

Chapter 17.64 - REGIONAL TRANSPORTATION IMPACT FEE

17.64.010 - Intent.

- A. The city council of the City of Merced finds that future development within the City of Merced to the year 2030 will result in traffic volumes in excess of capacity on the regional system of arterials, highways, and freeways as designated in this chapter.
- B. The city council of the City of Merced finds that failure to expand the capacity of the existing circulation system will result in new development causing unacceptable levels congestion on the arterials, highways, and freeways of the regional system.
- C. The city council also finds and declares that, in the absence of this chapter imposing a fair-share traffic fee upon new development, existing and future sources of revenue are inadequate to fund substantial portions of the regional transportation system improvements needed to avoid unacceptable levels of congestion and related adverse impacts caused by new development.

(Ord. 2310 § 1 (part), 2008; Ord. 2194 § 1 (part), 2005).

17.64.020 - Purpose.

- A. The city council of the City of Merced finds and determines that adoption of this regional transportation impact fee ordinance will raise additional revenues needed to construct improvements to accommodate traffic that will be generated by new development within the cities and county of Merced.
- B. The city council also finds and declares that the Regional Transportation Impact Fee Study (MCAG, January 20, 2005 and revised January 18, 2008) has determined the extent to which the new development of land will generate traffic volumes impacting the roadway system and that the ordinance codified in this chapter establishes a fair and equitable method for distributing unfunded costs of transportation improvements necessary to accommodate traffic volumes generated by such development.

(Ord. 2310 § 1 (part), 2008; Ord. 2194 § 1 (part), 2005).

17.64.030 - Specific findings.

The need for regional transportation improvements and for the regional transportation impact fee established by this chapter are based on the finding of the Regional Transportation Impact Fee Study prepared by the Merced County Association of Governments whose governing board is composed of city council members and county supervisors from the county's six (6) cities and the county board of supervisors. The study has established that growth to the year 2030 will affect the entire regional transportation system and therefore that the area of impact for future development is appropriately the entire county of Merced. The study amended the following findings:

- A. Population and employment within the county of Merced is anticipated to increase by ninety-eight (98) percent and eighty-two (82) percent, respectively by the year 2030 and will result in Levels of Service E and F (as defined in the 1994 Highway Capacity Manual 6th Edition) on existing arterials, highways, and freeways.
- B. The Regional Transportation Plan (MCAG, 2004 Revised 2007) modeled and evaluated the effect of projected growth to the year 2030 on all major arterials, highways, and freeways in Merced County and found that without expansion, the transportation system would suffer severe congestion. Further, the plan showed that the recommended transportation improvements would accommodate the traffic anticipated in the year 2030 at the desired Level of Service D.

- C. Existing and future sources of public revenues are insufficient to fund all the needed transportation improvements.
- D. The revenues generated by this regional transportation impact fee will provide additional funds necessary to construct the transportation improvements and will help provide the additional capacity needed in the year 2030 to accommodate the traffic generated by new development in the cities and county of Merced.
- E. The regional transportation impact fee is a fair and equitable method of distributing the cost of transportation improvements among the development that will generate the increased traffic.

(Ord. 2310 § 1 (part), 2008: Ord. 2194 § 1 (part), 2005).

17.64.040 - Definitions.

"Average weekday peak-hour trips" means the average number of peak-hour vehicle trips to or from a designated land use Monday through Friday.

"Development" means any discretionary or ministerial action by the city resulting in the issuance of grading, building, plumbing, mechanical, or electrical permits, conditional use permits, or certificates of occupancy issued by the city to construct, to change the use of, a building or property.

Where development applies to a change in use of, or enlargement of an existing building, the average weekday peak-hour trips shall be only the additional trips in excess of those associated with the existing use.

"Merced County" means the unincorporated areas of the county of Merced and the incorporated areas of the six (6) cities within Merced County.

"Merced County Association of Governments" means the joint powers agency delegated to manage and administer the regional transportation impact fee and whose members are the incorporated cities and the county of Merced.

"Merced County Association of Governments Regional Transportation Impact Fee Trust Fund" or "Trust Fund" means the account to which regional transportation impact fees collected under this chapter are deposited with the Merced County treasurer by the cities and county for any lawful use as provided in this chapter.

