

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE  
COUNTY OF HUMBOLDT ADDING CHAPTER 11 TO DIVISION 2 OF TITLE III  
OF THE HUMBOLDT COUNTY CODE RELATING TO THE GREATER EUREKA  
AREA TRAFFIC IMPACT FEE**

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. Sections 3211-1 to 3211-16 of Chapter 11 of Division 2 of Title III of the Humboldt County Code are hereby added as shown on the attached pages.

SECTION 2. This ordinance shall take effect and be in force thirty (30) days from the date of its passage. A summary shall be published at least five (5) days before the date set for adoption and again fifteen (15) days after passage of this ordinance. It shall be published once with the names of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of Humboldt, State of California.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_,  
2019.

AYES: Supervisors--

NOES: Supervisors--

ABSENT: Supervisors--

Chair of the Board of Supervisors of the  
County of Humboldt, State of California

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors  
County of Humboldt

11/19/2019

TITLE III - DIVISION 2

CHAPTER 11

GREATER EUREKA AREA TRAFFIC IMPACT FEE

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**3211-1 PURPOSE.**

The County of Humboldt and the City of Eureka (Agencies) find that the cumulative impact of all anticipated new development in the Greater Eureka Area (Area) will result in increased traffic. This increase in traffic may result in traffic volumes which exceed the capacity of the existing circulation system to provide acceptable levels of service. To prevent these undesirable consequences, traffic improvements must be provided at a rate which will accommodate the expected growth in the area. This anticipated development, including development currently approved or submitted for approval, cumulatively will generate a substantial increase over existing levels of traffic within the Area. In accordance with Sections 66000 through 66008 of the California Government Code, the Greater Eureka Area Traffic Impact Fee (GEATIF) is established. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

The Agencies also find that, in the absence of this chapter imposing a traffic impact fee, existing and future sources of revenue will be inadequate to fund a substantial portion of the circulation system improvements identified in various traffic studies. Accordingly, it is the intent of the Agencies to adopt by this chapter a fair and equitable method of securing some of the revenues necessary to fund the construction and implementation of improvements to the Area's circulation system sufficient to accommodate the traffic volumes generated by new development and preserve acceptable levels of service. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

The proposed traffic impact fee apportions the cost of the necessary GEATIF improvements and reconstruction among the different categories of new and existing users according to the reasonably estimated peak hour trip demand that each group of users places upon the GEATIF improvements. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

**3211-2 FINDINGS.**

With regard to the traffic impact fees included in the Greater Eureka Area Traffic Impact Fee (GEATIF) Report, the Board of Supervisors, consistent with the Mitigation Fee Act, finds and adopts each of the findings set forth in Chapter 6 of the GEATIF Report, and further finds that: (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(a) Purpose of Fee, Government Code § 66001(a)(1): The further development of property within the County of Humboldt and City of Eureka will require the construction of additional transportation facilities in accordance with the General Plan to mitigate for the impacts of future development on transportation facilities in the unincorporated County and within the City of Eureka. The GEATIF allows for the cost-effective mitigation of the impact of future development on County and City transportation facilities. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(b) Use of Revenues, Government Code § 66001(a)(2): The fees collected by the GEATIF will be used to fund the expansion of capacity of County and City facilities consistent with the General Plan. These facility improvements are more specifically identified in the GEATIF Report and may include, but not limited to, roadway widening, roadway extension, traffic signal installation, coordination and other capacity enhancing improvements. The GEATIF shall not be used to address existing deficiencies attributable to prior development. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(c) Benefit Relationship, Government Code § 66001(a)(3): Future commercial, residential and other land development activities will impact transportation facilities in the unincorporated County and in the City. The GEATIF uses trip generation rates for each land use category to account for road improvements needed to mitigate for the transportation impacts of different development projects. GEATIF funds collected are applied within the Greater Eureka Area to ensure road improvements will serve the development project that paid the fees. There is, accordingly, a reasonable relationship between the fee's use and the type of development project on which the fee is imposed. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(d) Burden Relationship, Government Code § 66001(a)(4): The GEATIF program uses a formula that takes into consideration trip generation rates by land use category. Facilities costs are adjusted to account for and remove the cost of improvements needed to mitigate for existing deficiencies. In this way, there is a reasonable relationship between the need for the transportation improvements and the project on which the GEATIF is imposed. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(e) Proportionality, Government Code § 66001(b): There is a reasonable relationship between the amount of the fee and the cost of transportation facilities, or portions thereof, attributable to future development because the GEATIF is derived

