

ORDINANCE NO. 2750

ORDINANCE IMPOSING TRANSPORTATION CAPACITY PAYMENT
INCLUDING CALCULATIONS THEREOF, CREDITS
AND APPROVED METHODOLOGIES

Recitals.

The existing City ordinances require that a developer of land adjacent to a right-of-way which is unimproved, or does not meet current standards ("under-improved"), improve the abutting half of the right-of-way. See section 5-4-1 of the Zoning and Development Code.

While this method of providing that a development pays its fair share of the costs of the transportation system does result in the adjacent rights-of-way being improved to a standard that is adequate for the traffic generated by the development, there has been concern that this method of addressing traffic impacts is not fair. In addition, the existing methodology does not provide explicit authority to require that a developer pay for traffic impacts which are created beyond the adjacent streets. While the present requirement has the advantage that it is easy to understand and to implement, a disadvantage is that a developer of land immediately adjacent to one or more unimproved, or under-improved, street must pay half of the cost for the adjacent street improvements, yet a development, due to location or the configuration of the parcels in the area, that does not abut an unimproved street is not required to make improvements to the street system, even though each development may add the same amount of traffic.

An example of a situation which the Council finds is problematic is shown in graphic form as Appendix 1, attached hereto.

The Council has determined that an alternative to the present system is in the public interest because it will be more fair, will correctly assign financial responsibility for creation of additional traffic, and be more equitable.

One of the basic services provided by the City, which the Council determines is one of the most important, and core, functions of the City, is the provision of roads and streets which are safe, easily accessed and used, and integrated. The Council determines that existing resources of the City are properly allocated to maintaining and improving, including capital additions to, the existing 210 miles of streets and roads and that, as resources permit, additional improvements to the system should be made.

The present citizens and users of the system pay for these improvements nearly exclusively by the payment of sales and use taxes. See the adopted 1994-1995 Biennial Budget, made a part hereof by this reference. The existing resources are not sufficient, however, to pay for all the road needs and there are no resources available to the City, from existing resources, to add to the system or to make improvements in developing areas of the City, except as is already allocated in the transportation portion of the City's ten-year capital improvement plan, attached hereto as Appendix 2.

The Council finds that it is in the public interest to require that improvements to the existing system which are reasonably attributable to new development, new residents, and new business activities (collectively "growth") be paid for by such development and residents by collecting a portion of the costs needed to build new transportation facilities, such as streets and roads and the related traffic control devices (hereinafter referred to as Transportation Capacity Payment or TCP)--it is unfair to require that existing resources of the citizens be diverted to pay for transportation capacity improvements needed because of growth.

The Council finds that growth and new development creates additional vehicular traffic that consumes a portion of the existing transportation infrastructure capacity. The City finds that the data, assumptions, and conclusions found in the most recent edition of Institute of Transportation Engineer's Trip Generation Manual ("ITE"), (the most recent of which is the 5th Edition, 1991, address of 525 School St., S.W., Washington, D.C.) on file with the Director of Public Works, is a valid, nationally recognized basis to estimate traffic generated by a development and shall be used by the City and is incorporated herein by this reference.

The Council finds that a fair method of imposing a portion of the costs of paying for additional or improved capacity because of growth is a fee calculation based on the current cost of constructing a lane-mile of street and uses the number of trips generated by different types of development (based on ITE), the average trip length, and the percentage of new trips as variables. The cost of construction of a lane mile is based on the most recent construction contracts awarded by the City to build various lane miles of pavement. Appendix 3 shows the calculation of the TIF for a single-family residence. Appendix 4 lists the lane mile costs used as of the adoption of this Ordinance. From time to time the Director of Public Works will prepare, for adoption by the City Council by resolution, changes to the unit cost(s) of lane-mile construction, which shall include the several components of such construction, to reflect then current conditions and costs. Upon the adoption of such a resolution the TIF shall be recalculated and shall change. The Council recognizes that there

are other methods and other assumptions which could be made. Because the present sources of funding transportation improvements are primarily sales and use taxes (see, the Budget), the Council finds and determines that the proposed fee should include a credit for the portion of sales and use tax which the City estimates would be generated by the construction of new development that would be dedicated to transportation capacity improvements planned to be constructed in the City's long range capital improvements plan. In addition, Council finds that the dollar value of land which is dedicated for public right-of-way, as a part of a development review process, should be credited against the otherwise payable TCP.