"Peak-hour" means the one (1) hour long period during which the maximum amount of traffic occurs. Often the peak-hour is a rush period when commuters travel to and from work.

"Regional system" means the following street, road, and highway segments:

1. State Highways: the portions of Interstate 5 and State Routes 33, 59, 99, 140, 152, 165 that lie within Merced County;
2. Bradbury Road from Highway 165 to Highway 99;
3. Bloss Avenue from Highway 165 to Highway 99;
4. Westside Boulevard from Highway 165 to Highway 99;
5. Lincoln Boulevard from Highway 140 to Peach Avenue in Livingston;
6. Main St. in Livingston from Peach Avenue to Highway 99;
7. Livingston-Cressy Road from Highway 99 to Santa Fe Avenue;
8. Olive Avenue from Livingston-Cressey Road in Livingston to Santa Fe Avenue in Winton;
9. Santa Fe Avenue from the Stanislaus County line to Highway 59/Olive Avenue in Merced;
10. Santa Fe Avenue from Plainsburg Road in Planada to the Madera County line;

11. Applegate Road from Highway 140 to Highway 99 in Atwater;
12. Winton Way from Highway 99 in Atwater to Santa Fe Avenue in Winton;
13. Buhach Road from Highway 140 to Santa Fe Avenue;
14. Bellevue Road from Highway 99 to Lake Road or the Campus Parkway, including gaps;
15. Olive Avenue in Merced from Highway 59 to Campus Parkway;
16. G Street in Merced from Highway 99 to Bellevue Road;
17. Mission Avenue from Highway 59 to Campus Parkway;
18. Plainsburg Road from Highway 99 to Highway 140;
19. Sandy Mush Road from Highway 59 to Highway 99;
20. Henry Miller Avenue-east from Interstate 5 in Santa Nella, across State Route 165 to Turner Island Road;
21. Los Banos to Gustine Route-along Volta Road, Ingomar Grade, Cottonwood Road and Hunt Road to Gustine;
22. Sandy Mush Road/Turner Island Road-west from State Route 99, across State Route 59 to Turner Island Road and south to State Route 152;
23. Washington Road-from Indiana Avenue to Highway 59;
24. Hutchins Road-from Carlucci Road to Indiana Avenue;
25. Indiana Avenue-from Highway 152 to Washington Road;
26. Walnut Avenue-in the County, from Livingston to Santa Fe Drive;
27. Le Grand Road-in the County, from Highway 99 to Santa Fe Avenue;
28. Minturn Road-in the County, from Le Grand Road to the Madera County line;
29. Oakdale Road-in the County, from Highway 59 to the Stanislaus County line;
30. La Grange Road-in the County, from Highway 59's termination in Snelling to the Stanislaus County line;
31. Merced Falls Road-in the County, from Highway 59's termination in Snelling to the Mariposa County line;
32. The future Campus Parkway-from Highway 99 to end of route at Yosemite Avenue or UC Merced County;
32. Gurr Road-from State Route 140 near the McSwain area to Sandy Mush Road;

"Regional Transportation Impact Fee Policy Board" (RTIF Policy Board) means those members of the MCAG Governing Board whose appointing jurisdiction has adopted the ordinance codified in this chapter.

"Regional Transportation Plan" means the document adopted by the Merced County Association of Governments on May 17, 2007.

"Trip generation rate" means the number of average weekday peak-hour trips generated by a particular land use. The land use categories correspond to those used in the regional travel model maintained by MCAG. The trip generation rate for each land-use category is the rate published by the Institute of Transportation Engineers, 6th Edition. The land use categories and peak-hour trip generation rates are as follows:

