Tri-Valley Transportation Council (TVTC)

Tri-Valley Transportation Development Fee Implementation Guidelines

April 2024 - Final

1. Introduction and Background

Tri-Valley Transportation Council (TVTC)

In 1991, the seven jurisdictions of Alameda County, Contra Costa County, Dublin, Pleasanton, Livermore, Danville, and San Ramon signed a Joint Powers Agreement (JPA) that established the Tri-Valley Transportation Council (TVTC). The purpose of the JPA was for the joint preparation of a Tri-Valley Transportation Plan/Action Plan (TVTP/AP) for Routes of Regional Significance (RRS) and cost sharing of recommended improvements. The TVTP/AP was prepared and presented to all member jurisdictions in April 1995 and updated in 2000. The TVTP/AP created a common understanding and agreement on the Tri-Valley's transportation concerns regarding prioritizing projects for funding and implementation. In addition to the project priorities, the TVTP/AP also recommended the development of a Tri-Valley Transportation Development Fee (Fee or TVTDF) to allocate a fair share of regional infrastructure cost to go towards new development. The first nexus study for the fee program was completed in 1995 and justified allocating the unfunded cost needed to complete all the 11 projects identified in the TVTP/AP to new development.

In October 2013, TVTC signed a Joint Exercise of Powers Agreement to establish the TVTC as a separate agency that is responsible for planning, coordinating, and receiving disbursement of traffic impact fee revenues from member agencies to help implement transportation improvement projects within the Tri-Valley Area. One of the primary duties of the TVTC is the preparation of a TVTP/AP and cost sharing of recommended improvements. As previously noted, the TVTP/AP was originally prepared and presented to all member jurisdictions in April 1995. The TVTP/AP has been subsequently updated in 2004, 2009, 2013, 2017 and 2023.

In addition to updating the TVTP/AP, TVTC has also conducted several subsequent nexus studies and adopted updates to the TVTDF Fee Program and associated project list. The TVTDF Fee Program was most recently updated in 2022.

Tri-Valley Transportation Development Fee (TVTDF)

The Tri-Valley Transportation Development Fee (TVTDF) allocates a fair share of regional infrastructure costs of new development within seven jurisdictions. These fees go towards regionally-significant transportation projects identified in TVTC Nexus Study. This section summarizes the existing practices and information publicly accessible.

Purpose of Fee Implementation Guidelines

The purpose of this document is to be a reference guide for member agencies for calculating TVTDF. This document provides guidance on how to calculate fees and outlines past and current practices among the TVTC member agencies.

This document incorporates (by reference or in practice) the analysis of the Nexus Study, the terms established by the Joint Power Agreement between the member agencies, and regional impact fee implementation policies and practices used by other regional and metropolitan planning organization through the state.

2. Fee Collection Process

Developments subjected to TVTDF

Except for developments listed in **Appendix B**, all developments within the Tri-Valley development area that receive a land use entitlement from any of the member agencies shall be required to pay the TVTDF.

Fee Calculation Methodology

Fee calculation flowchart is included in **Appendix C**. Example worksheets are include in **Appendix D**.

Step 1 – Identify the Land Use Type

Lead agency should identify the land use type (based on land use definition included in **Appendix A**) to be used to calculate the fee.

Step 2 – Calculate the Base Fee

The base fee will be calculated based on the land use type determined in **Step 1**.

$$Base\ Fee = Land\ Use\ Quantity\ \times Fee\ Rate$$

Multiply the project's land use quantities (e.g. dwelling units for "single family residential" or square feet gross floor area for "office") by corresponding fee rate

Example – 100,000 SF retail will be redeveloped into a 250-unit multi-family apartment building. The based fee would equal to:

$$250\ dwelling\ units\ \times \$3{,}178.06\ per\ dwelling\ unit = \$794{,}515$$

Step 3 – Calculate Credit

Credits can be given to a development that includes a change in existing development. Credits will be given based on the existing land use. If the property has been vacant for more than 5 years, a jurisdiction may elect to not give a credit. In determining whether or not to give a credit, the jurisdiction may request financial documentation from the developer demonstrating the impact of the credit on the financial feasibility of the proposed project. ***Example – 100,000 SF retail will be redeveloped into a 250-unit multi-family apartment building. The credit for the retail use would equal to:***

$$100{,}000\ \times \$3.41\ per\ square\ feet\ gross\ floor\ area = \$341{,}000$$

Step 4 – Calculate TVTDF Amount

The TVTD Fee Amount would take the difference between the Base fee, calculated in **Step 2**, and Credit, calculated in **Step 3**.

$$TVTD\ Fee = Base\ Fee - Credit$$

Example – 100,000 SF retail will be redeveloped into a 250-unit multi-family apartment building. The TVTD Fee amount would equal to:

$$\$794{,}515 - \$341{,}000 = \$453{,}515$$

Step 5 – Collect Payment of TVTDF

The development project applicant pays the final calculated TVTDF to the local agency. The TVTDF is separate from any development impact fees that the local agency may be collecting as part of their locally-funded capital improvement fee programs.