from a formula that considers trip generation rates by land use categories to correlate impacts to specific development types. The GEATIF is collected for County and City of Eureka transportation facilities. In this way, the GEATIF is tied to the transportation facilities needed to mitigate for the impacts of future development projects. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(f) Public Welfare: The imposition of GEATIF on all new development associated with the generation of new traffic within the unincorporated County and City of Eureka is necessary in order to protect the public health, safety and welfare by ensuring roads in the unincorporated County and City of Eureka continue to operate in accordance with the General Plan. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

### **3211-3 TERMS AND DEFINITIONS.**

For the purposes of this chapter, the following terms shall have the meanings indicated in this section: (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(a) "Agencies" means County of Humboldt and City of Eureka. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(b) "Area" means the geographical boundaries of the Greater Eureka Area as depicted on the drawing, *Greater Eureka Area Traffic Impact Fee Boundaries*, which is shown and defined in Section 3211-16. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(c) "City" means City of Eureka. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(d) "County" means County of Humboldt. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(e) "Developer" means an individual or entity submitting an application for a building permit or other entitlement for development. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(f) "Development" means: (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(1) New residential units, including conversion of an existing unit to greater than one unit. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(2) New commercial, office, and industrial development. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(3) Additions to existing commercial, office, and industrial development greater than 200 gross square feet, including mezzanines. The increase in area is calculated cumulatively from the date of this chapter. Once the cumulative total of the additions exceeds 200 square feet, the impact fee is then calculated using the cumulative total less 200 square feet. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(4) Conversion or change in use of an existing structure which individually or cumulatively increases the peak hour trip rate by ten (10) or more trips. The increase in peak hour trip rates is calculated cumulatively from the date of this chapter. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(g) "Future growth" means the total amount of potential new development in the Area permitted under the General Plan. Future growth is expressed in terms of gross square footage for commercial, office, and industrial development, and in terms of the number of dwelling units for residential development. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(h) "GEATIF improvement" means any of the projects listed in Table 3 of the GEATIF Report. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(i) "GEATIF Report" means the Greater Eureka Area Traffic Impact Fee Report, dated March 2017, prepared by TJKM Transportation Consultants. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(j) "Land use category" means the land use category as defined in Institute of Transportation Engineers Trip Generation Manual and includes but is not limited to the following specified land uses: (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(1) Single-Family Residential. Single Family Residential includes all single-family detached homes on individual lots. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(2) Multi-Family Residential. Multi-Family Residential includes three or more rental dwelling units located in the same building. It includes duplexes when located in multi-family zoning. It includes a secondary attached or detached dwelling unit (mother-in-law unit) accessory to a single-family residential dwelling unit. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(3) Senior/Assisted Living. Senior Living includes attached independent living developments, including retirement communities, age-restricted housing and active adult communities. The developments may include limited social or recreational services. However, they generally lack centralized dining and on-site medical facilities. Residents in these communities live independently, are typically active (requiring little to no medical supervision) and may or may not be retired. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(4) Assisted Living includes complexes in a residential setting that provide either routine general protective oversight or assistance with activities necessary for independent living to mentally or physically limited persons. They commonly have separate living quarters for residents, and services include dining, housekeeping, social and physical activities, medication administration and transportation. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(5) General Retail. General Retail includes one or more commercial establishments that are planned developed, owned and managed as a unit. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(6) Hotel. Hotel includes motels and other facilities where overnight sleeping accommodations are provided. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(7) Gasoline Service Station. Gasoline Service Station has a primary business of fueling motor vehicles. It may also include facilities for servicing vehicles, car washes, and convenience stores. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(8) General Office. General Office includes one or more tenants in a building or cluster of buildings. It is a location where affairs of businesses, commercial

