



# COUNTY OF HUMBOLDT

## Legislation Text

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File #: 19-1697, Version: 1

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**To:** Board of Supervisors

**From:** Public Works

**Agenda Section:** Departmental

**SUBJECT:**

Introduction of Ordinance Adding Chapter 11, Section 3211 *et seq.* to Division 2 of Title III of the Humboldt County Code Regarding the Establishment of Traffic Impact Fees For the Greater Eureka Area

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Receive and file the Greater Eureka Area Traffic Impact Fee (GEATIF) report by TJKM Transportation Consultants (TJKM), dated March 2017 (Attachment 1);
2. Approve a finding that the traffic impact fees collected under the attached ordinance will be used to install traffic control devices at existing roadway intersections and will not be used to expand the road system;
3. Introduce the attached ordinance by title relating to traffic impact fees for the Greater Eureka Area to Chapter 11 of Division 2 of Title III of the Humboldt County Code and waive the first reading (Attachment 2);
4. Set the ordinance for adoption on December 17, 2019, or at least one (1) week away from the date of this hearing;
5. Direct staff to file the attached Notice of Exemption with the Humboldt County Clerk in accordance with the requirements of the California Environmental Quality Act (Attachment 3);
6. Direct the Clerk of the Board to publish the pre-adoption summary of the ordinance, and to post a certified copy of the full text of the proposed ordinance in the office of the Clerk of the Board, both publication and posting to be done at least five days prior to the Board meeting at which the ordinance will be adopted. [Government Code Section 25124 (b)(1)] (Attachment 6); and
7. Direct the Clerk of the Board, within fifteen (15) days after adoption of the ordinance, to publish a post-adoption summary of the ordinance with the names of the Supervisors voting for and against the ordinance, and to post in the office of the Clerk of the Board a certified copy of the full text of the adopted ordinance and amendments along with the names of those Supervisors voting for and against the ordinance. [Government Code Section 25124(b)(1)] (Attachment 7).

**SOURCE OF FUNDING:**

General Fund (1100)

DISCUSSION:

In 2015, the Humboldt County Public Works Department retained TJKM to prepare the GEATIF report (see Item C-11 on the Aug. 25, 2015, Board of Supervisors meeting). The report has now been completed and after stakeholder meetings and other solicitations of public input, staff is recommending that the Board of Supervisors adopt traffic impact fees for the greater Eureka area.

Development impact fees are a commonly used method of collecting a proportional share of funds from new development for infrastructure improvements and other public facilities to offset the impact of new development. Development fees in the State of California must adhere to the requirements of Assembly Bill (AB) 1600 (also known as the Mitigation Fee Act which is codified in Government Code 66000-66008), authorizing cities and counties to impose fees on new development to fund public facilities and improvements necessitated by such development. Government Code Section 66000 *et seq* . requires that any and all development fees imposed by a city or county must have a reasonable relationship, or “nexus,” to the type, need, and cost of the improvements to be funded. Impact fees are a tool that a jurisdiction may use to cover the cost of new infrastructure created as a result of new development; the funds generated may not be used to correct existing deficiencies.

The process for establishing an impact fee requires the preparation of a study that fulfills the requirements of the AB 1600. Government Code Section 66001 provides that in any action establishing, increasing, or imposing a fee as a condition of approval of a development project by a local agency, the local agency shall do all of the following:

- Identify the fee;
- Identify the use to which the fee is to be put;
- Determine how there is a reasonable relationship between the fee’s use and the type of development project on which the fee is proposed; and
- Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

The GEATIF report (Attachment 1) is intended to satisfy the requirement of AB 1600 and identify the maximum fee that can justifiably be imposed on new development. The Board of Supervisors and the City Council of Eureka may set the fee at any level up to the cap justified by the study. However, both the city and the county must adopt an identical fee schedule.

The traffic impact fee allows development to mitigate the cumulative impact of traffic which otherwise would be an unmitigated impact. The traffic impact fee will benefit the community by collecting funds to make traffic improvements needed to accommodate build-out of the greater Eureka area.

The Ordinance (Attachment 2) will implement the fee in compliance with AB 1600, and allow for collection of the fee to be imposed on new development. An enabling ordinance is required to

authorize the fee; and a Memorandum of Agreement (MOA) is necessary to define how the county and city will jointly fund projects from the fees collected.

*City/County Memorandum of Understanding and Memorandum of Agreement:* In 2006 the city and county entered into a Memorandum of Understanding (MOU) to provide a framework for the development and implementation of the MOA and "Cumulative Traffic Impact Assessment and Mitigation Program" (Program) pursuant to Mitigation Measure (11-3.1, p. 11-15) in the city's certified Environmental Impact Report for the Martin Slough Sanitary Sewer Interceptor Project. The MOU was approved by the City Manager of the City of Eureka on April 6, 2006, and subsequently approved by the Board of Supervisors as Item C-27 on July 7, 2006. The MOU also provided a framework for the development and implementation of the county's Eureka Community Plan Circulation Element provisions contained in Section 4220, specifically the Goals & Policies items F & G on page 72, which called for a financing program for future circulation improvements and coordination with other agencies and jurisdictions. Work completed under the MOU sought to contribute to the County of Humboldt General Plan Update, specifically the South Eureka Urban Study Area analysis.