Factors to be used to determine acceptable levels of service include (a) capacity analysis based on the factors and analysis contained in the Uniform Manual on Traffic Control Devices, and (b) the Highway Capacity Manual, Special Report 209, prepared by the Transportation Research Board, 2101 Constitution Avenue NW, Washington, DC 20418, a copy of which is on file with the Director of Public Works and incorporated herein by this reference.

The Council acknowledges that the spending of TCP funds for the widening of a roadway which is needed to serve a new development within a few months within a few blocks is an obvious way to ensure a developer that the funds paid by it actually benefit the development. Because the traffic impacts of new trips are not always easily ascertained or allocated to a particular intersection or street, and because the City is not so large that there are distinct areas of the City which are wholly unrelated to the others, the Council finds that it is not reasonable to define discrete time and distance limits for the spending of TCP funds in relation to each development. Nevertheless, expenditure and prioritizing projects shall, to the extent reasonable, attempt to cause TCP funds to be spend as near in time and distance as is possible.

The Council has considered, but rejected as impracticable, a proposal whereby the City would be divided into quadrants, or other sub-areas, in which quadrants, or sub-areas, funds attributable to a particular subdivision or development must be spent within certain specified time limits. Such a method, while attractive to a developer, ignores the professional judgments which traffic engineers must make--some of which can be reasonably disputed by other traffic engineers--and ignores the reality that sub-funds, which track TCP funds from particular areas or neighborhoods, may never have enough money to pay for needed improvements.

Stated another way, the purpose of this Ordinance is to regulate the use and development of land so that a portion, up to one hundred percent (100%), of the costs of new right-of-way

infrastructure, and associated costs and expenses, required to satisfy increased demands generated by growth are paid by such new developments or growth. The balance of such costs are reserved by the City through sales and use tax such as paid by the business activity and retail sales.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

1. Section 5-4-1 subsections E and F of the Zoning and Development Code are amended as follows:

- (a) The second sentence of subsection E is repealed;
- (b) Subsection F is repealed;
- (c) The City Clerk shall cause the remaining subsections of section 5-4-1 to be re-lettered sequentially.

2. A new subsection H is hereby adopted to read as follows:
"H.

(i) The developer of all development which the Director of Public Works estimates will generate additional traffic shall be required to pay a Transportation Capacity Payment ("TCP") in the manner and amount set forth in this Ordinance.

(ii) No building permit for any use or activity requiring payment of the TCP pursuant to this Ordinance shall be issued until the TCP has been paid, or, in circumstances where improvements are required, until adequate security has been approved and received by the City.

(iii) Except as provided in (iv), below, the amount of the TCP shall be determined by the following schedule:

| <u>USE</u> | <u>TRIPSTRIP</u> | <u>%NEW</u> | <u>PAYMENT</u> |
|--|------------------|---------------|-----------------|
| | | <u>LENGTH</u> | |
| RESIDENTIAL | | | |
| Detached Single Family | 10 | 6 | 100 \$500/Unit |
| Multi-family (<4-Plex) | 8 | 6 | 100 \$400/Unit |
| Multi-Family (>4-Plex) | 6 | 6 | 100 \$300/Unit |
| RV Park | 5.4 | 6 | 100 \$269/Space |
| COMMERCIAL (per 1000 square feet of floor area, or portion thereof, unless noted otherwise); | | | |
| Convenience Store | 330 | 2 | 45 \$2475 |
| Retail | 70 | 2 | 30 \$700 |
| Hotel/Motel | 10 | 4 | 100 \$334/Room |

| | | | | |
|--------------------------|-----|---|----|--------|
| Restaurant | 165 | 2 | 45 | \$1238 |
| Drive-through restaurant | 500 | 2 | 45 | \$3712 |

