

AN ORDINANCE AMENDING
CERTAIN CODIFIED ORDINANCES OF THE COUNTY OF IMPERIAL
ENACTING TRAFFIC IMPACT FEES

ORDINANCE NO. 1445

The Board of Supervisors of the County of Imperial, State of California, hereby ordain as follows:

SECTION 1: A new Chapter 4.33 (sections 4.33.010 through 4.33.150) of Title 4 of the Codified Ordinances of the County of Imperial is hereby enacted to read as follows:

Chapter 4.33 TRAFFIC IMPACT FEES

- 4.33.010 Title
- 4.33.020 Purpose
- 4.33.030 Definitions
- 4.33.040 Findings
- 4.33.050 Prior Agreements and Conditions of Approval
- 4.33.060 Imposition of Fees
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 - 4.33.070(A) Central Imperial County Traffic Impact Fees
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- 4.33.100 Exemptions from Development Impact Fees
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4.33.010. Title.

This ordinance shall hereafter be known as the Traffic Impact Fees Ordinance of 2008.

4.33.020. Purpose.

The purpose of this ordinance is to enact Imperial County policies requiring New Development in the county to supplement the fair share of traffic-related impact mitigation costs of public facilities, equipment, improvements and services necessitated by such new development and by establishing the associated funding source for those fair share costs.

4.33.030. Definitions.

When the following words or phrases are used in this ordinance, they shall have the meaning ascribed to them in this section.

- A. "Applicant" means the owner(s) of real property who directly, or through a developer, submits an application to the Planning and Building Services Departments for any new development of land including, but not limited to, specific plans and related tract maps, that will eventually require the issuance of building permits.
- B. "Building Permit" means the official document or certification that is issued by the building division of the Planning and Development Services Department that authorizes the construction of a building or structure.
- C. "County" means the County of Imperial.
- D. "Director" means the director of planning and development services department of the county of Imperial.
- E. "Facilities" means any long-term capital facilities, services, equipment or improvements related to the County traffic circulation system, the costs of which may include construction, grade separation improvements, right-of-way purchases, related environmental mitigation and design and construction administration .
- F. "Improvement" means any modification, alteration or addition to portions of the County traffic circulation system, the costs of which may include construction, grade separation improvements, right-of-way purchases, related environmental mitigation and design and construction administration.
- G. "Multi-family dwelling" is any structure or portion thereof that contains three (3) or more dwelling units and, for the purpose of this ordinance, includes residential condominiums.
- H. "New Development" means all construction for which a building permit or other permit to operate is required.
- I. "Single-family dwelling" is any structure or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation as required by the Uniform Building Code, for not more than one (1) family unit.
- J. "Traffic Impact Fees" ("Fees") mean any and all fees set out in this ordinance which (1) help mitigate the direct and cumulative traffic-related impacts that New Development has upon the roads and traffic circulation within the County and (2) maintain County roads and traffic circulation at levels conducive to the public health, safety and general welfare of the citizenry.
- K. "Unincorporated Areas" means any and all areas not incorporated within a city and located within the County of Imperial's sphere of influence.
- L. Except as stated in this section, the definitions of words used in this ordinance shall be as defined in any relevant ordinances or building codes or otherwise defined in Title 9, the Imperial County Land Use Ordinance.

4.33.040. Findings.

The Board of Supervisors finds and determines that:

- A. The County of Imperial seeks to protect public health, safety and general welfare by ensuring that adequate Facilities and services are provided within the Unincorporated Areas.
- B. It is county policy, by and through its general plan and the provisions of this ordinance, to assure that necessary and adequate traffic-related Facilities required by New Development projects are either available or will be made available as a condition of approval of such projects and that the cost of providing such adequate Facilities are collected on an equitable basis from the beneficiaries thereof.
- C. New Development will result in degradation of traffic levels of service on the regional transportation system of streets, arterials and highways throughout the County.
- D. The Traffic Impact Fees ("Fees") are intended to finance traffic-related public Facilities which help mitigate the direct and cumulative traffic impacts of New Development in the county.
- E. In order for the County to construct, acquire, expand or improve on needed Facilities, it is necessary to require that all New Development bear its fair share cost of providing the traffic-related Facilities reasonably needed to serve that New Development
- F. In order to establish the Fees set forth herein, area specific Impact Fees Studies along with related findings have been prepared, reviewed and considered and are specifically cited and referenced relative to its respective fee schedule.
- G. There is a reasonable relationship between the use of the Traffic Impact Fees to pay for the construction of County transportation improvement projects and the type of development for which the Fee is charged in that all new development in the County, both residential and non-residential, will generate or contribute to the need for the transportation projects in different degrees as further described in their respective Traffic studies.
- H. As indicated in the respective Impact Fee Study, the Fees set forth herein will be used to recover the cost of traffic-related Facilities, but only to the extent that the need for Facilities is a consequence of New Development that is subject to the Fees, thereby ensuring that there is a reasonable relationship between the need for the Facilities and the type of New Development being assessed such Impact Fees.
- I. The causes of impact upon County roads do not stop at jurisdictional boundaries and, particularly in the case of all new development adjacent to those boundaries, traffic impact fees need to be imposed in order to finance those impacts that can be attributed to that development by professionally prepared traffic studies.
- J. Traffic Impact Fees are hereby created for the foregoing purpose and reasons.

4.33.050. Prior Agreements and Conditions of Approval.

- A. Any enacted enforceable agreement existing prior to the operative date of this ordinance between an applicant for development and the County's Planning and Development Services Department, Public Works Department or appropriate department for general government, pertaining to the dedication of land or payment of fees for traffic-related facilities, equipment or improvements to serve the property which is the subject of the application, or any portion thereof, satisfies the requirements of this ordinance. Applicant shall present such evidence to the Planning and Development Services Department prior to the issuance of any building permit.

- B. If land, facilities, equipment or improvements were dedicated and accepted by the County to the Planning and Development Services Department, Public Works Department or appropriate department for general government as a condition of approval of a discretionary permit prior to the operative date of this ordinance, such dedication or donation shall be considered as satisfying the requirements of this ordinance for such discretionary permit. Applicant shall present such evidence to the Planning and Development Services Department prior to issuance of any building permit.

4.33.060. Imposition of Fees.

Except as otherwise provided by local, state or federal laws or other exemptions as set forth in section 4.33.100, fees shall be assessed and levied upon any owner(s) of real property located in the unincorporated areas or within incorporated cities (if so specified under section 4.33.070) in connection with: adding one (1) or more dwelling units to such property, including the construction of a new dwelling unit or the installation of a manufactured home on the property; adding industrial (or agricultural related), commercial or office units to such property; constructing an addition of chargeable space to an existing industrial (or agricultural related), commercial or office structure on the property; or converting a land use to a more intensive use on such property thereby creating a greater need for infrastructure facilities. Said Fees are to be in amounts determined necessary to fund the acquisition, development and/or improvement of Facilities required to serve the cumulative needs of those persons residing, working or studying in or otherwise using such units or property as outlined in referenced Traffic Impact Fee Studies. Furthermore, the fee, as imposed herein, can serve as mitigation, along with other mitigations, for such congestion and related adverse impacts, as appropriate, and as determined by the full analysis of the impacts of each new development.

4.33.070. Amount of Fees.

The amount of the Fees assessed and levied pursuant to the provisions of this ordinance shall be as set forth in the tables below, except as reduced by a credit pursuant to sections 4.33.090 or exempted by section 4.33.100 and shall be applicable as to all projects of the types as specified in section 4.33.060 for which application is made for a development permit on or after the effective date of this ordinance.