Residential, Single-Family (ITE Code 210)	1.00 trips per dwelling unit
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Residential, Multi-Family (ITE Code 220)	0.61 trips per dwelling unit
Retail Commercial, General (ITE Codes 800-912 except those listed below)	1.86 trips per 1,000 sq. ft. floor area
Retail Commercial, High Turnover (ITE Codes 831-837, 844-847, 851-853, 911-912)	10.86 trips per 1,000 sq. ft. floor area
Retail Commercial, Low Turnover (ITE Codes 814, 823, 848, 860, 862, 890)	1.25 trips per 1,000 sq. ft. floor area
Retail Commercial, Over 50,000 sq. ft. gross floor area (ITE Code 820, and any 800-999 with 50,000+ sq. ft.)	3.58 trips per 1,000 sq. ft. floor area
Office Commercial (ITE Codes 710-770)	1.79 trips per 1,000 sq. ft. floor area
Industrial (ITE Code 110-170)	0.75 trips per 1,000 sq. ft. floor area

(Ord. 2310 § 1 (part), 2008; Ord. 2194 § 1 (part), 2005).

17.64.050 - Applicability.

This chapter shall apply only to new development and to any reconstruction of existing buildings that will generate additional vehicular trips. The provisions of this chapter shall take effect July 1, 2008.

(Ord. 2310 § 1 (part), 2008; Ord. 2194 § 1 (part), 2005).

17.64.060 - Establishment of regional transportation impact fee.

- A. The regional transportation impact fee is not intended to be the sole source of funding for construction of the regional system. Furthermore, the total amount of fees collected pursuant to this chapter shall not exceed the cost of construction of the regional system.
- B. The Merced County Association of Governments has calculated the regional transportation impact fee according to the following procedure:
 - 1. MCAG determined the total costs of the regional transportation improvements.
 - 2. MCAG established a capital improvements program. This will include each regional transportation improvement project with its total project cost, and sources of funds to pay for the project, specifically showing the amount for each project to be funded through the regional transportation impact fee.
 - 3. MCAG determined the total amount to be funded by the fee by summing the fee shares of each project in the capital improvements program.

4. MCAG determined the total number of peak-hour trips associated with new development, for each land use category listed in Section 17.64.040 of this chapter, by using the MCAG traffic model and subtracting the number of peak-hour trips generated in Merced County by each category in the year 2005 from the number of such trips generated by the same category in the year 2030.
 5. MCAG determined a per-trip cost by dividing the total amount to be funded by the fee by the total number of trips associated with new development.
 6. MCAG determined a cost per unit of development for the land use categories listed in Section 17.64.040 of this chapter. This cost will be calculated by multiplying the per-trip cost by the average peak-hour trips per unit of development. Units of development will be dwelling units for residential land uses, and one thousand (1,000) square feet of floor area for commercial, industrial, and other land uses.
 7. The fee for each new development is calculated by multiplying the cost per unit of development by the number of units being developed.
- C. As shown in the Regional Transportation Impact Fee Study, MCAG has determined that the cost per peak-hour trip is three thousand one hundred fifteen dollars (\$3,115.00).
- D. The Regional Transportation Impact Fee Study has calculated the following transportation impact fee schedule for these land use categories:

Residential, Single-Family	\$3,115 per dwelling unit
Residential, Multi-Family	\$1,892 per dwelling unit
Retail Commercial, General	\$4,146 per 1,000 sq. ft. floor area
Retail Commercial, High Turnover	\$12,082 per 1,000 sq. ft. floor area
Retail Commercial, Low Turnover	\$2,780 per 1,000 sq. ft. floor area
Retail Commercial, Over 50,000 sq. ft.	\$7,161 per 1,000 sq. ft. floor area
Office Commercial	\$3,337 per 1,000 sq. ft. floor area
Industrial/Ag Processing	\$1,409 per 1,000 sq. ft. floor area

- E. Should the applicant believe the land use category in subsection D of this section is not appropriate for their application, the applicant may propose a more appropriate development category, subject to the approval of the development services director, and alternative trip generation rate from the ITE Trip Generation Code noted in this chapter for use in calculation of the appropriate trip generation rate; or
- F. Should the applicant believe the land use category in subsection D is not appropriate for their application, the applicant may have prepared, at their own expense, a trip generation study conducted by a licensed traffic engineer that forecasts the anticipated peak-hour trips for the proposed development. The study procedure and results shall require the approval of the development services director.