or industrial organizations, or professional persons or firms are conducted. An office building or office buildings may contain a mixture of tenants including professional services, insurance companies, investment brokers and tenant services, such as a bank, or a small restaurant. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(9) Medical/Dental Office. A medical-dental office building is a facility that provides diagnoses and outpatient care on a routine basis but is unable to provide prolonged in-house medical and surgical care. One or more private physicians or dentists generally operate this type of facility. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(10) Industrial/Service Commercial. Industrial/Service Commercial includes free standing facilities devoted to a single use. The facilities have an emphasis on activities other than manufacturing and typically have minimal office space. Typical activities include printing, material testing and assembly of data processing equipment. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(11) Warehouse/Distribution. Warehouse/Distribution includes buildings that are used for the storage of manufactured goods prior to their distribution to retail outlets. These facilities consist of large shells of buildings and may be subdivided for individual tenants. The buildings typically have a ceiling height of 24 to 30 feet. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(12) Mini-Storage. Mini-storage includes buildings in which a number of storage units or vaults are rented for the storage of goods. They are typically referred to as "self storage" facilities. Each unit is physically separated from other units, and access is usually provided through an overhead door or other common access point. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(k) "Peak hour trip" means a one-way vehicle trip measured during the hour of peak traffic volume occurring between 4:00 p.m. and 6:00 p.m. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

**3211-4 APPLICABILITY; ESTABLISHMENT OF FEE.**



Except as otherwise expressly provided in this chapter, this chapter applies to, and the traffic impact fee required under this chapter is payable with respect to, each development within the Area for which a building permit or other entitlement for development is applied for on or after the effective date of this chapter. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

**3211-5 RATE OF FEE.**

(a) The rate of the traffic impact fee is calculated by dividing the total cost of improvements by the number of p.m. peak hour trips added by new development. Pursuant to the calculations in the GEATIF Report, the rate shall be two-thousand sixty-five dollars (\$2,065) per trip. This rate shall be adjusted annually in accordance with subsection (b). The current rate shall be on file in the office of the Director of Public Works. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(b) Annual Adjustment of the Rate. Effective July 1, 2020 and each July 1 thereafter, the Director of Public Works shall adjust the traffic impact fee rate by the percentage increase in the Consumer Price Index (CPI), for Urban Wage Earners and Clerical Workers (1982-1984=100), as published by the United States Department of Labor, Bureau of Labor Statistics (called "the Index"). (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

When calculating the percentage increase, the CPI for the month of February of the current year to February of the prior year shall be used. In the event the Index is unavailable, another published official Index which most closely reflects this CPI shall be substituted. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

If the CPI is 0 or is a negative number, no adjustment to the fee shall be made. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

**3211-6 AMOUNT OF FEE.**

(a) The fee shall be calculated for each development project using the following formula: (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

"A" equals "B" times "C" times "D" (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

Where:

"A" is the amount of the fee to be imposed. (Ord. \_\_\_\_\_, \$ \_\_\_\_\_ / /2019)

"B" is the rate of fee defined in Section 3211-5. (Ord. \_\_\_\_\_, \$ \_\_\_\_\_ / /2019)

"C" is the peak hour trip rate for the development project's land use category as specified in subsections (b) through (e) below. (Ord. \_\_\_\_\_, \$ \_\_\_\_\_ / /2019)

"D" is the total gross square footage, total number of fueling positions, or dwelling unit count, as the case may be, of proposed new development within each land use category. (Ord. \_\_\_\_\_, \$ \_\_\_\_\_ / /2019)

(b) The peak hour trip rate is the average rate of the peak hour of adjacent street traffic, one hour between 4:00 and 6:00 pm, or equivalent, as defined in the ITE Trip Generation Manual. The peak hour trip rate is provided for the following land use categories. (Ord. \_\_\_\_\_, \$ \_\_\_\_\_ / /2019)

