

RD:VMT
01/28/2008

ORDINANCE NO. 28240

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JOSE ADDING CHAPTER 14.30 TO TITLE 14 OF THE SAN JOSE MUNICIPAL CODE IN ORDER TO ADOPT A TRAFFIC IMPACT FEE ON NEW INDUSTRIAL, COMMERCIAL, AND RESIDENTIAL DEVELOPMENT IN THE PROXIMITY OF THE US-101/OAKLAND AND US-101/MABURY INTERCHANGES

WHEREAS, the Council desires to adopt a fee to offset the impacts on traffic from new industrial, commercial, and residential development within the Proximity of the US-101/Oakland Road and US-101Mabury Road interchanges, as identified in the US-101/Oakland/Mabury Transportation Development Policy dated December 2007 and adopted by the City Council through Resolution No. 74195 on December 18, 2007 (hereinafter "Policy"); and

WHEREAS, the City has prepared a study entitled "US-101/Oakland Road & US-101/Mabury Road Interchanges Traffic Impact Fee Analysis" dated July 2007, (hereinafter "US-101/Oakland/Mabury Impact Fee Analysis"), which specifies the interchange improvements and the development capacities of the specified improvements subject to and consistent with the Policy, and recommends the amount of the impact fee on industrial, commercial, and residential development subject to the Policy; and

WHEREAS, the US-101/Oakland/Mabury Impact Fee Analysis is part of the Environmental Impact Report prepared pursuant to the California Environmental Quality Act for the King and Dobbin Transit Village certified by the Planning Commission on November 28, 2007 (hereinafter "EIR") and specifies improvements to mitigate in part those traffic impacts identified in the Environmental Impact Report.

WHEREAS, the improvements specified in the US-101/Oakland/Mabury Impact Fee Analysis and the traffic mitigations specified in the EIR are in addition to any future development project-specific impacts that may be identified with regard to individual development applications; and

WHEREAS, the US-101/Oakland/Mabury Traffic Impact Fee is subject to the applicable provisions of California Government Code section 66000 *et seq.*, commonly referred to as the “Mitigation Fee Act;” and

WHEREAS, on November 28, 2007, the Planning Commission certified the aforementioned Environmental Impact Report, which certification was adopted by the Council through Resolution 74195.1 on December 18, 2007, for this project pursuant to California Environmental Quality Act of 1970, as amended, under File No. PP07-172.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

1. Chapter 14.30 is hereby added to Title 14 of the San Jose Municipal Code to read as follows:

“Chapter 14.30

US-101/OAKLAND/MABURY TRAFFIC IMPACT FEE REQUIREMENTS

14.30.010. Purpose and Findings.

On December 18, 2007, the City Council adopted the December 2007 US-101/Oakland/Mabury Transportation Development Policy accommodating the intensification of industrial, residential, and commercial development in the Proximity of US-101/Oakland Road and US-101/Mabury Road interchanges. The intensification of industrial, residential, and commercial development in the proximity of the existing US-101/Oakland Road interchange creates a need for new vehicle trip capacity at the US-101/Oakland interchange and the need for a new US-101/Mabury Road interchange.

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The US-101/Oakland/Mabury Transportation Development Policy specifies required transportation improvements that would create 1,153 vehicle trips of development capacity, as measured in PM peak hour trips, to accommodate interchange trips from intensification of industrial, residential, and commercial development in the proximity area. It is the intent and purpose of the City Council in adopting this chapter to provide in part for the required traffic improvements through the adoption of a US-101/Oakland/Mabury Traffic Impact Fee to be charged to all new industrial, commercial, and residential development subject to the US-101/Oakland/Mabury Transportation Development Policy in the manner specified herein.

14.30.020. Definitions.

The definitions set forth in this section shall govern the application and interpretation of this chapter:

- A. "Industrial" means any use of land specified as an industrial use in Title 20 of this Code.
- B. "Interchange trip" means a vehicle trip generated by industrial, residential, and commercial development that will traverse through either of the US-101/Oakland Road interchange or the US-101/Mabury Road interchange upon construction during the PM peak hour.
- C. "Commercial" means any use of land specified as a commercial use in Title 20 of this Code.
- D. "Proximity of the US-101/Oakland Road and US-101/Mabury Road interchanges" means the areas on eastside and westside of US-101 freeway where future industrial, residential, and commercial development would contribute vehicle traffic to the US-101/Oakland Road interchange, or the US-101/Mabury Road interchange upon construction. There is no specific boundary defined for the proximity area.
- E. "Residential" means any use of land specified as a residential use in Title 20 of this Code.
- F. "Traffic Impact Analysis" is an analysis describing and calculating the trip generation and trip distribution of new development that is performed by a qualified transportation engineer or transportation planner and approved by the city.

