ORDINANCE NO. 2066

AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL ADDING CHAPTER 3.33, TRANSPORTATION MITIGATION FEE PROGRAM, TO THE CITY OF SAN RAFAEL MUNICIPAL CODE

WHEREAS, California Government Code Section 66000 et seq, known as the Mitigation Fee Act, authorizes local agencies to impose fees in connection with approval of development projects for the purpose of defraying all or a portion of the cost of public facilities related to the development project; and

WHEREAS, this Ordinance adds a Transportation Mitigation Fee Program to specifically govern the fees imposed to mitigate transportation impacts caused by new development, which were previously imposed under San Rafael Municipal Code Chapter 3.32 Article 2.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

DIVISION 1. AMENDMENT OF MUNICIPAL CODE

Chapter 3.33 of the San Rafael Municipal Code is hereby added to read as follows:

Sec. 3.33.010 – Title, Authority and Applicability

(a) This chapter shall be known and may be cited as the "Transportation Mitigation Fee Program Ordinance."

(b) The fees established pursuant to this chapter are development fees authorized under California Government Code Section 66000 et seq.

(c) This chapter shall apply to the extent permitted by the statutes and laws of the State of California.

Sec. 3.33.020 – Intent and Purpose:

New development projects bring new residents and employees to the City of San Rafael, generating an increased demand for transportation facilities. The intent of this chapter is to establish a transportation mitigation fee upon new development projects to ensure that new development contributes its fair share to transportation improvements in the City consistent with the City's standards.

Sec. 3.33.030 - Definitions:

For the purposes of this chapter:

(a) “Administrator” means the Director of Community and Economic Development or their designee, who shall administer the provisions of this chapter.

(b) “Applicant” means the owner of real property proposed for development, or the applicant's authorized agent.

(c) “Development” means any new construction or use that requires the issuance of a building permit or other city use entitlement.

(d) "Development permits" means a building permit required by and issued pursuant

to Title 12 of this code, or other city use entitlements including but not limited to conditional use permits, environmental design review permits, zone changes, variances or land subdivisions required by Titles 14 and 15 of this code.

(e) “Dwelling unit” means one (1) or more rooms with internal access between all rooms, which provide complete independent living facilities for at least one (1) family, including provisions for living, sleeping, eating, cooking, bathing, and sanitary facilities.

(f) “Fee payer” means the person undertaking a development which generates new trips and which requires the issuance of a building permit, or any other entitlement.

(g) “Transportation Mitigation Fee” or “transportation fee” means the fee or fees imposed on a development pursuant to this chapter, the revenues from which shall be used to fund a proportionate share of the cost of transportation improvement projects and transportation system improvements necessary to mitigate the transportation impacts of such development in San Rafael.

(h) “Transportation mitigation fee project list” or “transportation fee project list” means the capital improvement plan that is adopted by the City Council and may be amended from time to time pursuant to Government Code Section 66002, which sets forth the transportation improvement projects and transportation system improvements that are intended to be funded in part or in whole by transportation mitigation fees. The transportation fee project list shall be maintained on file in the office of the Administrator.

(i) “Transportation mitigation fee schedule” or “transportation fee schedule” means the schedule of transportation mitigation fee rates per development unit for specific land uses or land use categories approved by ordinance or resolution of the Council and maintained on file in the office of the Administrator.

(j) “Site-related improvement” means capital improvements and right-of-way dedications for direct access to, and/or for traffic circulation within, a development. Direct access improvements include, but are not limited to, the following:

(1) Access roads leading to the development;

(2) Driveways and roads within the development;

(3) Acceleration and deceleration lanes and right-and left-turn lanes leading to such roads and driveways;

(4) Traffic-control measures for such roads and driveways;
Curbs, gutters, sidewalks, bike facilities, and parking lanes adjacent to the development; and

(5) Non-vehicular (pedestrian and bicycle) access to the site.