To the extent permitted by the language of each member agencies' TVTDF resolutions/ordinances imposing the fee, TVTC recommends that member jurisdictions consider allowing some flexibility in the timing for collection of the TVTDF based on project needs. However, in accordance with Section 6(c)(i) of the JEPA, TVTC recommends that the TVTDF be collected prior to issuance of building permit or no later than occupancy or as otherwise required by the Mitigation Fee Act.

Step 6 – Send to TVTC Treasurer

Per Section 6.e.ii of the JEPA, lead agency shall transmit to the Treasurer within 30 days of the end of each quarter not less than 80% of all the TVTD Fees collected by that lead agency during the quarter, and any interest or income generated on such 80% amount, together with notification of the Projects that the lead agency intends to fund with any retained portion of revenues.

Member agencies are eligible to spend the remaining 20% funds only on eligible projects and the funds can be spent at any time. Eligible projects are any project included in the adopted TVTC Strategic Expenditure Plan (SEP).

3. Frequently Asked Questions

This section provides anticipated Frequently Asked Questions.

1. Which agency collects the TVTDF?

   The local agency, the City/Town/County where the project is located and processed.

2. What projects are responsible for TVTDF payment?

   Except for developments listed in ***Appendix A****, all developments within the Tri-Valley development area that receive a land use entitlement from any of the member agencies shall be required to pay the TVTDF.*

3. How often are the fee rates updated?

   The fee rates are reviewed and adjusted annually as of July 1 of every year.

4. How should the TVTDF be determined on mixed-use development?

   The fee should be calculated using the rates for each land use category used in the development then tallying up for a total fee. Alternatively, the development can be categorized as "other", and a traffic study can be completed to determine net new average AM/PM peak hour trips.

5. Can a developer receive credit or reimbursement for public improvements constructed?

   A developer may be entitled to credit against the TVTDF or to reimbursement from TVTDF if the developer constructs all or a portion of one of the eligible transportation improvement projects identified in the Board approved Nexus Study. Credit or reimbursement shall be provided if TVTC TAC has approved the construction by the developer of all or a portion of the project identified in the nexus study.

6. Are there any fee credits for demolition of existing buildings to make way for new developments?

   Step 3 of the Fee Calculation Methodology (Chapter 2) outlines how credits can be given for changes to existing developments.

7. What if a developer is requesting a permit for a building shell, where the final land use for the development is not known?

   The development must identify land use for the shell building in the entitlement request, which can be based on environmental analysis conducted for the building. Fees will be assessed based on the entitlement request. The owner may lease to any occupant that is equal or less intense than the maximum use. No reimbursement is given if the finalized uses are less than anticipated.

8. How should the TVTDF be determined for developments that require a special study?

   Developments that require a special study would most likely fall under "Other" land use category and the TVTDF would be based on the average AM/PM peak hour trips calculated using rates from the most current edition of the ITE Trip Generation Manual or other approved TVTC trip rates.

If the special study uses trip rates that are not based on the ITE Trip Generation Manual or other approved TVTC trip rates, then these rates must be approved by the TVTC TAC. It is recommended that the following language be included in the permit process:

"THE TRI-VALLEY TRANSPORTATION DEVELOPMENT FEE RATE (TVTDF) OF $_PER_ HAS BEEN CHARGED BASED UPON INITIAL STUDY TO ALLOW THE DEVELOPMENT TO PROCEED. THIS RATE WILL BE SUBMITTED TO TVTC FOR RATIFICATION AND CONFIRMATION AND MAY RESULT IN AN INCREASE OR DECREASE. THE APPLICANT RECOGNIZES THAT THE OPTION IS TO WAIT FOR PAYMENT OF FEES, AND APPROVALS, UNTIL A TVTDF RATE IS DETERMINED OR AGREE TO PAY ANY INCREASE AS DETERMINED."

9. How long can an agency lock in TVTDF for projects with a "vesting tentative map" and Development Agreement?

   Project with vesting tentative map will pay TVTD fee that is in effect at the beginning of the approval year for up to 2 years, regardless of when building permits are pulled for construction, unless there is an agreement justifying extension beyond 2 years. TVTC fees for Development Agreements are based on the terms of the agreement with the member agency. Refer to section 6 (C) of JEPA for significant changes associated with Development Agreements.

10. When should the need for TVTC TAC review or Board review be necessary for approval for fees or waivers?

    TVTC TAC shall be notified If a member agency has justification to charge a different rate for a land use that may typically fall under the "other" category. TVTC TAC shall also be notified if the number of trips is based on information other than the current ITE Trip Generation manual or approved TVTC trip rates.

