

ORDINANCE NO. 1166

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
ADDING A NEW CHAPTER 3.36 (CONSTRUCTION TRAFFIC ROAD FEES) TO TITLE 3 OF
THE SAUSALITO MUNICIPAL CODE**

WHEREAS, the City of Sausalito provides public services and maintains public facilities for the benefit of residents and businesses throughout the City, and

WHEREAS, the City Council of the City of Sausalito is concerned about the amount of wear and damage to City Streets caused by construction in the City, and

WHEREAS, on April 8, 2003, the City Council received a report from the City Engineer who investigated the merits of imposing a "construction traffic road fee" to recover costs from applicants for accelerated wear and tear to the City's roads as a result of construction projects, and

WHEREAS, after extensive study, the City Engineer recommended that the City impose a "construction traffic road fee" in order to assist the City to recover the cost of repairs to City roads due to wear and tear from construction vehicles

NOW, THEREFORE, the City Council of the City of Sausalito does ordain as follows

Section 1. Addition to the Code Chapter 3 36 Construction Traffic Road Fees is hereby added to Title 3 of the Sausalito Municipal Code to read as follows

**Chapter 3.36
CONSTRUCTION TRAFFIC ROAD FEES**

Sections

- 3 36 010 Authority
- 3 36 020 Findings
- 3 36 030 Application
- 3 36 040 Definitions
- 3 36 050 Construction Traffic Road Fees
- 3 36 060 Appeal Procedure
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- 3 36 80 Refund of Construction Traffic Road Fees
- 3 36 090 Exemptions
- 3 36 100 Annual Review
- 3 36 110 Development Agreement

3 36 010 Authority This Chapter is enacted under the police power of the city and under California Government Code Section 66000 *et seq*

3 36 020 Findings Based upon the "City Engineer's Report on Establishment of a New Fee to Mitigate the Impact of Construction Traffic on Public Streets," the staff report, oral presentations and all other evidence presented to the City Council, the City Council finds and determines as follows

- A Construction vehicles have a disproportionate impact on the condition of the city's roads and streets due to the fact that they are far heavier than other types of vehicles

- B The purpose of this chapter and the fee established hereby is to assist the city in funding the cost of repairs to city roads caused by increased wear and damage due to construction activity and to offset the cost associated with an increased rate of deterioration of the city's road system caused by the impacts of new construction within the city
- C In the absence of this program imposing a fair share construction traffic road fee upon new construction, existing and future sources of revenue will be inadequate to fully fund the roadway improvements necessary to maintain the city's roadways in their current condition
- D The fees generated pursuant to this chapter will be utilized to implement the Preventive Maintenance and Rehabilitation Treatments identified in the city's Pavement Maintenance System Program
- E New construction in the city generates vehicle trips throughout the city on the existing streets and roadways This construction traffic has greater wheel loading and therefore has greater impact on the city's roads The fee will be utilized to repair the damage to the city's streets resulting in part from the construction traffic and to maintain such streets
- F All types of projects in the city will directly benefit from the road way improvements and maintenance funded by the construction traffic roadway fee

3 36 30 1 Application This Chapter shall apply to construction traffic road fees charged as a condition of development to defray the cost of road repairs related to damage caused by construction vehicles

3 36 040 Definitions For purposes of this Chapter, the following terms shall have the following meanings

A Developer The person or legal entity (ies) who also may be the property owner, who is developing or constructing a particular Project within the city

B Project Any project that involves the issuance of a permit for new construction, reconstruction, remodeling or expansion of an existing structure, which includes hauling of materials or labor and therefore involves construction traffic on city streets and roadways

C Construction Traffic Road Fees or Fees The Fees established pursuant to this chapter

3 36 050 Construction Traffic Road Fees

A Construction Traffic Road Fees – Required A Developer shall pay a Construction Traffic Road Fee upon application for a building permit for any Project in the City The City Council shall establish and may periodically revise by resolution the amount of the Construction Traffic Road Fee

B Time of Payment Construction Traffic Road Fees shall be due and payable prior to the Developer receiving a building permit