(k) “Square foot” means every square foot of floor area as defined in the "Trip Generation Manual," published by the Institute of Transportation Engineers (latest edition) for the purpose of calculating traffic generation. The Building Code, as adopted and amended from time to time by the City, shall be used for determining the square foot area of any development which cannot be calculated by using the definition in the Trip Generation Manual.

Sec. 3.33.040 - Calculation of Transportation Mitigation Fee

(a) Calculation of Transportation Mitigation Fee:

(1) Transportation Mitigation fee shall be based upon the land use categories

and rates specified in the transportation fee schedule. The Administrator shall determine the appropriate land use category for the development. If the Administrator determines that the development does not fit within one of the land use categories specified in the transportation fee schedule, then the Administrator may calculate the appropriate fee using the closest comparable land use category in the transportation fee schedule or the most recent edition of the Institute of Transportation engineers (ITE) Trip Generation Manual. For the instance where the Administrator calculates the fee using the ITE Trip Generation Manual, the fee shall be developed based on a correlation to the average daily trip rate for a single-family home that represents an equivalent dwelling unit (EDU) of 1.0.

(2) When more than one land use is proposed within the same development, the transportation mitigation fee for each land use shall be calculated separately and the total fee of the various uses shall be imposed.

(b) Calculation of Fee Credit for Existing Uses: If new development changes or intensifies the existing use on the development site, thereby requiring the payment of a new or additional transportation mitigation fee, the fee amount associated with the existing use on the project site shall be credited against the new total fee due, as determined by the Administrator; provided, however, that in no event shall the City refund the fees previously paid.

(1) The fee credit only applies if the existing use on the project site has been active within 8 years prior to the building permit application being filed.

Sec. 3.33.050 - Imposition and Payment of Transportation Mitigation Fee:

(a) Transportation mitigation fee shall be established as adopted by ordinance or resolution of the Council and maintained on file in the office of the Administrator.

(b) Unless otherwise required by law, the fees required by this chapter from new development shall be paid at the time the City issues a building permit for each new development. Unless otherwise required by law, the amount of the fees to be paid under this chapter shall be in the amount of the fee in effect at the time the fee is paid.

(c) Notwithstanding the foregoing, a residential development project may defer payment of the Transportation Mitigation Fee to the date of approval of the first temporary certificate of occupancy, the final building inspection, or the issuance of a final certificate of occupancy, whichever occurs first, provided the owner, or lessee if the lessee's interest appears of record, of the real property for which the fees are required enters into a recordable agreement with the City prior to issuance of the building permit for the development, which shall constitute a lien on the property from the date of recordation and shall be enforceable against successors in interest to the property owner or lessee. The agreement shall provide that approval of the first temporary certificate of occupancy, final building inspection, or final certificate of occupancy for each separate building (if there are multiple buildings) shall not be granted until the transportation fee is paid for that building. The agreement shall also provide that, in any action to collect the transportation fee or any portion thereof, the City shall be entitled to all of its costs of enforcement and collection, including reasonable attorney's fees. The City Manager may

execute such agreements on behalf of the City in a form acceptable to the City Attorney.

(d) The Administrator shall establish the transportation fee rate from the aforesaid transportation fee schedule. The applicant shall submit all information requested by the Administrator for the purpose of determining a transportation fee rate pursuant to section 3.33.040.

(e) For a change in use or redevelopment, demolition, or replacement of an existing building, or any part thereof, the transportation fee shall be the applicable transportation fee for the land use category of the new use, less the transportation fee for the land use category of the prior use. For any development that includes a change of use or redevelopment involving an alteration, expansion, replacement or new accessory building, the transportation fee shall be the mitigation fee for the new use using the metric that is listed in the schedule of fees (including the existing use plus the additional use) less the transportation fee for the land use category of the preexisting use, based upon the corresponding preexisting use floor area.

(f) A development that involves the alteration, expansion or replacement of an existing single dwelling unit shall not be subject to the transportation fee unless it results in construction of an additional dwelling unit(s) for rent or sale.