- G. "US-101/Oakland/Mabury Traffic Impact Fee" means the fee adopted by the City Council pursuant to this chapter.
- H. "US-101/Oakland/Mabury Impact Fee Analysis" is the fee study entitled, US-101/Oakland & US-101/Mabury Road Interchanges Traffic Impact Fee Analysis, dated July 2007, which is part of the Environmental Impact Report prepared pursuant to the California Environmental Quality Act for the King and Dobbin Transit Village certified by the Planning Commission on November 28, 2007 (hereinafter "EIR"). The US-101/Oakland/Mabury Traffic Impact Fee Analysis is maintained for public review in the Transportation Planning and Project Delivery Division of the Department of Transportation.
- I. "US-101/Oakland/Mabury Transportation Development Policy" is the policy adopted by Resolution No. 74195 of the Council on December 18, 2007, entitled the December 2007 US-101/Oakland/Mabury Transportation Development Policy in order to accommodate the intensification of industrial, residential, and commercial development in the Proximity of US-101/Oakland Road and US-101/Mabury Road interchanges.

14.30.030. Application of Chapter.

This chapter establishes the requirements for the US-101/Oakland/Mabury Traffic Impact Fee for all industrial, commercial, and residential development that contributes interchange trips to either of the US-101/Oakland Road interchange or the US-101/Mabury Road interchange occurring after the effective date of this chapter, March 14, 2008. Development in the Proximity of the US-101/Oakland Road and US-101/Mabury Road interchanges is required to perform a project specific traffic impact analysis as a condition of application for any land use entitlement. When a project specific traffic impact analysis indicates an impact on any of the intersections specified in the US-101/Oakland/Mabury Transportation Development Policy and the US-101/Oakland/Mabury Impact Fee Analysis, the project owner shall pay the applicable US-101/Oakland/Mabury Traffic Impact Fee.

The chapter also establishes an exemption of 115 interchange trips for industrial development which trip impacts shall be mitigated through funding other than the US-

101/Oakland/Mabury Traffic Impact fee as identified in the US-101/Oakland/Mabury Transportation Development Policy and the US-101/Oakland/Mabury Impact Fee Analysis, and the requirements for the US-101/Oakland/Mabury Traffic Impact fee for industrial development when the established exemption is depleted.

The US-101/Oakland/Mabury Traffic Impact Fee is limited to providing funding in the amounts and for those improvements specified in the US-101/Oakland/Mabury Impact Fee Analysis. Nothing in this chapter shall restrict the ability of the city to require dedication of land, payment of fees or construction of improvements for needs other than, or in addition to, the improvements specified in the US-101/Oakland/Mabury Impact Fee Analysis.

14.30.040. Traffic Impact Fee Requirement.

- A. The total traffic impact fee due to the city for a development project pursuant to this chapter shall be determined by the number of interchange trips generated by any industrial, residential, and commercial land uses as determined through a city-approved Traffic Impact Analysis for the particular development project. The trip generation and the trip distribution in the Traffic Impact Analysis will be used collectively to determine the number of interchange trips by new development.
- B. Commencing March 14, 2008, prior to the issuance of Building Permit for industrial, commercial, or residential development in the Proximity of the US-101/Oakland Road and US-101/Mabury Road interchanges where the project specific Traffic Impact Analysis indicates one or more interchange trips subject to the 101/Oakland/Mabury Traffic Impact Fee, the US-101/Oakland/Mabury Traffic Impact Fee shall be paid in the following amount based upon the use of land:

<u>Land Use</u>	<u>Fee per Interchange Trip</u>
Commercial:	\$30,000
Industrial:	1 st to 115 th interchange trip: Exempt (\$0.00) 116 th trip and over: \$30,000

Residential: \$30,000

- C. The US-101/Oakland/Mabury Traffic Impact Fee specified in subsection B above shall be increased by the Engineering News-Record (ENR) Construction Cost Index for San Francisco urban area, published by the McGraw Hill, on January 1 of every year.
- D. No Building Permit shall be issued for industrial, commercial, or residential development in the Proximity of the US-101/Oakland Road and US-101/Mabury Road interchanges where the project specific Traffic Impact Analysis indicates one or more interchange trips subject to the 101/Oakland/Mabury Traffic Impact Fee unless and until the US-101/Oakland/Mabury Traffic Impact Fee has been paid in full.

14.30.050. Accounting of US-101/Oakland/Mabury Traffic Impact Fees.

All US-101/Oakland/Mabury Traffic Impact Fees shall be deposited into the designated US-101/Oakland/Mabury Traffic Impact Fee fund. The US-101/Oakland/Mabury Traffic Impact Fee fund, including accrued interest, shall be subject to the all of the applicable provisions of Government Code section 66000 *et seq.*, including but not limited to the requirements for accounting, reporting and expenditure of the fund for the improvements specified in the “US-101/Oakland/Mabury Impact Fee Analysis.”

14.30.051. Expiration of US-101/Oakland/Mabury Traffic Impact Fees.

All US-101/Oakland/Mabury Traffic Impact Fees shall be collected until the improvements specified in the US-101/Oakland/Mabury Impact Fee Analysis are fully funded and constructed. In the event that public funds are advanced to accelerate the construction of the improvements specified in the US-101/Oakland/Mabury Impact Fee Analysis, the US-101/Oakland/Mabury Traffic Impact Fees shall be collected until all advanced city funding is fully reimbursed to the city.

PASSED FOR PUBLICATION of title this 29th day of January, 2008, by the following vote:

AYES: CHIRCO, CHU, CONSTANT, CORTESE, LICCARDO,
NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED

NOES: NONE

ABSENT: CAMPOS

DISQUALIFIED: NONE

CHUCK REED
Mayor

ATTEST:

LEE PRICE, CMC
City Clerk