    Board review and approval is necessary if a development is seeking credit or reimbursement (see FAQ #5 for details).

Appendix

A – Land Use Definition

B – Exempted Land Uses

B – TVTDF Calculation Flow Chart

C – TVTDF Calculation Worksheet

Appendix A – Land Use Definition

Land Use Category	Definition
Single Family Residential	Buildings or parts of buildings designed and used for occupation as the residence of one family.
Multi-Family Residential	Building or parts of buildings designed and used exclusively as a dwelling unit among other dwelling units, either on the same parcel (e.g. apartments and mobile home parks), or under separate ownership (e.g. condominium, townhomes, duplexes, or duets.)
Office	Developments or parts of developments designed for the purpose of housing non-retail, non-manufacturing business
Retail	Developments or parts of developments design for the purpose of the retail sale of merchandise and services.
Industrial	Developments or parts of developments for the purpose of manufacture or fabrication of products, the processing of material, the warehousing of merchandise for sale of distribution, research and development of industrial products and process, and the wholesaling of merchandise.
Other	Land use not implicitly included within the land use categories of "single-family residential,' "multi-family residential," "office," "retail," or "industrial" and for which alternative trip generation rates can be found in the Institute of Transportation Engineers (ITE) Trip Generation Manual, in a rate schedule that the TVTC has explicitly approved, or as determined by a traffic impact study/analysis.

"Other" Land Uses

The number of trips used in the fee calculation should be based on the current Institute of Transportation Engineers (ITE) Trip Generation Manual. If there are limited data within the ITE Trip Generation Manual, the City/Town/County traffic engineer may request the applicant to submit a trip generation study. The fee will be assessed based on the net new average AM/PM trips calculated based on the ITE trip generation rates or as shown in the trip generation study.

It is up to the City/Town/County traffic engineer to determine if a development falls under the "other" land use category. *If a member agency has justification to charge a rate different than the "other" rate, TVTC TAC must be notified.*

Per the Nexus study, Office/service employment includes professional services/offices, public administration, health services, educational services, hotel, etc. Other employment includes car washes, repair-maintenance services, personal care services, civic and social organization etc. Industrial includes agriculture, manufacturing, and trading employment-types.

Some examples of land use categories that may need traffic engineers' discretion based on the project description and/or supported by special study to determine if a land use falls under "other" or a different category include:

- Entertainment/Recreational
    - Conference Centers
    - Dance studios
    - Gyms
    - Sport facilities
    - Theaters
- Residential/Lodging
    - Assisted Living Facilities
- Retail/Service
    - Animal shelter/adoption buildings
    - Drive through coffee
    - Gas Stations with or without mini-mart
    - Veterinary Hospitals
- Miscellaneous
    - Landfill

