



**CITY OF LODI
COUNCIL COMMUNICATION**

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AGENDA TITLE: Introduce Ordinance Amending Lodi Municipal Code Title 17 - Zoning, by Repealing and Reenacting Section 17.50.030 E-3 "Reimbursement for Excess Street Width" in its Entirety; and Further Repealing and Reenacting Sections 17.62.010 – "Findings and Purpose" and 17.62.020 "Improvements to be Reimbursed" in their Entirety

MEETING DATE: August 21, 2013

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Introduce Ordinance amending Lodi Municipal Code Title 17 - Zoning, by repealing and reenacting Section 17.50.030 E-3 "Reimbursement for Excess Street Width" in its entirety; and further repealing and reenacting Sections 17.62.010 – "Findings and Purpose" and 17.62.020 "Improvements to be Reimbursed" in their entirety.

BACKGROUND INFORMATION: At the February 20, 2013 City Council meeting, Council adopted Ordinance 1869 creating the City's Development Code. At the same time, Council adopted Ordinance 1870 which revised several sections of the old Title 16 that were subsumed within new Title 17 (Title 16 no longer exists though most of the sections have been renumbered and appear in Title 17). Staff inadvertently overlooked that the Title 16 changes should have been made in their new Title 17 location. This item will make the changes these sections made to Title 16 to their new locations in Title 17.

Staff recommends that the City Council introduce the ordinance repealing and reenacting the referenced municipal code sections.

FISCAL IMPACT: None.

FUNDING: N/A

A handwritten signature in black ink, appearing to read "Stephen Schwabauer", written over a horizontal line.

Stephen Schwabauer
City Attorney

APPROVED:

A handwritten signature in black ink, appearing to read "Konradt Bartlam", written over a horizontal line.

Konradt Bartlam, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE LODI CITY COUNCIL AMENDING
LODI MUNICIPAL CODE TITLE 17 – ZONING BY
REPEALING AND REENACTING SECTION 17.50.030 E-3 –
REIMBURSEMENT FOR EXCESS STREET WIDTH IN ITS
ENTIRETY; REPEALING AND REENACTING SECTIONS
17.62.010 – FINDINGS AND PURPOSE, AND 17.62.020 –
IMPROVEMENTS TO BE REIMBURSED IN THEIR
ENTIRETY

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 17 – Zoning – is hereby amended by repealing and reenacting Section 17.50.030 E-3 in its entirety and shall read as follows:

3. **Reimbursement for excess street width.** The subdivider or developer may be reimbursed for excess width street construction and right-of-way or for construction or permanent improvements which front adjacent property. Reimbursement shall be made by Private Reimbursement Agreement in compliance accordance with Chapter 17.62. For purposes of this Section excess width streets are defined as:
 - a. New streets over 68 feet in width;
 - b. Widenings of existing street in excess of ~~34 on one side~~ one-half of the adjacent side of the Right-of-Way.

SECTION 2. Lodi Municipal Code Title 17 – Zoning – is hereby amended by repealing and reenacting Section 17.62.010 and Section 17.62.020 in their entirety and shall read as follows:

17.62.010 - Findings and Purpose

The Council hereby finds and declares as follows:

- A. The construction of new streets and water, sewer and storm drains often benefits other properties. Benefits may occur through the provision of supplemental capacity (oversize lines) or installations across or opposite unserved property that would be required to make such improvements upon development or service connection.
- B. The state of California, in Government Code Sections 66485 through 66489 requires that the city either pay for or enter into an agreement to reimburse the installing party, including an amount attributable to interest for such installations. To pay the costs as required by the reimbursement agreement, the city may collect funds from the other properties which benefit from such installations.
- C. The City has adopted a development impact mitigation fee ordinance (Municipal Code Chapter 15.64) which provides for reimbursement and collection of funds from benefitting parcels under only a portion of the circumstances described in Subsection A.
- D. The purpose of Chapter 15.64 is to identify the improvements which are reimbursable under the development impact mitigation fee program and to provide a uniform reimbursement procedure for the cost of improvements which are to be reimbursed from other properties. For purposes of this Article, "applicant" means the owner of the property for which the improvements are being installed or are required to be installed per the Municipal Code.

17.62.020 - Improvements to be Reimbursed

- A. The cost of the following improvements shall be reimbursed from the appropriate ~~development impact mitigation fee fund~~ benefitting parcels. The terms of the reimbursement shall comply with Chapter 15.64.
 - 1. Oversize water mains and major crossings required per Chapter 13.08;
 - 2. Oversize sewers and storm drains required per Chapter 13.12;
 - 3. Excess width street construction and right-of-way required per Chapter 15.44 and 17.50.030;
 - ~~4. Any other construction identified in the City Capital Improvement Program as a project to be funded with development impact mitigation fees.~~

- B. The cost of other improvements which benefit other property or would be required of that property upon development, shall be reimbursed in compliance with this Article.

SECTION 2. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 5. This ordinance shall be published pursuant to law and shall become effective 30 days from the date of passage and adoption.

Approved this ____ day of _____, 2013

ALAN NAKANISHI
MAYOR

ATTEST:

RANDI JOHL-OLSON

City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl-Olson, City Clerk of the City of Lodi, do hereby certify that Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of Lodi held August 21, 2013, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2013, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. _____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL-OLSON
City Clerk

Approved to Form:

D. STEPHEN SCHWABAUER
City Attorney