4.32.070 (A) Central Imperial County Traffic Impact Fees

A.1. Applicable Fee Area

The Central Imperial County Traffic Impact Fee Area, hereinafter referred to as the “Fee Area,” is defined as that area bounded by Aten Road to the south, Forrester Road to the west, Schartz Road to the north, and State Route 111 to the east.

A.2. Impact Fee Study Basis

The basis of the Central imperial County Traffic impact Fees is the “*Central Imperial County Traffic Impact Fee Study*” (herein after referred to as the “Study”) prepared by KOA Corporation and dated March 2008. Said Study provides the methodology underlying the specified fee schedule based upon projected road improvements, safety infrastructure measures and associated costs available at the time of the preparation of said study.

A.3. Fee Schedule

A.3.a. Residential (per dwelling unit):

Land Use	Fee
Residential (single family)	\$8,250
Residential (multi-family)	\$6,600
Residential (senior community)	\$3,300

A. 3.b. Non-residential (per 1,000 Square Feet or ksf):

Land Use	Fee
Commercial (Office)	\$16,500
Commercial Retail (specialty)	\$33,000
Commercial Retail (neighborhood)	\$99,000
Commercial Retail (community)	\$66,000
Commercial Retail (regional)	\$41,250
Golf Course	----
Industrial Park	\$6,600
Warehousing	\$4,125
Manufacturing/Assembly	\$3,300
Heavy Industrial	\$1,238

A.3.c. Other Undesignated Uses

Uses not otherwise designated in Sections 4.33.070.A.3.a. and 4.33.070.A.3.b. will be calculated using the *Guide of Vehicular Traffic Generation Rates for the San Diego Region* (April 2002) and the Trip Generation Rate charts of the Institute of Transportation Engineers as a guide, whereby the specific proposed use equates to projected Average Daily Traffic (ADT) with ten (10) ADTs equal to one (1) EDU for determining the Fee established in the Study. One (1) EDU equals \$8,250.

A.3.d. Fair Share Fees for Adjacent and Incorporated Areas

Fair Share Fees for New Development outside the Fee Area, either in the unincorporated area or within incorporated cities lying along City boundaries immediately adjacent to said Fee Area, will be subject to a Traffic Impact Fee. This Fee will be determined by the Planning and Development Services Department and the Public Works Department on a case-by-case basis using project-specific traffic studies and analyses to determine their contribution to impacts along specific roads and intersections within the Fee area. Fees will be imposed, collected and administered as established within this ordinance. Under no circumstances will the fees imposed exceed those established in Sections 4.33.070.A.3.a. and 4.33.070.A.3.b.

A.4. Phase-In of Fees

The fees specified in this section shall be phased-in, upon adoption of this ordinance and benchmarked upon the date of project approval by either the County Planning Commission or the Board of Supervisors, pursuant to the following schedule: three (3) months following Adoption 60% of fee is applicable, one (1) year following adoption 80% of fee is applicable and two (2) years following adoption the full fee is applicable.

A.5. Periodic Review, Revision and Update

Periodic review, revision and update of the assumptions underlying the March 2008 "Central Imperial County Traffic Impact Fee Study" and its associated fee structure will occur no less than every five (5) years and related adjustments to the fee schedule within this section may be modified by appropriate amendments to this County Ordinance. Any adjustments or modifications made to the fee structure must be made based on documented changes to the findings arising from said review, revision and update.

4.33.080. Fee Adjustment.

Commencing two years following the effective date of this ordinance, any and all fees as established and imposed herein may be increased or reduced on October 1st of each subsequent year based upon the Engineering News Record Building Cost Index for Los Angeles Metropolitan Area (BCI) unless the fees are otherwise adjusted by the Board of Supervisors due to extenuating circumstances exacerbated by severe economic conditions. The County Executive Officer shall compute the percentage increase, if any, between the BCI on July 1st of each year and the July 1st BCI for the previous year. The County Executive Officer shall then adjust by such percentage the Fees established and imposed by this ordinance. The adjusted amounts shall be rounded to the nearest dollar. These amounts shall constitute the Fees authorized pursuant to this ordinance. Should the BCI be revised or discontinued, the county executive officer shall use the revised index or a comparable index, as approved by the Board of Supervisors, for determining fluctuations in the cost of development. Nothing herein shall prevent the board of supervisors from electing to retain existing Fees or from electing to waive the inflation adjustment for any given fiscal year.