(Ord. 2310 § 1 (part), 2008: Ord. 2194 § 1 (part), 2005).

17.64.070 - Findings.

The city council finds that the RTIFS:

- A. Identifies the purpose of the RTIF;
- B. Identifies the use to which the fee will be put, including specific facilities;
- C. Demonstrates a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
- D. Demonstrates a reasonable relationship between the need for the public facility and type of development project on which the fee is imposed; and
- E. Shows a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

(Ord. 2310 § 1 (part), 2008: Ord. 2194 § 1 (part), 2005).

17.64.080 - Exemptions.

The following developments are exempted from payment of the fee required by this chapter:

The reconstruction of any building which has been destroyed by fire, flood, or natural disaster so as the reconstructed building both continues the prior use and generates the same or fewer trips as the original building.

(Ord. 2310 § 1 (part), 2008: Ord. 2194 § 1 (part), 2005).

17.64.090 - Credits.

- A. Where an applicant, otherwise subject to this chapter dedicates and/or improves those regional roads, highways, or freeways identified in Exhibit 'A' of this section beyond the requirements established in subsection B of this section, the applicant shall receive a credit against his regional transportation impact fee. That credit shall be an amount equal to the land value of dedicated land and/or the actual engineering and construction costs incurred at the time of the development to the extent that the MCAG has included those costs in its estimated cost of constructing the regional system.
- B. The fee required by this chapter shall be supplementary to any fees and conditions imposed upon projects under the provisions of the Subdivision Map Act, California Environmental Quality Act, and other state and local laws, ordinances, or administrative policy which may authorize the imposition of conditions or contributions on development and the applicant shall not be entitled to any credits for such contributions or conditions.
- C. The in-lieu-of-fee credit for any land dedications shall be based on the fair market value of the land dedicated as determined by an appraisal process with consultation with MCAG.
- D. Should the in-lieu-of-fee credit exceed the applicant's total fee, the difference may be credited against any of the applicant's future development which would be subject to the fee, or a reimbursement agreement may be entered into.
- E. Should a developer be required to provide improvements which benefit adjacent undeveloped land, the developer may be reimbursed for a proportionate share of the cost of such improvements under special agreements with MCAG and contingent upon future fees contributed from other benefited developments. In all cases, however, reimbursements under such special agreements must be timed

to coincide with construction of the transportation project as scheduled in the Capital Improvement Plan adopted by MCAG.

Exhibit A - List of Projects on the Regional System

The following transportation projects are those which when completed will together mitigate the traffic impacts on the regional transportation system of future growth to the year 2030 throughout Merced County. The City Council/Board of Supervisors, upon adoption of this Ordinance, shall amend the Circulation Element of the General Plan to include these regional projects and any amendments.

The Regional Transportation Impact Fee shall be solely for funding environmental clearance analysis and reports, design engineering, right-of-way acquisition, construction, and other necessary expenses for the delivery of Regional System projects and any other purpose consistent with this Ordinance. The Fee may not be used for system maintenance.

RTIF PROJECT LIST

A	Bellevue Rd - connection to 99 - from new interchange to Atwater
B	Mission Ave. - improvement - from 59 to 99 (not adding lanes)
C	SR 59 "Atwater-Merced Highway" realign from SR 99 to Bellevue Road w/ new SR 99 interchange
D	SR 59 - widen to 4 lanes - from Mission Ave. to Childs Ave.
E	SR 59 - widen to 4 lanes - from 152 to Mission Ave.
F	SR 140 "Bradley Overhead" - widen to 4/5 lanes - from Parsons to Santa Fe Ave.
G	SR 140 - widen to 4/5 lanes - from Santa Fe Ave. to Campus Parkway
H	SR 140/33 "Gustine Truck Route" - bypass Gustine
I	SR 152 "Los Banos Bypass"
J	SR 165 - widen to 4/5 lanes - from Hilmar to Stanislaus County or alternate project to reduce traffic on SR165 through Hilmar
K	Dos Palos road improvements
L	Winton Parkway interchange improvements and widening
M	Campus Parkway from SR 99 to Yosemite Ave.

(Ord. 2310 § 1 (part), 2008; Ord. 2194 § 1 (part), 2005).