After the MOU was executed, several years passed before work resumed on developing traffic impact fees. With construction of the Martin Slough Sanitary Sewer Interceptor project nearing completion in 2015, staff recognized the importance of implementing the traffic impact fee required by Mitigation Measure 11-3.1. Should a traffic impact fee not be implemented in a timely manner, no further sanitary sewer connections would be allowed within the Martin Slough basin, as well as other sanitary sewer basins relieved of capacity limitations as a result of the project (an area referred to in the Environmental Impact Report as the "program area").

In 2015, the city and county entered into a MOA to develop traffic impact fees that will satisfy the requirements of the city's Martin Slough Sanitary Sewer Interceptor project Mitigation Measure 11-3.1 and the county's Eureka Community Plan Section 4220, items F and G. Prior to bringing the MOA before the City Council and Board of Supervisors, staff from the city and county held a stakeholder meeting on April 20, 2015. The MOA was approved by the City of Eureka as Item 17 on May 19, 2015 and approved by the Board of Supervisors as Item C-7 on June 2, 2015.

The language in the MOA reiterated the points in the MOU but clarified that the overarching goal of the agreement was to collaborate in the planning and establishment of a program that would assess fees to fund transportation infrastructure improvements needed to support development within the greater Eureka area. The greater Eureka area was described to encompass all of the City of Eureka, a large portion of the Humboldt Community Services District (HCSD) and other unincorporated areas within the city's sphere of influence.

The MOA was intended to include a map of the proposed fee area, but one was not developed at the time. As a result, TJKM, assisted by staff from the county and city, developed a map of the greater Eureka area as part of its scope of work. Elements taken into consideration during development of the map included existing jurisdictional boundaries, development potential, and engineering judgement from TJKM.

By adopting a comprehensive traffic impact fee for the greater Eureka area, the city and county implement the MOU and MOA and satisfy the requirements of Mitigation Measure 11-3.1 from the Martin Slough Interceptor Environmental Impact Report. The study prepared by TJKM provides a nexus for implementing traffic impact fees for the greater Eureka area in compliance with the Mitigation Fee Act.

*Outreach:* The county and the city hosted two stakeholder meetings at the Greater Eureka Area Municipal Advisory Committee (GEAMAC) meetings. Those meetings occurred on Feb. 9, 2016 and on March 8, 2016. The first GEAMAC meeting was recorded by the KMUD radio station. Prior to the first public meeting both the Lost Coast Outpost and North Coast Journal contacted Public Works staff regarding the fee. The Lost Coast Outpost published an article on Feb. 10, 2016. Additionally, an informational presentation was made to the Humboldt County Planning Commission on May 5, 2016.

*Public Comment:* Public comment from both stakeholder meetings and the Planning Commission meeting was captured on posters; scanned; and posted on the Department's website. In addition, written correspondence received has also been scanned on posted on the Department's website (Attachment 4). Comments can generally be classified into the following categories:

- *Boundary.* Boundary outside the city limits of Eureka is by far the largest generator of comments. The main concern is that the boundary should be limited to the Martin Slough basin boundary.
- *Fee uses.*
- *Growth projections.* Concerns were raised about the growth rate used in the study and how that would affect the fees collected; would there be enough monies collected to fund a project.
- *Vehicle Miles Travelled.* Does not address congestion.
- *General opposition to fees/taxes.*
- *Other misunderstandings.* One example is that toll booths would be constructed around town to collect fees from motorists.

*Fee Structure:* The proposed impact fee is unique in that both the county and city will consider adopting the same impact fee. While the county and city may choose to adopt alternative fee levels up to the cap justified in the study, it will require that both agencies adopt the same fee levels.

*Proposed Rate:* The GEATIF report by TJKM establishes the rate of the fee at \$2,065 per trip using the *average rate of the peak hour of adjacent street traffic, one hour between 4 p.m. and 6 p.m.* rate as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual.

As noted in the report, the Board of Supervisors may set the rate at any level up to the cap justified by the GEATIF report by TJKM. This is discussed in Alternative 1.

*Proposed Fees:* The proposed fee is calculated by multiplying the rate by the land use category rate and by the quantity.

For illustrative purposes, the table below shows the rate and the land use category rate multiplied together. Multiply by the quantity to get the fee.

<b>Land Use Category</b>	<b>Rate times Land Use Category Rate</b>
Single Family	\$2,065.00 per unit
Multi-family	\$1,280.30 per unit
Senior/Assisted	\$516.25 per unit
General Retail	\$3,056.20 per 1,000 square feet
Hotel/Motel	\$1,280.30 per 1,000 square feet
Gasoline/Service Station	\$11,460.75 per fueling station
General Office	\$3,076.85 per 1,000 square feet
Medical/Dental Office	\$7,372.05 per 1,000 square feet
Industrial/Service Commercial	\$2,003.05 per 1,000 square feet
Warehouse/Distribution < 100,000 square feet	\$640.15 per 1,000 square feet
Warehouse/Distribution > 100,000 square feet	\$247.80 per 1,000 square feet
Mini-Storage	\$536.90 per 1,000 square feet

Examples of the fee calculations are included in Attachment 5.