C Notice of Fee At the time of approval of a Project or at the time of imposition of the Fees, the City shall provide the Developer a statement of the amount of the Fee and notice that the 90 day approval period in which the Developer may protest pursuant to California Government Code §66020 has begun

- D Creation of Special Fund The city shall deposit fees collected under this Chapter in a special fund, the Construction Traffic Road Fee Fund
- E Use of Fees The Construction Traffic Road Fees revenues and all interest earned on deposited Fee revenues shall only be used by the City for road repairs needed as a result of Projects in the City

3 36 60 Appeals Procedure

- A Appeal of Fees Paid Any person subject to the Fee described in this Chapter may appeal the amount of the Fee paid based upon the absence of any reasonable relationship or nexus between the impact of his/her/its Project and either the amount of the Fee charged or the improvements being financed
- B Procedure A person appealing a decision under this Chapter shall file an appeal with the City Clerk, who shall be responsible for processing the appeal toward a hearing The appeal shall be in writing, stating completely and in detail the factual and legal grounds, and shall be filed within ten (10) calendar days following the payment of the Fees being objected to
- C Costs The costs associated with the appeal shall be borne by the appellant, who shall pay a deposit against such cost at the time of filing the appeal The amount of the deposit shall be established by resolution of the City Council The costs of the appeal must be paid in full before the appeal takes place
- D Hearing The City Manager shall serve as the hearing officer who shall set the time and place for the hearing, serve notice on the parties, conduct the hearing, prepare written findings of fact, a written decision on the matter, and shall preserve the complete administrative record of the proceedings The City Manager shall consider relevant evidence presented by the appellant and the City employees
- E Decision The decision of the City Manager is final and may not be further appealed, it is reviewable by a court under Code of Civil Procedure §1094 5

3 36 070 Payment under Protest A Developer seeking to proceed with his or her Project during the pendency of an application or during the pendency of an appeal may do so by following the procedures set forth in California Government Code §66020

3 36 080 Refund of Construction Traffic Road Fees If a building permit is canceled or voided and Fees paid to the City pursuant to this Chapter have not been committed, the City Manager, upon written request of the applicant, shall order the return of the Fees and interest earned on the Fees, less the administrative costs

3 36 090 Exemptions Projects directly related to the provision of low and moderate income housing are exempt from the payment of the Construction Traffic Road Fee

3 36 100 Annual Review

- A Within 180 days after the last day of each fiscal year, the City Manager, or her/his designee, shall prepare a report to the City Council including the information required by

Government Code Section 66006(b)(1) or successor statute and shall make such report available to the public

- B The City Council shall review the information provided in the report at a noticed public hearing held not less than 15 days after the report is made available to the public
- C The report prepared by the City Manager and its review by Council, as well as any findings thereon, shall be subject to the provisions of California Government Code Section 66006, or successor statute, to the extent applicable, the section being controlling in the event of any conflict between the provisions of the statute and this Chapter

3 36 110 Development Agreement The Fee established by this Chapter may be waived in a development agreement entered into in accordance with applicable provisions of State law in the event that project specific conditions are imposed that meet the same purpose as the purpose of the Fee

Section 2. Environmental Review This ordinance is not a project for the purposes of the California Environmental Quality Act as it has no potential for resulting in a significant environmental effect

Section 3. Severability If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations

Section 4. Publication and Effective Date This ordinance shall become effective thirty (30) days after the date of its adoption by the City Council and within 15 days after its adoption shall be published in a newspaper of general circulation, published and circulated in the City of Sausalito

The foregoing Ordinance was duly and regularly introduced, with reading waived, at a meeting of the City Council of the City of Sausalito held in said City on May 20, 2003 and thereafter adopted at a meeting of the City Council held in said City on June 10, 2003 by the following vote, to wit

AYES	Councilmembers	Albert, Albritton, Keller, Scremin, Mayor Belser
NOES	Councilmembers	None
ABSENT	Councilmembers	None
ABSTAIN	Councilmembers	None


MAYOR OF THE CITY OF SAUSALITO

ATTEST


CITY CLERK