between the general plan and zoning.

(f) Small Projects.

Section 7-11-135: INDIVIDUAL ADJUSTMENTS.

(a) The City Manager shall adopt administrative regulations that, in exceptional cases, allow modification of the fee where environmental review concludes that the fee due under the traffic impact fee schedule is insufficient to mitigate the traffic impacts of the development project. In such cases the City shall have the authority to increase the fee due for traffic mitigation, delete credits or make other determinations relative to the development project.

(b) The City Manager shall also adopt administrative regulations to provide for the reduction of the traffic impact fee in any circumstance where such adjustment is legally required.

Section 7-11-140: APPLICATION OF FEES.

The fees collected under this article shall be segregated and held in trust in a manner to avoid commingling of the fees with other revenues or funds of the City. Any interest income earned by monies in the fund shall also be deposited in the fund. Adequate financial records of the funds shall be kept showing the source and disbursement of all revenues. Funds so collected shall be expended only for traffic improvements set forth in the Master Plan of City Streets or Capital Improvement Plan. These costs may include but are not limited to: roadway and intersection improvements and maintenance; right of way acquisition, mitigation of environmental impacts of these projects; and engineering, planning, and administrative and professional costs directly related to these projects and to the fee program.

Section 7-11-145: REVIEW.

Prior to the conclusion of each fiscal year, the City Engineer shall review the estimated cost of the fee program, the continued need for public improvements and the reasonable relationship between such need and the impacts of the various types of development pending or anticipated and for which this fee is charged. The City Engineer shall report his findings to the City Council at a noticed public hearing and recommend adjustment to the fee or other action as may be needed.

The report shall identify all fees received, all fees expended, all fees unexpended and committed and all fees unexpended and uncommitted. If appropriate, the City Engineer shall recommend refund of unexpended and uncommitted fees as authorized under Government Code § 66001.

Section 7-11-150: ADVANCE OF FUNDS.

The City may advance money from any available source or fund for the construction of street improvements which would otherwise be paid for from the funds collected pursuant to this chapter and reimburse itself from future fees.

Section 7-11-155: MASTER PLAN CONSTITUTES A SPECIFIC PLAN.

It is the intention of the City Council that the Master Plan of City Streets is necessary and convenient for the implementation of the General Plan of the City. For such purposes and for purposes of the Subdivision Map Act, the Master Plan shall and is hereby deemed a specific plan of the City of San Leandro.

Section 7-11-160: ESTABLISHMENT OF ZONES OF BENEFIT.

The City Manager may adopt administrative regulations to establish zones of benefit. Such zones, if established, will divide the city into areas of benefit. Fees collected from such zones will be expended in those zones for area-specific street improvement projects.

Section 7-11-165: ADOPTION OF A CAPITAL IMPROVEMENT PLAN.

The City Manager may prepare and submit to the City Council a Capital Improvement Plan. If adopted, the Capital

Improvement Plan will prioritize the street improvement projects and schedule the expenditure of funds.

Section 7-11-170: ADOPTION OF ADMINISTRATIVE REGULATIONS:

The City Manager is authorized to adopt administrative regulations. The administrative regulations will further implement the provisions of this Chapter and provide more detailed guidance thereon.

Section 7-11-175: ENFORCEMENT.

The fees imposed under this Chapter shall be enforced as a lien against the property if payment is not made.

Section 7-11-180: OPERATIVE DATE OF ORDINANCE:

The operative date of this ordinance shall be thirty (30) days from the date of its adoption except that in the case of fees for single family or multifamily development projects, the operative date of this ordinance shall be 60 days following the date of its adoption in accordance with Government Code Section 65962.

Section 3. This ordinance shall take effect thirty (30) days after adoption and the title thereof shall be published once prior to adoption.

Introduced by Council Member Glaze on this 6th day of September 1988, and passed to print by the following called vote:

Members of the Council:

Ayes: Council Members Faria, Glaze, Jardin, Perry, Santos, Suchman;
Mayor Karp (7)

Noes: None (0)

Absent: None (0)

By: Alice Calvert
Alice Calvert
Attest: Acting City Clerk
G. L. Dennehey, City Clerk

Passed and adopted this 19th day of September, 1988, after publication on September 10, 1988, by the following called vote:

Members of the Council:

Ayes: Council Members Faria, Glaze, Jardin, Perry, Santos, Suchman;
Mayor Karp (7)

Noes: None (0)

Absent: None (0)

By: Alice Calvert
Alice Calvert
Attest: Acting City Clerk
G. L. Dennehey, City Clerk