(g) For a development that involves alteration, expansion or replacement of an existing single dwelling unit resulting in additional dwelling units, the transportation fee shall be the applicable transportation fee for the land use category of the total dwelling units after development, less the applicable transportation fee for the existing single dwelling unit.

Sec. 3.33.060 - Use of Funds

(a) Revenues from transportation fees shall be used to fund a proportionate share of the cost of transportation improvement projects and transportation system improvements necessary to mitigate the transportation impacts of such Development in San Rafael. The transportation system improvements intended to be funded by the transportation fees shall be set forth in the transportation fee project list, which may be amended from time to time pursuant to Government Code Section 66002.

(b) All revenues collected from imposition of mitigation fees shall be accounted for separately from all other City funds and shall be used solely for the purposes specified in this chapter and for the projects or purposes described in the transportation fee project list.

(c) No such revenues shall be used for periodic or routine maintenance of roadways, intersections, or other transportation-related capital improvements.

(d) In the event that bonds or similar debt instruments are issued for construction of capital improvements for which transportation fees may be expended, transportation fees may be used to pay debt service thereon to the extent that the improvements provided are of the type described in subsection (a) of this section and are located within the City.

(e) Transportation fee revenues may be used to provide refunds pursuant to Section 3.33.070.

Sec. 3.33.070 - Refund of Fees Paid

If a building permit expires without commencement of construction, then the fee payer shall be entitled to a refund, without interest, of the transportation fee paid as a condition for its issuance, except that the City shall retain two percent (2%) of the fee to offset a portion of the costs of collection and refund. The fee payer shall apply in writing for such a refund within ninety (90) calendar days of the expiration of the permit; provided that the Administrator may extend such period for good cause, not to exceed six (6) months.

Sec. 3.33.080 – Requests for Adjustment

An applicant may apply to the Administrator for a reduction, adjustment or waiver of the mitigation fee imposed pursuant to this chapter based upon the applicant's contention that (1) the amount of the fee is not reasonably related to the impacts of the applicant's development project on transportation improvements or facilities; (2) the fee is not roughly proportionate to the development's impact on the need for transportation improvements or facilities; or (3) the fee requires the developer to pay more than is necessary to address the impacts of the new development on transportation improvements or facilities.

(a) Application: An applicant shall file a written request to adjust fees with the Administrator not later than ten (10) days after the City notifies the developer of the amount of the fee to be imposed. The application shall provide evidence illustrating that the payment of the fee authorized by this chapter bears no reasonable relationship or essential nexus with the impact of the development on the need for transportation facilities within the City and shall state in detail the factual basis for the request for reduction, adjustment or waiver. If an applicant desires to receive a building permit prior to the completion of the adjustment application process, the applicant shall deposit the fee with the application. Such fee or portion thereof will be refunded if the application is successful.

(b) Decision of the Administrator: The Administrator shall issue a decision on the application within thirty (30) days after the application is filed. The Administrator's decision shall state their determination regarding the amount of the transportation fee that may reasonably be imposed on the new development and include a brief description of the basis for the Administrator's decision. Should the Administrator determine that they need additional information in order to issue a decision, they shall notify the applicant, in writing, prior to the expiration of the thirty-day period, and provide a description of the additional requested information. The Administrator shall then have thirty (30) days from the date the applicant responds to the Administrator's request for additional information to issue their decision.

(c) Appeal of the Decision of the Administrator: Decisions of the Administrator may be appealed to the City Manager or their designee. Appeals must be filed within ten (10) days of the Administrator's decision. The City Manager shall review the application and evidence presented to the Administrator and issue a decision within fifteen (15) days. The decision of the City Manager is final and may be appealed or protested pursuant to Government Code Section 66020.