<u>Land Use Category</u>	<u>ITE Land Use Code</u>	<u>Peak Hour Trip Rate ("C")</u>
<u>Single Family</u>	<u>210</u>	<u>1.00 per unit</u>
<u>Multi-family</u>	<u>220</u>	<u>0.62 per unit</u>
<u>Senior/Assisted</u>	<u>252</u>	<u>0.25 per unit</u>
<u>General Retail</u>	<u>820</u>	<u>1.48 per 1,000 square feet</u>
<u>Hotel/Motel</u>	<u>312</u>	<u>0.62 per 1,000 square feet</u>
<u>Gasoline/Service Station</u>	<u>944</u>	<u>5.552 per fueling station</u>
<u>General Office</u>	<u>710</u>	<u>1.49 per 1,000 square feet</u>
<u>Medical/Dental Office</u>	<u>720</u>	<u>3.57 per 1,000 square feet</u>
<u>Industrial/Service Commercial</u>	<u>110</u>	<u>0.97 per 1,000 square feet</u>
<u>Warehouse/Distribution &lt; 100,000 square feet</u>	<u>150</u>	<u>0.31 per 1,000 square feet</u>
<u>Warehouse/Distribution &gt; 100,000 square feet</u>	<u>152</u>	<u>0.12 per 1,000 square feet</u>
<u>Mini-Storage</u>	<u>151</u>	<u>0.26 per 1,000 square feet</u>

(Ord.           , §           ,            /            /2019)

(c) In the event that all or a portion of a proposed development project does not fit within a land use category listed in subsection (b) above, County staff shall consult the current edition of the ITE Trip Generation Manual for the peak hour trip rate corresponding to the project's land use category. (Ord.           , §           ,            /            /2019)

(d) In the event that the ITE Trip Generation Manual does not contain a land use category for the project or does not specify a peak hour trip rate for the project's land use category, the Director of Public Works shall either determine the most closely related land use category and peak hour trip rate in the ITE Trip Generation Manual, or shall direct the developer to have a traffic engineer develop a project-specific peak hour trip rate. (Ord.           , §           ,            /            /2019)

(e) A proposed development project may be comprised of multiple land use categories. In this event, a separate fee shall be calculated for each land use category. The separate fees shall be added together to determine the total fee to be imposed. (Ord.           , §           ,            /            /2019)

(f) County staff shall calculate the total fee prior to issuance of the building permit. If a developer is not satisfied with the calculation of the fee, he or she may submit their own calculations and request that the County conduct a review. The County shall review the developer's fee calculations within thirty (30) calendar days of receipt of a written request for review and receipt of all materials necessary to determine the amount of the fee. The review shall be performed by the Director of Public Works. (Ord.           , §           ,            /            /2019)

(g) For 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 gross floor area resulting from such addition, extension, or enlargement (including mezzanines) calculated cumulatively from the effective date of this chapter. (Ord.           , §           ,            /            /2019)

(h) For development consisting of a conversion or change in use of an existing structure which increases the peak hour trip rate otherwise applicable to such existing structure, the fee shall equal the fee applicable to the entire new structure minus the fee otherwise applicable to the existing structure. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(i) For development consisting of a conversion or change in use of an existing structure which decreases the peak hour trip rate otherwise applicable to such existing structure, there shall be no credit or refund of fees previously paid. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(j) The amount of the fee determined in accordance with subsection (a) of this section, shall be reduced by the amount of any credits authorized by Section 3211-8 of this chapter. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

#### **3211-7 PAYMENT OF FEE.**

(a) The fees required pursuant to this chapter shall be paid to the County as a condition of approval of a development permit, including a building permit. For development projects that require both discretionary and building permits, the fees shall be paid no later than the time of building permit issuance. If the fee is paid prior to the time of building permit issuance and the amount of the fee increases, the additional fee amount must be paid before the building permit is issued. If the fee is paid prior to the time of building permit issuance and the amount of the fee is reduced, then at the time the building permit is issued, a refund for the overpayment amount will be provided to the developer. Once a building permit is issued, the amount of the fee is set and will not be adjusted by subsequent increases or decreases to the GEATIF rates. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

In the case of discretionary permits that will not involve a building permit but which will generate additional traffic, payment of the fee shall be recommended as a permit condition to the decision-making body that would approve such permit. Payment of the fee shall be made within ninety (90) calendar days after

approval of the permit or upon commencement of the permitted use, whichever occurs first. (Ord. , \$ , / /2019)