*Collection of Fees:* For most construction projects, fees are to be collected at the time of issuance of building permits. The mitigation fee act allows for the deferral of fees for residential projects until time of building final inspection or occupancy, whichever occurs first. The timing of when the fee is to be paid is as follows.

For change of use projects, fees are to be collected at the time that the change occurs, or within ninety (90) days after a discretionary permit is issued, whichever occurs first. Refunds are not given when a change of use occurs where a lesser fee rate would apply. However, the maximum amount paid is tracked so that if a subsequent change of use occurs, credit is given up to the maximum amount previously paid.

Fees collected by the county will be held separately by the county and fees collected by the city will be held separately by the city.

Fees are only collected on building permits issued after the effective date of the ordinance. A project which was issued a building permit prior to the effective date of the ordinance is not subject to the fee even though the date of building final or occupancy may occur after the effective date of the ordinance.

*Appeal Process:* If an applicant believes that the county has incorrectly calculated the fee for a project, the applicant may provide their calculations to the Director of Public Works for review and consideration. For ministerial permits, the Director has sole authority to change the amount of the fee. For discretionary permits, the recommendations of the Director of Public Works will be forwarded to the Board of Supervisors for a decision.

*Project Prioritization and Funding:* A MOA between the county and the city is to be adopted as part of

the impact fee (Attachment 3). The MOA stipulates how projects are prioritized and how the projects will be funded. The city or county may call for reprioritization of the list based upon growth patterns that may necessitate that projects be constructed in a different sequence. Funding and construction of a project will be based upon the jurisdiction that a particular project is in. The agency upon which the project is located will be responsible for constructing the project. When sufficient funding for the project has been identified, the lead agency will request that the other agency forward the fees collected to fund the project.

*California Environmental Quality Act (CEQA):* The Traffic Impact Fee has been reviewed by the Department's Environmental Services Division. Staff determined that the Traffic Impact Fee requires the filing of a Notice of Exemption with the Humboldt County Clerk (Attachment 8).

*Next Steps:* Introduce the ordinance to establish the traffic impact fees, set the ordinance for adoption, and enter into a MOA with the City of Eureka regarding constructing the projects identified in the study, project prioritization, and funding. Staff has provided the City of Eureka with a draft Memorandum of Agreement. Once the county and city staff have a consensus on the agreement, it will be presented to the Board of Supervisors for consideration.

#### FINANCIAL IMPACT:

This item will have a minor impact to the general fund for the preparation of an annual report required by Assembly Bill 1600 known as the Mitigation Fee Act which is codified in Government Code Section 66000 *et seq.* This impact will be limited to the Public Works Land Use Division, 1100166.

The amount of impact fees collected on an annual basis is subject to rate of growth within the impact fee area. The growth rate is variable and will fluctuate over time. Periods of time with high building activity will result in more fees being collected. Likewise, periods of time with less building activity will result in less fees being collected. Since the need for projects is tied to growth, when growth occurs at a higher rate, more funds will be collected in a shorter period of time and projects can be built sooner. Fees collected by the county will be held by the county; and fees collected by the city will be held by the city. When sufficient funding for the project has been identified, the lead agency will request that the other agency forward the fees collected to fund the project.

#### STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by providing for and maintaining infrastructure.

#### OTHER AGENCY INVOLVEMENT:

City of Eureka

#### ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. Adopt a fee at any level up to the cap justified by the GEATIF report by TJKM. This alternative will require coordination and agreement with the City of Eureka. Both agencies need to adopt the same fee structure.

2. Adopt a fee boundary area that matches the Project Area defined in Mitigation Measure 11-3.1 in the Martin Slough Sanitary Sewer Interceptor Project. This option would shrink the fee boundary area within the unincorporated county area but would leave the fee boundary area within the city unchanged. Reducing the boundary of the area covered by the fee will result in higher impact fee rates. This option will require coordination and agreement with the City of Eureka. The City of Eureka has concerns that this option makes development occurring within the city pay a higher fee than otherwise proposed. The GEATIF report by TJKM includes the necessary nexus analysis to allow for this alternative to be approved at this time. This alternative is not recommended.
3. Not adopt the traffic impact fee. This would result in the city not being able to comply with Mitigation Measure 11-3.1 for the Martin Slough Sanitary Sewer Interceptor Project. This alternative is not recommended.

**ATTACHMENTS:**

- Attachment 1 - Greater Eureka Area Traffic Impact Fee (GEATIF) report by TJKM Transportation Consultants (TJKM) dated March 2017
- Attachment 2 - Ordinance
- Attachment 3 - Notice of Exemption
- Attachment 4 - Public Comments
- Attachment 5 - Sample Fee Calculations
- Attachment 6 - Pre-adoption summary
- Attachment 7 - Post-adoption summary

**PREVIOUS ACTION/REFERRAL:**

Board Order No.: Item C-11

Meeting of: Aug. 25, 2015

File No.: N/A