4.33.090 Credits.

Traffic Impact Fees required for any Development Project may be reduced by the following credits:

- A. Credit for Applicant-Dedicated Land, Rights-of-Way or Construction of Prescribed Facilities/Improvements: The County may grant to project applicants or owners of real property, a credit against the specific total calculated Fees, which would otherwise be charged pursuant to this ordinance, for the dedication of land, rights-of-way and/or construction of prescribed facilities/improvements as determined in the Study. The amount of the credit granted shall be determined on a case-by-case basis by (1) an estimate of the fair market value of the land dedicated as established by an appraiser selected by, or acceptable to, the County or (2) by an estimate of the costs of constructing Facilities, including structures, equipment and improvements, as established by original receipts provided by the applicant for work performed by duly licensed contractors recognized by the County. All projected construction work, equipment purchases and related costs to be credited must be reviewed and pre-approved by the County prior to commencement of any construction activity. Under no circumstances shall a credit be given for the cost of improvements not defined herein as "Facilities" or otherwise inconsistent with the Study.

- B. Credit for Innovative Project Design That Reduces Off-Site Traffic Impacts: The County may grant to project applicants a credit against the specific total calculated Fees if it can be demonstrated/proven that innovative project design of the circulation system for their respective projects would reduce off-site traffic impacts that are used as a basis for establishing needed road improvements and related safety infrastructure measures outlined in the respective Study for their underlying Fee area. Said reduction to off-site traffic impacts must be supported by project specific traffic studies/analyses prepared by consultant(s) acceptable to the County and provided either by the project applicant or as determined as part of the CEQA process. The study must demonstrate/prove why, where and by what percentage off-site impacts are reduced. The determination of any credit reduction in such cases will be made by County Traffic Engineer.
- C. An applicant for development approval may apply for credit to reduce the amount of the Fees required to be paid at the time of development approval by the County. Any credit granted and the amount of the Fees to be paid shall be included as a condition of approval for development. If an applicant has received development approval from the County and has not previously applied for a credit to reduce the amount of the Fees required to be paid, an applicant may apply for such credit with the County Executive Officer prior to the issuance of a building permit and the County Executive Officer shall make a recommendation thereon to the Board of Supervisors. The Board of Supervisors shall determine the amount of any credit to be allowed. The applicant shall be given notice of the County Executive Officer's recommendation and the time when the Board of Supervisor's will consider the matter. The applicant may appear and present evidence with regard to the requested credit.

4.33.100 Exemptions

The following shall be exempt from the provisions of this ordinance:

- A. Structure owned by the County of Imperial.
- B. Structures which are being reconstructed following damage or destruction by fire or other casualty or the voluntary demolition thereof, provided that the number of dwelling units or the amount of chargeable space in such reconstructed structure is not greater than the number of dwelling units or the amount of chargeable space in the structure prior to such damage, destruction or demolition.
- C. Property owners who seek to connect or reconnect to utilities for a pre-existing structure, provided that the number of dwelling units or the amount of chargeable space in such pre-existing structure is not greater than the number of dwelling units or the amount of chargeable space in the structure prior to the connection or reconnection.
- D. Residential Units in publicly subsidized projects constructed as housing for low-income households, as such households are defined pursuant to section 50079.5 of the Health and Safety Code. "Publicly subsidized projects," as the term is used herein, shall not include any project or project applicant receiving a tax credit provided by the State of California Franchise Tax Board.
- E. Applicants who have expired building permits, under which construction has commenced, are not required to pay permit fees specified in this ordinance provided that project is a duplicate of the original.