(b) Notwithstanding subsection (a) above, the payment of fees in connection with residential permits may be deferred and paid prior to or at the time of scheduling a final building inspection, if the developer executes an agreement with the County for a fee deferral in a manner consistent with the requirements of Government Code Section 66007. (Ord. , \$ , / /2019)

(c) If the developer has petitioned for review of the fee pursuant to Section 3211-6 or Section 3211-13, and such review is pending at the time the fee is due, the developer must pay the fee to receive a building permit, final building inspection, or certificate of occupancy, but may do so under protest. If the results of the fee review determine that a lower fee is required, the developer shall be refunded the difference within thirty (30) calendar days. (Ord. , \$ , / /2019)

### **3211-8 CREDITS.**

(a) When a developer funds or constructs a GEATIF improvement, the developer shall receive a credit in the form of a reimbursement for the improvement up to, but not exceeding, the cost estimates identified in the GEATIF Report for the facility. The Director of Public Works shall adjust the cost estimates in the GEATIF Report on an annual basis using the CPI specified in Section 3211-5(b). Developers shall request and receive approval from the Director of Public Works for a credit prior to constructing or funding the facility. If sufficient cash is available for full reimbursement from the GEATIF fund, then the developer shall receive the credit in the form of cash payment. If the GEATIF fund levels are insufficient to fully reimburse the developer, a cash reimbursement agreement for the balance shall be executed to allow for annual payments as GEATIF funds accrue. Developers are required to provide documentation of GEATIF facility construction as a condition of determining and applying a credit. GEATIF fee credit can only be applied upon completion and acceptance of construction of the GEATIF facility. (Ord. , \$ , / /2019)

(b) The credit request shall contain a description of the project with a detailed cost estimate that itemizes those allowable costs of the construction attributable to construction of GEATIF facilities and excludes any work attributable to non-GEATIF facilities. Estimated cost of the facility will be based on the GEATIF Report. The estimate is programmatic in nature and the amount of the credit shall not exceed that identified in the GEATIF Report. Additional information shall be provided to the County by the developer upon request of the Director of Public Works. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(c) The developer is also required to: (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(1) Prepare plans and specifications for approval by the Director of Public Works. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(2) Secure and dedicate any right-of-way required for the GEATIF facilities. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(3) Secure all required permits and environmental clearances necessary for the construction of the GEATIF facilities. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(4) Provide performance bonds for one hundred (100) percent of the value of the GEATIF facilities and payment bonds guaranteeing payment of persons entitled to file stop notices or claims of lien within the meaning of Titles 1 through 3 of Part 6 of Division 4, commencing with Section 8000 of the California Civil Code in an amount equal to at least fifty (50) percent of the value of the GEATIF facilities. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(5) Pay all fees and costs for construction of the GEATIF facilities. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(6) Competitively bid the project subject to the direction and approval of the Director of Public Works of the jurisdiction in which the GEATIF facility is located. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(d) The County will not be responsible for any of the up-front costs of constructing the GEATIF facilities. The developer shall advance all necessary funds to construct the facilities. Allowable costs to be applied to the credit for GEATIF facility improvements include project administration and management, design and engineering, off-site right-of-way acquisition, and construction costs as determined by the Director of Public Works. On-site right-of-way and on-site environmental mitigation will not be reimbursed. (Ord. , \$ , / /2019)

(e) The developer shall make all reasonable efforts to secure at least three qualified and responsible bids for work to be done and shall award the construction contract to the lowest qualified bidder. The developer shall advertise for sealed bids and shall not open any of the sealed bids until at least three sealed bids have been received. In the event three or more qualified and responsible bids cannot be obtained, the developer shall notify the Director of Public Works of the outcome of the number of bids received along with all outreach that was done to advertise for bids. If the Director of Public Works determines that a developer made a good faith effort to advertise for bids, but was not able to obtain three or more qualified and responsible bids, the developer may still award the construction contract if the Director of Public Works determines the lowest qualified bid is reasonable. Work on GEATIF facilities may be included in a contract for other non-GEATIF work, but must be clearly identified and separately bid. Should the construction contract be awarded to a qualified bidder who did not submit the lowest bid for the GEATIF portion of the contract, the developer will only receive credit based on the lowest responsible bid received from any other bidders for the GEATIF portion of the contract. (Ord. , \$ , / /2019)

