

REPORT TO COUNCIL

SUBJECT

Introduce an Ordinance to Amend Sunnyvale Municipal Code Chapter 10.60 Transportation Demand Management of Title 10 Vehicles and Traffic to Implement Administrative Penalties and Hearings, and Collection of Penalties; Adopt a Resolution to Amend the FY 2016/17 Citywide Fee Schedule to Establish TDM Fees and Penalties

BACKGROUND

Transportation Demand Management, or TDM, is the general term for a combination of strategies that strive to decrease the use of single occupant vehicle (SOV) travel and encourage people to use transit, walk, bike, and carpool. TDM emphasizes the movement of people rather than motor vehicles, and gives priority to other transportation modes in an effort to provide transportation options and reduce congestion. As part of development approvals, the City has required TDM plans in an effort to reduce SOV trips and decrease congestion.

The City has been utilizing TDM programs for a number of years. In 1999, the City developed a TDM tool kit as guidance to assist developers in the City to prepare, implement, and monitor the success of TDM plans and programs. As regional growth and development continued, the need for TDM programs has become even more important. In 2015, staff updated the City's TDM guidelines and on December 1, 2015 staff informed Council of the updated guidelines via RTC 15-0934 (Attachment 1).

Many factors affect the ultimate success of TDM programs. The new TDM monitoring and penalty program will help determine the current level of TDM success in Sunnyvale, and this data will also help shape future TDM requirements and goals. Overall the ability to achieve higher levels of TDM is influenced by a number of factors including:

1. Appropriate land uses and densities. These include items such as having appropriate land uses within proximity of one another, proximity to transit, and higher levels of density to support transit and site layout that supports easy access for pedestrians and bicyclists.
2. Appropriate multi-modal infrastructure. Without the infrastructure in place to provide alternatives to single-occupancy vehicles, TDM programs will not be as successful. Infrastructure includes walking, biking, bus, train and "last mile" transit options.
3. Employee/er behaviors and values. Transit options, private buses and shuttles, and other options will only exist if employees decide to not drive to work based on convenience, comfort and effectiveness of the programs.

This report outlines new TDM fees and penalties, and accordingly recommends the adoption of an amended FY 2016/17 Fee Schedule and Ordinance to modify the Sunnyvale Municipal Code. The fees will be adjusted annually with the adoption of the City Fee Schedule each fiscal year using the

Consumer Price Index (CPI) for the San Francisco area, similar to a number of other City fees.

EXISTING POLICY

GENERAL PLAN:

Chapter 3 Land Use and Transportation - Land Use:

LT-1.9b: Promote modes of travel and actions that reduce single-occupant vehicle trips and trip lengths.

LT-5.1e: Promote the reduction of single occupant vehicle (SOV) trips and encourage and increase in the share of trips taken by all other forms of travel.

LT-5.6b: Promote public and private transportation demand management.

LT-6.1b: Support transportation demand management programs and other ride sharing programs countywide.

Chapter 7 Environmental Management:

EM-11.4: Apply the indirect source rule to new development with significant air quality impacts. Indirect source review would cover commercial and residential projects as well as other land uses that produce or attract motor vehicle traffic.

ENVIRONMENTAL REVIEW

The adoption of an ordinance of general policy does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment. The adoption of the resolution amending the 2016/17 Citywide Fee Schedule does not constitute a “project” with the meaning of the CEQA pursuant to CEQA Guidelines section 15378 (b) (4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

DISCUSSION

In order to have an effective TDM monitoring program, penalties and fees can be implemented to encourage full compliance. As part of the new monitoring program non-compliance penalties will be imposed on the property owner when the site exceeds the maximum allowable trips (under the conditions of approval) or when the property owner fails to pay administrative data collection fees required to evaluate site compliance. Failure to pay administrative data collection fees shall result in the maximum penalty to the property owner. Non-compliance penalties may be applied once every calendar year per site.

Non-compliance penalties will be determined by the level of deficiency of the site. A maximum \$3,000 per trip penalty will be used for the penalty calculation and may be assessed annually based on annual AM and PM peak hour trip counts. The penalty is based on 2016 dollars and will be evaluated and adjusted as appropriate with the adoption of the City’s Fee Schedule each fiscal year using the Consumer Price Index (CPI) for the San Francisco area, similar to a number of other City fees. Staff established the value of the \$3,000 penalty by reviewing the cost of a TDM program against the amount of trip reduction it achieves (to develop a per trip dollar amount). In general, the cost varied by the complexity of the TDM program and ranged from \$1000-\$5000 per trip reduced. During the outreach process staff shared the reasoning behind the penalty fee and no concerns were expressed

regarding the dollar value of a TDM program, although concerns were raised regarding the need to have a penalty fee.