4.33.110 Payment of Fees.

- A. Time of Payment: The Fees assessed and levied pursuant to the provisions of this ordinance shall be due and payable prior to or at time of issuance of a building permit.
- B. Collection of Payment: The appropriate Fees shall be collected, as specified in section 4.33.070, by the Planning and Development Services Department for all Unincorporated Areas and in the incorporated cities, as assigned by the respective city pursuant to the master tax sharing agreement or other applicable agreements.
- C. Administration Costs: All Fees collected by the county shall be assessed an additional thirty-five (\$35) dollars administrative processing collection fee to be paid to the Planning and Development Services Department. Said administrative fee shall be used to offset the expense of collection, recording and accounting costs.

4.33.120. Appropriation and Deposit of Fees.

All revenues from the Fees assessed and levied pursuant to the provisions of this ordinance shall be deposited in special Traffic Impact Fee Fund (hereinafter referred to as the "Fund") established to receive Fees collected pursuant to this ordinance and in accordance with section 66006 of the Government Code and all other applicable provisions of law. Thereafter, such revenues and related interest income shall be appropriated and used only for the acquisition and/or development of those traffic-related public Facilities necessitated by New Development.

4.33.130. Reporting.

- A. Disposition of Fee revenue: Report by the auditor/controller. Within one hundred eighty (180) days after the last day of each fiscal year the auditor/controller of the county of Imperial shall make available to the public a report regarding the fund established pursuant to this ordinance in accordance with Government Code section 66006(b)(1). The Board of Supervisors shall then review the report, in compliance with the requirements of Government Code section 66006(b)(2).
- B. Unappropriated revenues: For the first fiscal year following the first deposit into any such account or fund and every five years thereafter, the Board of Supervisors shall make the findings required by Government Code section 66001(d) with respect to that portion of the account or fund remaining unexpended or shall refund the moneys in the fund as provided in Government Code section 66001(e).

4.33.140. Validity.


This ordinance and the various parts, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby. If any part, sentence, paragraph, section or clause of this ordinance or its application to any person or entity, is adjudged unconstitutional or invalid, such unconstitutionality or invalidity shall effect only such part, sentence, paragraph, section or clause of this ordinance or person or entity; and shall not affect or impair any of the remaining provisions, parts, sentences, paragraphs, sections or clauses of this ordinance or its application to other persons or entities. The Board of Supervisors hereby declares that this ordinance would have been adopted had such unconstitutional or invalid part, sentence, paragraph, section or clause of this ordinance not been included herein; or had such person or entity been expressly exempted from the application of this ordinance.

4.33.150. Effective Date.

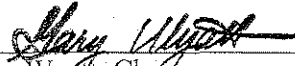
This Ordinance shall take effect and shall be in force thirty (30) days after the date of its adoption and prior to the expiration of fifteen days from the passage thereof shall be published at least once in the Imperial Valley Press and the Holtville Tribune, newspapers of general circulation, printed and published in the county of Imperial, State of California, together with the names of the members of the board of supervisors voting for and against the same.

PASSED, ADOPTED AND APPROVED by the Board of Supervisors of the County of Imperial this 23rd day of December, 2008.

ATTEST:



Sylvia Bermudez
Clerk of the Board of Supervisors
County of Imperial

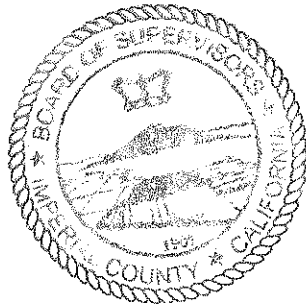


Gary Wyatt, Chairman
Imperial County Board of Supervisors

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OFFICE OF THE COUNTY COUNSEL
COUNTY OF IMPERIAL



Approved and/or authorized by the Board of Supervisors

of the County of Imperial
Date 12-23-08 Minute Order No. 23

SYLVIA BERBER 11/22
Clerk of the Board of Supervisors

By: D. Garcia 061609
Deputy