17.64.100 - Collection of fee.

The RTIF shall be collected at the time when the city grants an occupancy permit for residential structures or at the time of the issuance of a building permit for nonresidential structures.

For nonresidential structures, the RTIF may be paid in up to five (5) equal annual installments that shall include interest subject to the approval of the city.

For a change of use or other development subject to this chapter, that would not require a building permit, the fee shall be collected at the time of the issuance of a use, development, or business license permit, whichever occurs first.

(Ord. 2310 § 1 (part), 2008; Ord. 2194 § 1 (part), 2005).

17.64.110 - Regional transportation impact fee fund.

- A. All moneys collected from payments of the regional transportation impact fee shall be deposited with the county treasurer of Merced County in the trust fund.
- B. All moneys in the trust fund shall be used solely for the delivery of the regional transportation projects identified in this chapter. Project delivery includes preparation of environmental and engineering documents, right-of-way acquisition, construction, project support, and fund administration. All interest or other earnings of the trust fund shall be credited to the trust fund.

(Ord. 2310 § 1 (part), 2008; Ord. 2194 § 1 (part), 2005).

17.64.120 - Appeal process.

An applicant who disputes the amount of impact fee may file a written notice of appeal with the development services director. Within fifteen (15) days of the appeal, the development services director shall provide written notification of his/her decision. If unsatisfied with the decision of the development services director, the applicant may resubmit a written appeal to the city council which shall be filed with the city clerk within ten (10) days of the date of the mailing of the development services director's decision. Thereafter, the city council shall render its decision by a majority vote of those members present within sixty (60) days of the filing of the appeal.

(Ord. 2310 § 1 (part), 2008; Ord. 2194 § 1 (part), 2005).

17.64.130 - Annual fee and program review.

- A. The city council shall annually review, pursuant to Government Code Section 66006, and if necessary amend the regional transportation impact fee program to ensure that it continues to be a fair and equitable method to distribute the costs of improvements necessary to accommodate traffic volumes generated by future growth. This review will coincide with the adoption of the five (5) year capital improvement program pursuant to Government Code Section 66006(d). In adjusting the fee program, the following shall be considered:
 - 1. Adding new transportation projects that meet program criteria;
 - 2. Deleting projects that have been completed;
 - 3. Adjust the average per trip cost to reflect changes in construction costs;
 - 4. Adjust the average per-trip cost to reflect changes in land values as indicated in an annual survey of local government costs for land subject to right-of-way acquisition;

5. Revise the average per-trip cost to reflect changes in the list of regional projects as that list may be amended from time to time by the RTIF Policy Board.
- B. Unless otherwise amended by the city council, the fees listed in Section 17.64.060(D) shall be adjusted on July 1st of each year based upon the Engineering Construction Cost Index as published by the Engineering News Record.
- C. Changes in the regional transportation impact fee resulting from the annual review will have no effect on fees already paid into the trust fund.
- D. At the time of the annual review, the city council shall make findings for any fees remaining unexpended and uncommitted in the trust fund for five (5) or more years after deposit demonstrating a reasonable relationship between the fee and the purpose for which it was charged. Unless a need for such fees can be demonstrated, the unexpended or uncommitted portion including interest that has accrued, shall be refunded to the current record owner of the development project on a prorated basis.

(Ord. 2310 § 1 (part), 2008; Ord. 2194 § 1 (part), 2005).

17.64.140 - Severability.

If any one (1) or more of the terms, provisions, or sections of this chapter shall to any extent be adjudged invalid, unenforceable, or void, by a court of competent jurisdiction, each and all of the remaining terms, provisions and sections of this chapter shall not be affected thereby and shall be valid and enforceable.

(Ord. 2310 § 1 (part), 2008; Ord. 2194 § 1 (part), 2005).

17.64.150 - Repeal.

Notwithstanding any other provision of this chapter, the city council may repeal this chapter by a majority vote. Such repeal shall be effective one (1) year and ninety (90) days after notice of such repeal is given to MCAG.

(Ord. 2310 § 1 (part), 2008; Ord. 2194 § 1 (part), 2005).