Sec. 3.33.090 - Exemptions and Credits

(a) Any claim of exemption from the transportation mitigation fee shall be made no later than the time of payment of the transportation mitigation fee. Any claim not

so made shall be deemed waived. The following shall be exempted from payment of the transportation mitigation fee:

(1) Alterations or expansion of an existing building where no additional dwelling units are created, no square footage is added, and the use is not changed;
(2) The construction of accessory buildings or structures which will not generate additional vehicular trips over and above those generated by the principal building or use of the development and which will not be used other than for storage;
(3) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use; provided, that no additional trips will be generated over and above those generated by the original use of the land to which the new development pertains;
(4) Development that does not result in any additional vehicular trips as determined by the Administrator;
(5) Publicly owned facilities;
(6) Pursuant to Government Code Section 65852.2(f)(3), accessory dwelling units of less than seven hundred fifty (750) square feet; and

(b) Credits:

(1) Credit shall not be given for site-related improvements, right-of-way dedications providing paved access to the development or payments to special assessment or taxing districts.
(2) Credits for an applicant's construction of a capital improvement included in the transportation fee project list shall be given when the construction is completed and accepted by the appropriate governmental body.
(3) Any claim for credit must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.
(4) Credit may be given for redevelopment of existing uses pursuant to subdivision (b) of section 3.33.050.

Sec. 3.33.100 - Adjustments to Fees

The transportation mitigation fee shall automatically increase starting on July 1, 2027, and each year thereafter, in accordance with changes in regional construction costs. The amount of the adjustment shall be based on May over May construction cost changes according to the "Construction Cost Index" for the San Francisco Bay Area, as reported monthly in the Engineering News-Record. This adjustment shall not require any action of the City Council.

Sec. 3.33.110 – Violation/Penalty

The fees imposed under this chapter shall be enforced, if payment is not made, as a lien against the property.

DIVISION 2. Severability

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion

of this Ordinance. The City Council of the City of San Rafael hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases shall be declared invalid.

DIVISION 3. CEQA Determination.

The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to 14 CCR Section 15061(b)(3) of the State CEQA Guidelines, because it can be seen with certainty that there is no possibility that the adoption of this Ordinance or its implementation would have a significant effect on the environment.

DIVISION 4. Publication; Effective Date.

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published and circulated in the City of San Rafael and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Council members voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for and against the Ordinance.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 15th day of June 2026, and was passed and adopted at a regular meeting of the San Rafael City Council on the 20th day of July 2026 by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

_____
Kate Colin, Mayor

Attest:

_____
LINDSAY LARA, City Clerk

SUMMARY OF ORDINANCE NO. 2066

AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL ADDING CHAPTER 3.33, TRANSPORTATION MITIGATION FEE PROGRAM, TO THE CITY OF SAN RAFAEL MUNICIPAL CODE

This Summary concerns a proposed Ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 2066 which will amend Title 3 of the City of San Rafael Municipal Code concerning Chapter 3.33. Ordinance No. 2066 is scheduled for adoption by the San Rafael City Council at its regular meeting of July 20, 2026. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

SUMMARY OF AMENDMENT TO MUNICIPAL CODE

This Ordinance would amend the San Rafael Municipal Code by amending Title 3, which concerns finance and taxation in San Rafael. These amendments would modify Title 3 to add Chapter 3.33 to govern the fees imposed to mitigate transportation impacts caused by new development, which were previously imposed under San Rafael Municipal Code Chapter 3.32 Article 2.

Adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to 14 CCR Section 15061(b)(3) of the State CEQA Guidelines, because it can be seen with certainty that there is no possibility that the adoption of this Ordinance or its implementation would have a significant effect on the environment.

For a complete copy of the text of the Ordinance amending the Municipal Code, please contact the City Clerk's Office at city.clerk@cityofsanrafael.org or by phone at (415) 485-3066. Copies of the Ordinance containing this Municipal Code amendment are also available for public review at the San Rafael City Clerk's office, 1400 Fifth Avenue, 2nd Floor, Room 209, Monday through Thursday from 9:00 a.m. to 4:00 p.m., and on Fridays by appointment only.

/s/_____
LINDSAY LARA, City Clerk
San Rafael City Clerk
Dated: June 19, 2026