

ORDINANCE NO. NS- 1829

AN ORDINANCE OF THE CITY OF SANTA ANA ADDING SECTION
8-45 TO THE SANTA ANA MUNICIPAL CODE ADOPTING A MAJOR
THOROUGHFARE AND BRIDGE FEE PROGRAM

WHEREAS, Government Code Section 66484.3 authorizes the City to require by ordinance the payment of a fee as a condition of approval of a final subdivision map or as a condition of issuing a building permit for the purpose of defraying the cost of constructing major thoroughfares and bridges; and

WHEREAS, the City Council desires to adopt such a fee program in order to insure that future development shall pay a share of the costs of constructing transportation systems adequate to serve that development.

NOW, THEREFORE, the City Council of the City of Santa Ana does ordain as follows:

SECTION 1: That the Santa Ana Municipal Code is hereby amended by adding a section, to be numbered 8-45, which said section reads as follows:

Sec. 8-45. Major Thoroughfare and Bridge Fee

a. A building permit applicant, as a condition of issuance of a building permit, shall pay a fee as hereinafter established to defray the costs of constructing bridges over waterways, rail-ways, freeways and canyons, or constructing major thoroughfares.

b. Definitions.

(1) The term construction as used in this section includes preliminary studies, design, acquisition of right-of-way, administration of construction contracts, and actual construction.

(2) The term "major thoroughfare" means those roads designated as transportation corridors and major, primary, secondary, or commuter highways on the Master Plan of Arterial Highways, the Circulation Element of the General Plan. The primary purpose of such roads is to carry through traffic and provide a network connecting to the State highway system.

(3) "Bridge facilities" mean those locations identified in the transportation or flood control provisions of the Circulation Element or other element of the General Plan as requiring a bridge to span a waterway, a railway, freeway, or canyon.

(4) "Area of benefit" means a specified area wherein it has been determined that the real property located therein will benefit from the construction of a major thoroughfare or bridge project.

c. The provisions herein for payment of a fee shall apply only if the major thoroughfare or bridge facility has been included in an element of the City's General Plan or the General Plan of the County of Orange adopted at least thirty (30) days prior to the application for a building permit and on land located within the boundaries of the area of benefit.

d. Payment of fees shall not be required unless any major thoroughfares are in addition to, or a widening or reconstruction of, any existing major thoroughfares serving the area at the time of the adoption of the boundaries of the area of benefit.

e. Payment of fees shall not be required unless any planned bridge facility is a new bridge serving the area or an addition to an existing bridge facility serving the area at the time of the adoption of the boundaries of the area of benefit.

f. Action to establish an area of benefit may be initiated by the City Council upon its motion or upon the recommendation of the Executive Director of Public Service Agency. The City Council shall set a public hearing for each proposed area benefitted. Notice of the time and place of said hearing including preliminary information related to the boundaries of benefit, estimated costs and the method of fee apportionment shall be given in accordance with Government Code Section 65091.

g. At the public hearing the City Council will consider the testimony, written protests, and other evidence. At the conclusion of the public hearing the City Council may, unless a majority written protest is filed and not withdrawn, determine to establish an area of benefit, setting forth the boundaries of the area of benefit, setting forth the cost, whether actual or estimated, and the method of fee apportionment. A certified copy of such resolution shall be recorded by the City Clerk with the Orange County Recorder's Office.

(1) Such apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of issuing a building permit for such property or portions thereof. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the City Council shall make provisions for payment of the share of improvement cost apportioned to such lands from other sources.

(2) Written protests shall be received by the City Clerk at any time prior to the close of the public hearing. If written protests are filed by the owners of more than one-half of the area of the property to be benefitted by the improvement, and sufficient protests are not withdrawn so as to reduce the area represented by the protests to less than one-half of the area to be benefitted, then the proposed proceedings shall be abandoned, and the City Council shall not, for one year from the filing of said written protests, commence or carry on any proceedings for the same improvement under the provisions of this section. Any protests may be withdrawn by the owner making the same, in writing, at any time prior to the close of the public meeting.

(3) If any majority protests are directed against only a portion of the improvement, then all future proceedings under the provisions of this section to construct that portion of the improvement so protested against shall be barred for a period of one year, but the City Council shall not be barred from commencing new proceedings not including any part of the improvement so protested against. Such proceedings shall be commenced by a new notice and public hearing as set forth in subsection (f) above.

(4) Nothing in this section shall prohibit the City Council, within such one-year period, from commencing and carrying on new proceedings for the construction of an improvement or portion of the improvements so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefitted are in favor of going forward with such improvement or portion thereof.

h. Fees paid pursuant to this section shall be deposited in a planned bridge facility or major thoroughfare fund. A fund shall be established for each planned bridge facility project or each planned major thoroughfare project. If the area of benefit is one in which more than one bridge or major thoroughfare is required to be constructed, a separate fund may be established covering all of the bridge projects or major thoroughfares in the area of benefit. If the area of benefit encompasses one or more bridges and one or more thoroughfares and all lands within the area of benefit are subject to the same proportionate fee for all bridges and thoroughfares, a single fund may be established to account for fees paid. Monies in such fund shall be expended solely for the construction or reimbursement for construction of the improvements serving the area to be benefitted and from which the fees comprising the fund were collected, to reimburse the City for the costs of constructing the improvement.

i. The City Council may approve the acceptance of consideration in lieu of the payment of fees established herein.

j. The City Council may approve the advancement of money from the General Fund or Road Fund to pay the costs of constructing the improvements covered herein and may reimburse the General Fund or Road Fund for such advances from planned bridge facility or major thoroughfare funds established pursuant to this section.

k. If the building permit applicant, as a condition of the issuance of the building permit, is required or desires to construct a bridge or major thoroughfare, the City Council may enter into a reimbursement agreement with the applicant. Such agreement may provide for payments to the applicant from the bridge facility or major thoroughfare fund covering that specific project to reimburse the applicant for costs not allocated to the applicant's property in the resolution establishing the area of benefit. If the bridge or major thoroughfare fund covers more than one project, reimbursements shall be made on a pro rata basis reflecting the actual or estimated costs of the projects covered by the fund.

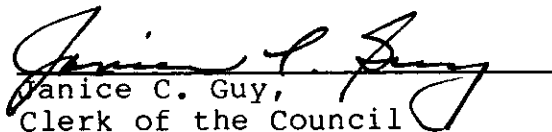
SECTION 2: If any action, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Santa Ana hereby declares that it would have passed and does hereby pass this section and each sentence, section, clause and phrase hereof, irrespective of the fact that any one or more sections, sentences, clauses or phrases be declared invalid or unconstitutional.

ADOPTED this 20th day of January, 1986.



Daniel E. Griset, Mayor

ATTEST:




Janice C. Guy,
Clerk of the Council

COUNCILMEMBERS:

Griset	<u>Aye</u>
Johnson	<u>Aye</u>
Acosta	<u>Aye</u>
Hart	<u>Aye</u>
Luxembourger	<u>Aye</u>
McGuigan	<u>Aye</u>
Young	<u>Aye</u>

APPROVED AS TO FORM:



Edward J. Cooper,
City Attorney