OTHER (per 1000 square feet of floor area, or portion thereof);

| | | | | |
|----------|----|---|-----|-------|
| Office | 12 | 4 | 100 | \$400 |
| Hospital | 16 | 4 | 100 | \$533 |
| Church | 7 | 4 | 100 | \$155 |

If the use is less than 1000 square feet, the 1000 square feet payment shall be paid. For uses above 1000, the payment shall be pro rated: for example, a use of 1500 would pay 1.5 times the 1000 square foot payment.

Industrial uses are not listed because of the large variability in the traffic impacts which may result from a particular industrial use. The Director of Public Works (hereinafter "Director") shall require that the developer of such a use submit such information as the Director may require in order that the Director may ascertain the capacity impacts of the proposed use.

(v) The following formula shall apply for uses other than the above categories: the Director shall determine if a use is properly classified in one of the listed categories. The Director shall, based on available traffic engineering data, or based on data and studies supplied by an applicant if required by the Director, assign a different value for a particular development:

$\alpha \times (\text{vehicle trips/day}/10) \times (\text{trip length}/6) \times (\% \text{ new trips})$
 Where α = the TCP calculated for a single family residence. The present α is as set forth and is calculated as shown on Appendix 3.

If a building permit or other development approval is requested for a mixed use, the Director shall determine the payment, using the applicable schedule in subsection (iii), above, by apportioning the space committed to uses specified on the subsection (iii) schedule. The Director shall determine questions concerning mixed use and proper apportionment.

(vi) In the case of a change of use, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit, the Director shall calculate the TCP based upon the additional trip(s) generated. No refunds nor credit shall be given for changes to uses or to lands or structures which reduce trips generated.

(vii) If the development abuts an existing unimproved or under-improved street, the developer may request, or the Director may require the developer, to construct half street improvements all or a portion of the abutting street to current City street

standards in lieu of payment of the TCP. The Director may require such construction if the Director determines that the construction is necessary for the safe ingress and/or egress of traffic to the development, or, if the improvements are proximate to partially improved or under-improved rights-of-way. If the cost of the required street improvement(s) (excluding on-site improvements) is less than the total TCP for the entire development, the TCP will be reduced by the dollar amount of the costs of the required improvements, as determined by the City Engineer, in proportion to the amount paid by the developer for the off-site improvements. Such decision by the Director or his designee may be appealed to the Zoning and Development Board of Appeals (see § 10-1-2) as provided therein.

(viii) All TCP funds collected shall be identified by the City and deposited in an account to be used to pay the capital costs incurred in making those capital improvements to the transportation facilities in the City of Grand Junction which are necessitated by new development and growth.

Capital spending decisions shall be guided by the principles, among others, that: TCP funds shall be used to make capacity improvements but not used to upgrade existing deficiencies, except incidentally in the course of making improvements; TCP fund expenditures which provide improvements which are near, in time and/or distance, the development are preferred over expenditures for improvements which are more distant in time and/or distance.

No TCP funds shall be used for maintenance.

TCP funds may be commingled with other funds of the City. The City Council shall determine when and where TCP funds shall be expended.

(ix) The TCP shall not be payable if a developer or user establishes, by clear and convincing evidence, that at least one of the following applies:

- (a) An alteration or expansion of an existing structure will not create additional trips, and the use is not changed;
- (b) The construction of an accessory structure will not create additional trips produced by the principle building or use of the land. A garage is an example of this type of accessory structure, which does not create additional trips;
- (c) The replacement of a destroyed or partially destroyed structure with a new building or structure of the same

size and use which will not create additional trips;

- (d) A structure is constructed in a development for which a half street improvement fee has been paid within the prior sixty months, or the structure is in a development with respect to which the developer constructed half street improvements to an existing abutting street, and the City accepted such improvements and the warranties have been satisfied (within the prior sixty months), to the extent that the payment or construction exceeded the cost of the TCP which applies to the entire development. If the half street improvement fee or the City Engineer's estimate of the developer constructed improvements is less than the total TCP for the entire development, the TCP may be reduced a proportionate or dollar amount. Credit shall be given for rights-of-way which were required to be dedicated by the developer as a condition of development approval, and were so dedicated to the City within the prior sixty months. A sixty month period shall be measured from the last step or approval.