Compliance will be based on the maximum allowable AM and PM peak hour trips as identified in the conditions of approval. Both AM and PM peak hour trips will be surveyed and the penalty will be based on the highest deficiency of the two. The recommended penalties by levels of deficiency are summarized below, but are further explained (including example calculations) as part of the TDM Monitoring Program Guidelines (Attachment 2).

- Level 1: Achieve a 0%-9.9% trip reduction - Pay full penalty (\$3,000 per trip in excess of maximum allowable trips)
- Level 2: Achieve a 10%-19.9% trip reduction - Pay 75 % penalty (\$2,250 per trip in excess of maximum allowable trips)
- Level 3: Achieve 20%-29.9% trip reduction - Pay 50% penalty (\$1,500 per trip in excess of maximum allowable trips)
- Level 4: Achieve 30% or more trip reduction (up to maximum allowable trips) - Pay 25% of penalty (\$750 per trip in excess of maximum allowable trips)

Maximum non-compliance penalties are based on the site size (i.e. project size) at the time the City imposes a TDM requirement. All maximums are based on 2016 dollars and will also be analyzed during the annual adoption of the City Fee Schedule. The maximum penalties are as follows:

Tier	Project Size	Maximum Annual Non-compliance Penalty
1	Less than 50,000 SF	\$300,000
2	500,000 SF to 1,000,000 SF	\$500,000
3	Greater than 1,000,000 SF	\$700,000

TDM Administrative Fees: A TDM administrative fee in the amount of \$2,500 per driveway will be collected, which will cover the costs for data collection and staff time to review and administer the program.

Payment Late Fee: A monthly late fee of 10% of the amount of the invoice will be imposed when the property owner fails to submit the payment for administrative fees and non-compliance penalties within 60 days of the invoice date.

Delay of Status Report Submittal Penalty: A 2% penalty of the amount of maximum annual non-compliance penalty (given above in the table) per month will be imposed when the property owner fails to submit annual status report as required by the City's TDM Program Guidelines.

FISCAL IMPACT

Implementing the new fees presented in this report would create new revenue sources to the City. Staff recommends that revenue from the TDM Administrative Fees would be used to offset the costs of data collection and staff time to administer the program. Revenue from the Non-Compliance Penalty, Payment Delay Penalty, and Delay of Status Report Submittal Penalty would be accounted for in an isolated fund and appropriated in the annual budget process. Since the intent of this

program is to achieve full compliance, it is expected that the revenue from penalties will be minimal.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

The City also held an outreach meeting on November 4, 2015, presented to the Moffett Park Business Group, and offered meetings to property owners with TDM plans. Staff met with approximately eight different property owners individually.

ALTERNATIVES

1. Introduce the Draft Ordinance to Amend Chapter 10.60 Transportation Demand Management (TDM) of Title 10 Vehicles and Traffic to Implement Penalties and Administrative Hearings and Adopt the Resolution Amending the FY 2016/17 Fee Schedule to Establish TDM Fees and Penalties.
2. Do not adopt Draft Ordinance to Amend Chapter 10.60 and Resolution Amending the FY 2016/17 Fee Schedule to Establish TDM Fees and Penalties.

STAFF RECOMMENDATION

Alternative 1: Adopt a Draft Ordinance to Amend Sunnyvale Municipal Code Chapter 10.60 Transportation Demand Management (TDM) of Title 10 Vehicles and Traffic to Implement Administrative Penalties and Hearings and Adopt the Resolution Amending the FY 2016/17 Fee Schedule to Establish TDM Fees and Penalties.

Staff recommends Alternative 1 in order to have an effective TDM Monitoring Program that encourages full compliance and results in the reduction of SOV trips, and consequently reduces congestion.

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ATTACHMENTS

1. RTC 15-0934: New Transportation Demand Management (TDM) Program Guidelines (Informational Only)
2. TDM Monitoring Program (updated)
3. Draft Ordinance to Amend Sunnyvale Municipal Code Chapter 10.60
4. Resolution Amending FY 2016/17 Fee Schedule to Establish TDM Fees and Penalties