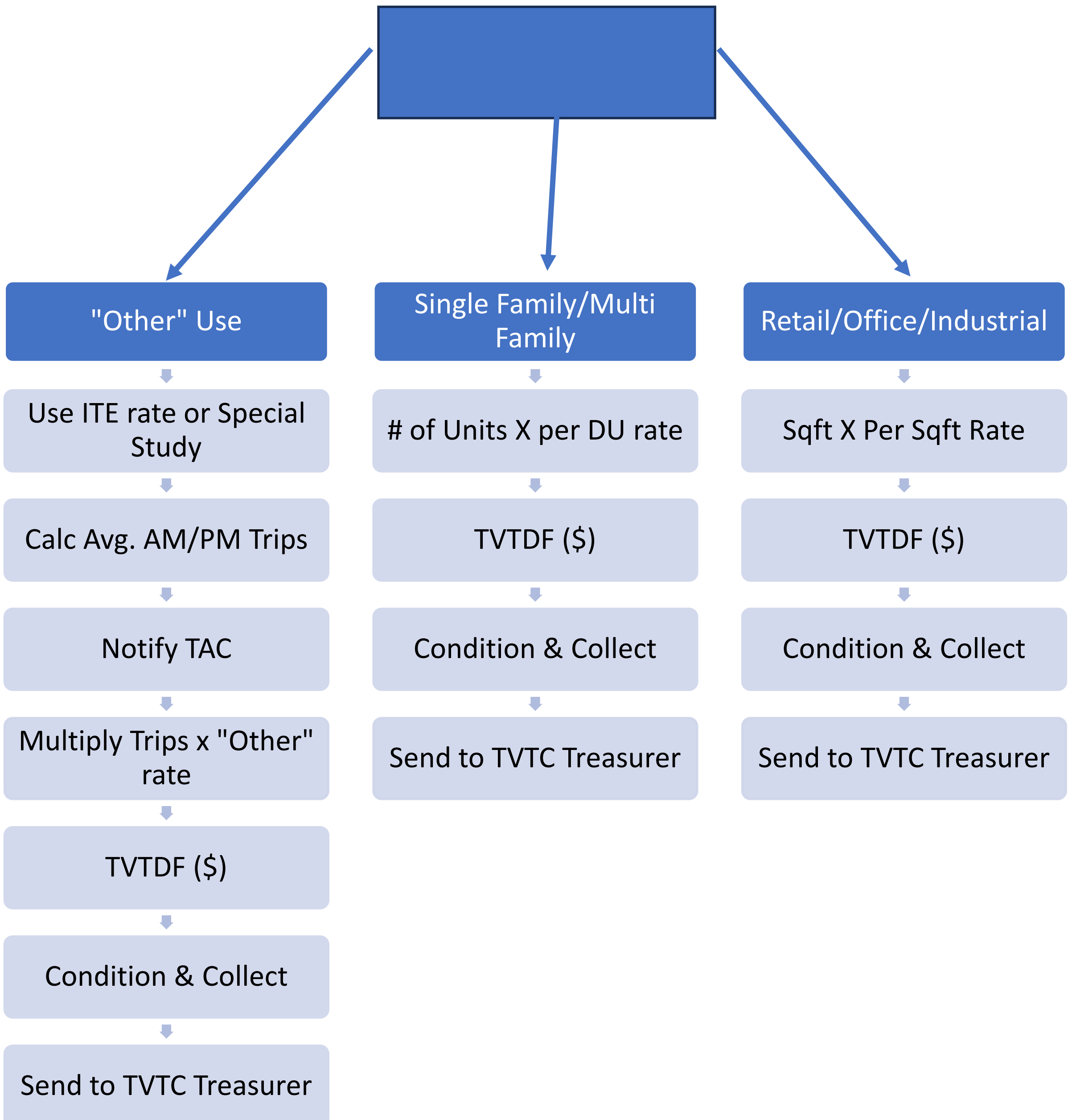
If the TVTC TAC requires additional guidance it may seek direction from the Board.

Appendix B – Exempted Land Uses

The following developments are exempt from TVTDF:

- Any alteration or addition to an existing single family residential unit, including if the addition or alteration results in an ADU or junior ADU..
- Any replacement or reconstruction of an existing single family residential unit that has been destroyed or demolished; provided that the building permit for reconstruction is obtained within one year after the building was destroyed or demolished. A reconstruction or replacement that adds another additional dwelling unit (except an ADU or junior ADU) or changes the type of use is not exempt.
- Any replacement or reconstruction of an existing nonresidential structure that has been destroyed or demolished; provided, that the building permit for new reconstruction is obtained within one year after building was destroyed or demolished and the reconstructed building would not increase the destroyed or demolished building's average peak hour trips.
- TK-12 Public School buildings (except for market rate housing developed on public school property).
- Affordable and Subsidized housing development, as defined as, housing facilities developed by public agencies, limited dividend housing corporation, or nonprofit corporation, and maintained exclusively for persons or families of very low, low or moderate income, as defined in Section 50093 of the Health and Safety Code.
- Affordable and subsidized housing development developed by for profit corporations and maintained exclusively for persons or families of very low, low or moderate income, as defined in Section 50093 of the Health and Safety Code.
- Governmental buildings owned by any public entity unless a development agreement provides for payment of the TVTD fee for a governmental building.
- Development projects which are the subject of a current and valid development agreement in effect prior to adoption of the TVTDF, except that the fee shall be applicable to any "significant" changes to any existing development agreement adopted after October 17, 2013. As used herein, "significant" means any of the following:
    - Change in land use type (e.g. office to retail);
    - Intensification of land use types (e.g. increase in square footage of approved offices);
    - Extension of term of development agreement; and
    - Reduction or removal of project mitigation requirements or conditions of approval
- Religious Institution (except for market rate housing or commercial or other uses developed on religious institution property that generate peak hour trips).
- Communication Towers.
- Wind Farms.

Appendix C – TVTDF Calculation Flow Chart



Appendix D – TVTDF Calculation Worksheet

Land Use Category	Proposed Land Use Quantity			Fee Rate		Base Fee
Single Family Residential		Dwelling units	X		=	
Multi-Family Residential		Dwelling units	X		=	
Office		Square Feet Gross Floor	X		=	
Retail		Square Feet Gross Floor	X		=	
Industrial		Square Feet Gross Floor	X		=	
Other		Average AM/PM Peak Hour Trips	X		=	
					Base Total	

Credit for Existing Land Uses? ☐ No ☐ Yes

Land Use Category	Existing Land Use Quantity			Fee Rate		Credit
		☐ Dwelling Units ☐ Square Feet Gross Floor ☐ Trips	X		=	

________________ - ________________ = ________________

Total Base Fee | Credit | Total TVTD Fee