(x) Any claim for credit shall be made not later than the time of application or request for a planning clearance. Any claim not so made shall be deemed waived. Credits shall not be transferable from one project or development to another nor otherwise assignable or transferable.

(xi) Nothing in this Ordinance shall effect the present, and continuing, requirement that rights-of-way and other street and road improvements are required to serve the internal ingress and egress needs of the development. Such "internal" improvements shall continue to be constructed by each developer.

(xii) The minimum level of service against which new trips and growth shall be measured is Level Service E, as described in the Highway Capacity Manual.

(xiii) Definitions. The following terms and words shall have the meanings set forth. A word which is not defined in this subsection shall have the meaning as set forth first in the Zoning and Development Code of the City or, second, as provided in the Code of Ordinances.

(a) Average trip length: The average length of a vehicle trip as determined by the limits of the City, the distance between principle trip generators, and as modeled by the MINUTP program.

(b) "Convenience store," "hotel/motel," "retail" and other terms contained in subsection (iii) are as defined and with the meaning set forth in the Trip Generation Manual.

(c) Lane-mile: means one paved lane of a right-of-way mile in length fourteen (14) feet in width, including curb and gutter, sidewalk, storm sewers, traffic control devices, earthwork, engineering, and construction management including inspections. The value of right-of-way is not included.

(d) Percentage of new trips: based on Table 3-4 of ITE Transportation and Land Development Manual, 1988, and of the ITE Trip Generation Manual, 1991.

(e) Unimproved/Under-improved floor area: has the meaning as defined in the 1988 Edition of the Uniform Building Code.

3. Effective date and process.

The provisions of this new subsection H shall be effective as to those requests for development which receive final approval, pursuant to the Zoning and Development Code on or after the effective date of this Ordinance. For the purposes of this subsection H, "final approval" for a planned development or other project which involves the subdivision of land means the recordation of the final plat. If a development or other use does not require that a final plat be recorded, "final approval" means the final written approval pursuant to the Zoning and Development Code.

4. The Recitals set forth in this Ordinance are an integral part of this Ordinance. The Recitals, and the information, data, software and other information referred to therein, form the basis for the substantive rules and law set forth in the body of the Ordinance. By way of example, the Public Works Department maintains maps, a GIS mapping system, a Pavement Management System data base and a traffic analysis data base ("MINUTP" - Mini Urban Transportation Planner). These data, information, softwares, and documents form the factual bases for the conclusions and assumptions underlying this Ordinance and are incorporated herein by the reference.

5. While the information, data, and standards which are referred to in the Recitals and in paragraph 4, above, are needed to explain the rationale and provide the background which justifies the adoption of the TCP, it is not appropriate to cause such information to be codified because it will render the balance of section H difficult to read and should not be required for day-to-day implementation and enforcement. Nevertheless, such information must be available to the public.

Hence, the City Clerk is directed to cause only paragraph numbered 2 hereof to be codified along with a statement, to be appropriately numbered or lettered, as the City Clerk shall

determine, which reads: "The full text of Ordinance [this ordinance number] should be referred to for the analytical and other justification, and other descriptive materials, which form the basis of and support for the provisions of this section H."

Introduced this 18th day of May, 1994.

Passed and adopted this 1st day of June, 1994.

ATTEST:

/s/ Stephanie Nye
City Clerk

/s/ R.T. Mantlo
President of the City Council