

ORDINANCE NO. 697

AN ORDINANCE OF THE GRASS VALLEY CITY COUNCIL
ENACTING A NEW CHAPTER 3.44 OF THE
GRASS VALLEY MUNICIPAL CODE PERTAINING TO
ROADS, BRIDGES AND TRAFFIC CONTROLS IMPROVEMENT FEE

THE CITY COUNCIL OF THE CITY OF GRASS VALLEY, STATE OF CALIFORNIA,
HEREBY ORDAINS AS FOLLOWS:

SECTION 1 Chapter 3.44 of the Grass Valley Municipal Code is hereby repealed in its entirety.

SECTION 2 There is hereby added a new Chapter 3.44 to the Grass Valley Municipal Code to read as follows:

"CHAPTER 3.44

ROADS, BRIDGES AND TRAFFIC CONTROLS IMPROVEMENT FEE

Sections:

- 3.44.010 Purpose
- 3.44.020 Definitions
- 3.44.030 Established
- 3.44.040 Use
- 3.44.050 Developer construction
- 3.44.060 Adjustments

Section 3.44.010 Purpose.

A. In order to implement the goals and objectives of the capital improvement program for facilities and equipment of the city of Grass Valley, and to mitigate the traffic impacts caused by new development in the city, certain public facilities and equipment must be constructed and/or acquired. The public facilities and equipment are specifically identified in the city's capital improvement program for facilities and equipment as adopted by the city council and as amended from time to time. The list of roads, bridges and traffic control facilities may be added to or deleted from the approved program. The city council has determined that a development impact fee is needed in order to finance these public improvements and to pay for the development's fair share of the construction costs of these improvements.

Future development within western Nevada County will result in traffic volumes exceeding the capacity of the Regional System of roads, streets, and highways as it presently exists. The regional system within western Nevada County needs to be improved to accommodate anticipated future growth. The regional public improvements are specifically identified in the Nevada County Transportation Commission's (NCTC) capital improvement program for regional system improvements as adopted by the local jurisdiction imposing the fees (Nevada County, City of Nevada City, and City of Grass Valley) and the Nevada County Transportation Commission (NCTC), and as amended from time to time. The list of roads, bridges, and traffic control facilities may be added to or deleted from the approved program. The city council has determined that a regional transportation development impact fee is needed in order to finance these public

improvements and to pay for the development's fair share of the construction costs of these improvements.

B. In establishing the fees described in this chapter, the city council has found the fee to be consistent with its general plan and, pursuant to Government Code Section 65913.2, has considered the effects of the fee with respect to the city's housing needs as established in the housing element of the general plan. (Ord. 442 § 1, 1990)

Section 3.44.020 Definitions.

In this chapter, unless the context otherwise requires:

"Cost of improvements" means all costs related to acquisition, construction, repair and financing, but does not include costs of routine maintenance.

"New development" means any residential or nonresidential (nonresidential includes commercial and industrial) construction project except as specifically exempted in this chapter.

"Roads, bridges and traffic controls" mean capital improvements related to roads, streets (including, but not limited to, curbs, sidewalks and related structures), bridges, highways, overpasses and traffic controls, signs and electronic signalization systems and similar facilities which serve public transportation. (Ord. 442 § 2, 1990)

Section 3.44.030 Established.

A. A traffic impact fee is established on issuance of all building permits, for development within the city to pay for designated roads, bridges and traffic controls as shown in the adopted capital improvement program for facilities and equipment.

B. The city council shall, in a council resolution, set forth the specific amount of the fee, describe the benefit and impact area on which the development fee is imposed, list the specific public improvements to be financed, describe the estimated cost of these facilities, describe the reasonable relationship between this fee and the various types of new developments and set forth time for payment. As described in the fee resolution, this development fee shall be paid by each developer prior to issuance of building permit. On an annual basis, the city council shall review this fee to determine whether the fee amounts are reasonably related to the impacts of developments and whether the described public facilities are still needed. (Ord. 442 § 3, 1990)

C. The city council shall, in a council resolution, set forth the specific amount of the Regional Traffic Mitigation fee, describe the benefit and impact area on which the development fee is imposed, list the specific public improvements to be financed, describe the estimated cost of these facilities, describe the reasonable relationship between this fee and the various types of new developments and set forth time for payment. As described in the fee resolution, this development fee shall be paid by each developer prior to issuance of building permit. On an annual basis, the city council shall review this fee to determine whether the fee amounts are reasonably related to the impacts of developments and whether the described public facilities are still needed.