(f) All bids must be reviewed by the Director of Public Works prior to contract award. (Ord. , \$ , / /2019)

(g) Prevailing wage is applicable to GEATIF facilities. Current applicable prevailing wage must be paid for construction of all GEATIF improvements for the improvements to be eligible for credit through reimbursement. (Ord. , \$ , / /2019)

(h) When all GEATIF facility improvement work has been completed and all claims of lien or stop notices claims have been finally resolved or the time to file claims of lien and stop notices has expired to the satisfaction of the County, the developer shall submit verification of payments made for the construction of the facility to the County. The County shall make the final determination regarding expenditures that may be eligible for credit through reimbursement. The reimbursement shall not exceed the cost estimates for the GEATIF facility identified in the GEATIF Report and shall not include interest. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

### **3211-9 REIMBURSEMENTS.**

For developer reimbursement agreements for GEATIF facility construction as described in Section 3211-8(a), the maximum term of any reimbursement agreement shall be twenty-five (25) years or until reimbursements have been issued in full, whichever occurs first. After twenty-five (25) years, the agreement will expire regardless of whether or not sufficient GEATIF fees have been collected to reimburse all costs. Cash reimbursements for developer reimbursement agreements will be made from available GEATIF funds as follows: (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(a) Payments shall be made annually within one hundred eighty (180) calendar days after the last day of the fiscal year from combined available GEATIF funds of both the County and the City that have not been allocated to a project that is being designed, bid, or is in construction. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(b) The County's fund shall maintain a minimum balance of five thousand (\$5,000) dollars after reimbursement payments are made. The minimum fund balance shall be increased annually based upon the CPI specified in Section 3211-5(b). (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(c) Reimbursement payments are contingent on the availability of funds and shall not include interest. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

### **3211-10 EXEMPTIONS.**



Unless a development agreement or other agreement provides otherwise, the following projects shall be exempt, in whole or in part, from the traffic impact fee otherwise required by this chapter: (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(a) Residential development consisting of the repair or replacement, on a one-to-one basis, of dwelling units. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(b) Commercial or industrial/warehouse development consisting of the repair or replacement of structures, provided that such repair or replacement does not result in any conversion or change in land use which increases the peak hour trip rate applicable to the previous structure, or any enlargement of gross floor area beyond that of the previous structure. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(c) Development for which an application for a vesting tentative map authorized by Government Code Section 66498.1 was deemed complete on or prior to the effective date of this chapter. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(d) Capital improvements and/or buildings or structures related to the operation of the City, County, state or federal governments including, but not limited to, police and fire stations, parking lots, offices, equipment yards, sanitation facilities, parks and similar facilities in or through which general government operations are conducted, provided, however, that this subsection shall not create an exemption for private commercial or industrial activities conducted on public lands. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(e) Temporary uses less than twelve (12) months in duration. No extension of time shall be permitted. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(f) Churches, temples, and other properties used primarily for religious worship if the primary activities of the entity are not conducted on a weekday between 4 and 6 pm.; except for housing accommodations included on the property. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(g) Private and public elementary and secondary schools. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(h) Condominium conversions. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(i) Accessory dwelling units. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

**3211-11 USE OF FUNDS.**

The fees paid pursuant to the provisions of this chapter shall, except for temporary investments, be placed in a separate fund in a manner to avoid commingling of the fees with other revenues or funds of the County, and shall be used solely for the purpose of acquiring and constructing the GEATIF improvements identified in the GEATIF Report. Any interest income earned on the fund shall also be deposited therein and shall only be expended for the purposes set forth in this section. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