Section 3.44.040 Use.

The revenues raised by payment of a City fee shall be placed in a separate and special account and such revenues, along with any interest earnings on that account, shall be used solely to:

A. Pay for the city's future construction of facilities described in the resolution enacted pursuant to Section 3.44.030, or to reimburse the city for those described or listed facilities constructed by the city with funds advanced by the city from other sources, or

B. Reimburse developers who have been required or permitted by Section 3.44.050, to install such listed facilities which are oversized with supplemental size, length or capacity. (Ord. 442 § 4, 1990)

The revenues raised by payment of a Regional Transportation Mitigation fee shall be placed in a separate and special account and such revenues, along with any interest earnings on that account in accordance with latest version of the Western Nevada County Regional Transportation Mitigation Fee Administrative Plan (adopted by City Council), shall be used solely to construction the improvements identified in the latest version of the Western Nevada County Regional Transportation Mitigation Fee Administrative Plan (adopted by City Council).

Section 3.44.050 Developer construction.

A. Whenever a developer is required, as a condition of approval of a development permit, to construct a public facility described in a resolution adopted pursuant to Section 3.44.030 which facility is determined by the city to have supplemental size, length or capacity over that needed for the impacts of that development, and when such construction is necessary to ensure efficient and timely construction of the facilities network, a reimbursement agreement with the developer and a credit against the fee, which would otherwise be charged pursuant to the ordinance codified in this chapter on the development project, shall be offered.

B. The reimbursement amount shall not include the portion of the improvement needed to provide services or mitigate the need for the facility or the burdens created by the development. (Ord. 442 § 5, 1990)

C. Reimbursement of Regional Transportation Mitigation Fee shall be in accordance with the latest version of the Western Nevada County Regional Transportation Mitigation Fee Administrative Plan (adopted by City Council).

Section 3.44.060 Adjustments.

I. A developer of any project subject to a regional transportation mitigation fee described in Section 3.44.030 may apply for a reduction or adjustment to that fee, or a waiver of that fee in accordance with the latest version of the Western Nevada County Regional Transportation Mitigation Fee Administrative Plan (adopted by City Council).

II-A. A developer of any project subject to the non regional fee described in Section 3.44.030 may apply to the city council for a reduction or adjustment to that fee, or a waiver of that fee, based upon the absence of any reasonable relationship or nexus between the traffic impacts of that development and either the amount of the fee charged or the type of facilities to be financed.

II-B. The application shall be made in writing and filed with the city clerk:

1. Not later than ten days prior to the public hearing on the development permit application for the project, or

2. If no development permit is required, at the time of the filing of the request for a building permit.

II-C. The application shall state in detail the factual basis for the claim of waiver, reduction, or adjustment.

II-D. The city council shall consider the application at the public hearing on the permit application or at a separate hearing held within sixty days after the filing of the fee adjustment application, whichever is later. The decision of the city council shall be final.

II-E. If a reduction, adjustment, or waiver is granted, any change in use within the project shall invalidate the waiver, adjustment or reduction of the fee. (Ord. 442 § 6, 1990)

SECTION 3. SEVERABILITY

If any section of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other section or application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application and to this end the provisions of this Ordinance are severable.

SECTION 4. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after its adoption.

INTRODUCED and first read at a regular meeting of the City Council on the 22nd day of July, 2008.

FINAL PASSAGE AND ADOPTION by the City Council of the City of Grass Valley was at a meeting thereof held on the 12th day of August, 2008 by the following vote:

AYES: ARBUCKLE, MILLER, POSTON, VICE MAYOR SWARTHOUT & MAYOR JOHNSON

NOES: NONE

ABSENT: NONE

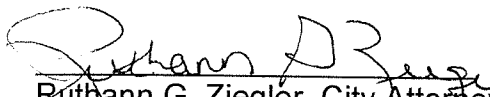
ABSTAINING: NONE



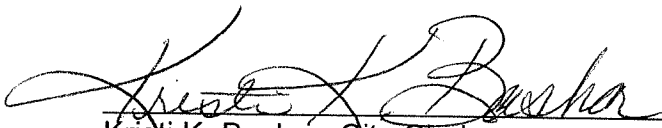
Mark Johnson, Mayor

APPROVED AS TO FORM:

ATTEST:



Ruthann G. Ziegler, City Attorney



Kristi K. Bashor, City Clerk