**3211-12 REFUNDS.**

Refunds may be made for any of the following: (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(a) Development has ceased, the building permit has expired and no extensions have been granted, or if granted, the extensions have expired, as to a development for which the fee required under this chapter has been collected, provided that the claim for such a refund is filed no later than one hundred eighty (180) calendar days after the expiration date of the building permit or any extension thereof, and provided that the building has not been constructed, or the change of use has not occurred. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(b) A refund is specifically authorized by resolution of the County adopted pursuant to Government Code Section 66001(d). Such amounts shall be refunded by the County to the then-current record owners of the development on a prorated basis. The County may effect such refund by direct

payment, by providing credit towards future traffic improvement fees, or by any other means consistent with the intent of Government Code Section 66001. (Ord. , \$ , / /2019)

(c) Refunds are contingent on the availability of funds after (i) subtracting costs for GEATIF projects currently being designed and/or constructed, (ii) subtracting any reimbursement obligations under Section 3211-9, and (iii) maintaining a minimum fund balance as specified in Section 3211-9 (2). (Ord. , \$ , / /2019)

### **3211-13 APPEALS.**

(a) Notwithstanding any other provision of this chapter, the developer shall, as a part of the development permit process, have the right to present evidence to the Director of Public Works that the fee calculation or amount of the fee is incorrect or inequitable as applied in such case. In certain cases, assumptions that are built into the GEATIF program may not apply equitably to a particular land use. In order to address these potential inequities, it is necessary to have a process for appeal. The developer shall have the burden of demonstrating any error or inequity by serving on the Director of Public Works all engineering studies and cost estimates necessary to support the developer's contentions. (Ord. , \$ , / /2019)

(b) If the developer is processing an application for which the fee is a condition of approval, the studies and cost estimates must be served on the Director of Public Works no later than sixty (60) calendar days prior to the public hearing scheduled for approval of the project. The Director of Public Works shall then make a recommendation regarding fee adjustment to the Board of Supervisors. Upon review of the Director of Public Works' recommendation, the hearing body shall have the authority to change the fee if it finds the amount to be incorrect or inequitable in the specific case. The decision of the County's hearing body shall be final, and any additional appeals shall be in accordance with the County subdivision ordinance or zoning ordinance, whichever applies to the application being processed. (Ord. , \$ , / /2019)

(c) If the developer is seeking a ministerial permit, the appeal, required engineering studies and cost estimates may be served on the Director of Public Works any time prior to development permit issuance. The Director of Public Works shall review the requested fee adjustment and shall have the authority to change the amount if he finds it to be incorrect or inequitable in the specific case. The decision of the Director of Public Works shall be issued within sixty (60) calendar days of receipt of the appeal and shall be final. (Ord. , \$ , / /2019)

#### **3211-14 SUPPLEMENTARY PROVISIONS.**

It is the intent of the Agencies that the fees required by this chapter shall be supplementary to the fees, dedications or conditions imposed upon development pursuant to the provisions of the Subdivision Map Act, California Environmental Quality Act, and other state laws and County ordinances or policies which may authorize the imposition of fees, dedications or conditions thereon. (Ord. , \$ , / /2019)

#### **3211-15 SEVERABILITY.**

The provisions of this chapter shall not apply to any person, association, corporation, or property as to whom or which it is beyond the power of the County to impose the fee provided in this chapter. If any sentence, clause, section or part of this chapter, or any fee imposed upon any person or entity is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of this chapter, and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter, or its effect on other persons or entities. It is declared to be the intention of the County that this chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part of this chapter not been included herein; or had such person or entity been expressly exempted from the application of this chapter. To this end, the provisions of this chapter are severable. (Ord. , \$ , / /2019)

**3211-16 AREA OF FEE.**

The geographic area in which the traffic impact fee is applicable shall be based on the following boundaries as they existed on August 15, 2017 (a map describing the area is included for reference): (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(1) The City limits of the City of Eureka. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(2) The sphere of influence for the City of Eureka. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(3) The planning area for the City of Eureka. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(4) The service area for Humboldt Community Services District. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(5) The sphere of influence for Humboldt Community Services District. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

(6) The County of Humboldt Eureka Community Plan area. (Ord. \_\_\_\_\_, § \_\_\_\_\_, / /2019)

