

**AMENDMENTS TO EL DORADO COUNTY GENERAL PLAN
(Full Text of Measure Y)**

AN INITIATIVE MEASURE TO AMEND THE EL DORADO COUNTY GENERAL PLAN REGARDING TRAFFIC LEVELS OF SERVICE AND FUNDING FOR ROADWAY IMPROVEMENTS

The Circulation Element of the current General Plan sets forth goals, objectives and policies for a County-wide transportation system. The Circulation Element includes a component regarding the regional highway system. This initiative would add several policies to the Circulation Element relating to the roadway system.

Goal 3.2 of the Circulation Element is to "provide a regional highway system which supports land use policies of the county and cities." Objective 3.2.1 is to "ensure that safe and efficient transportation and circulation facilities are provided for concurrently with new development." Objective 3.2.2 is to "distribute the cost for necessary transportation improvements equitably among those who will burden the system and who will benefit from the improvements." Funding is to be provided through a variety of mechanisms, including imposition of traffic impact fees on new development. The initiative would add the following policies under Objectives 3.2.1 and 3.2.2:

Policy 3.2.1.5 would require that before giving approval to a residential development project of five or more units or parcels, the County must find that the project complies with the policies added by the initiative.

Policy 3.2.2.4 would provide that traffic impact fees paid by developers shall fully pay for road capacity improvements necessary to mitigate all direct and cumulative traffic impacts from new development upon any highways, arterial roads and their intersections in unincorporated areas of the county during weekday peak-hour periods.

Policy 3.2.2.5 would provide that County tax revenues shall not be used to fund road improvements to mitigate traffic impacts of new development projects unless approved by the voters.

Goal 3.5 of the Circulation Element establishes acceptable levels of service (LOS) for the County roadway system. Traffic operating conditions are described by LOS designations "A" through "F", with LOS "A" representing the best free-flow condition, progressing toward increased congestion to LOS "F".

Objective 3.5.1 is to maintain LOS "E" or better on all County roads. Policy 3.5.1.6 provides that under certain circumstances a LOS below those specified in Policy 3.5.1.1 may be acceptable. Policy 3.5.1.6 identifies 14 segments of County roads and Highway 50 for which a lower LOS is acceptable. The proposed initiative measure would add the following policies under Policy 3.5.1.6:

Policy 3.5.1.6.1 would provide that traffic from residential development projects of five or more units or parcels shall not result in, or worsen, LOS "F" traffic conditions during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the county.

Policy 3.5.1.6.2 would provide that the County shall not, except with voter approval, add any additional segments of Highway 50, or any other road, to the list of roads in Policy 3.5.1.6 for which LOS "F" is acceptable.

The policies added to the Circulation Element would remain in effect for a period of ten years, unless extended for an additional ten years by the voters, and can be amended only by voter approval.

The "Control Traffic Congestion" Initiative

For the purpose of PROTECTING PUBLIC HEALTH AND SAFETY BY REQUIRING NEW DEVELOPMENT TO FULLY PAY ITS WAY TO PREVENT TRAFFIC CONGESTION FROM WORSENING ON OUR ROADS, the El Dorado County General Plan is hereby amended by adding the following policies as follows:

County tax revenues shall not be used in any way to pay for building road capacity improvements to offset traffic impacts from new development projects. Exceptions are allowed if County voters first give their approval. (Policy 3.2.2.5)

Developer-paid traffic impact fees shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development upon any highways, arterial roads and their intersections during weekday, peak-hour periods in unincorporated areas of the county. (Policy 3.2.2.4)

Traffic from residential development projects of 5 or more units or parcels of land shall not result in, or worsen, Level of Service "F" (gridlock, stop-and-go) traffic congestion during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the county. (Policy 3.5.1.6.1)

The County shall not add any additional segments of Highway 50, or any other roads, to the County's list of roads that are allowed to operate at Level of Service "F" (gridlock) without first getting the voter's approval. (Policy 3.5.1.6.2)

Before giving approval of any kind to a residential development project of 5 or more units or parcels of land, the County shall make a finding that the project complies with the policies added by this initiative. If this finding cannot be made, then the County shall not approve the project, or give final approval to a tentative subdivision map, until all these policy findings can be made, in order to protect the public's health and safety as provided by state law to assure that safe and adequate roads are in place as such development occurs. (Policy 3.2.1.5)

Implementation.

(a) If any portion of this initiative is declared invalid by a court, then that portion shall be removed, and the remaining portions of the initiative shall remain in full force and effect.

(b) This initiative may only be amended by a majority of County voters, and shall remain in effect for 10 years. Prior to expiration, it shall be placed on the ballot again to let the voters decide on a further 10 year extension.



**IMPARTIAL ANALYSIS BY COUNTY COUNSEL
MEASURE Y**

Measure Y would add five policies to the El Dorado County General Plan regarding traffic impact mitigation by new development. Some are susceptible to varying interpretations.

Policy 3.2.2.5 would require voter approval to use County tax revenues for roadway capacity improvements to mitigate impacts of new development. Revenues used to address existing deficiencies, or external traffic sources, are not affected. Where improvements address both current deficiencies and impacts of new development, this policy likely does not apply if tax revenues used don't exceed the cost allocable to existing or external needs.

"County tax revenues" is not defined. It does not appear to include special tax districts, Mello-Roos districts or other financing mechanisms funded by new development. This policy would not affect the use of non-tax revenues, like federal or state grants or transfers.

The policy may apply to new tax revenues generated by new development, although its purpose is to "[P]reserve County tax revenues for improving existing roads and highway conditions..." Use of such new tax revenues, called "tax increment" financing, is being considered for projects like Missouri Flat Road and the El Dorado Hills Boulevard interchange.

Policy 3.2.2.4 would require new development to "fully pay" for traffic mitigation. Proponents of the measure maintain that new development is not "fully mitigating" its traffic impacts, and that traffic impact mitigation ("TIM") fees charged to new development should be increased. Others contend that new development already is paying its "fair share". Existing law requires that the fees be "reasonably related" or "roughly proportional" to the impacts caused by the development. Courts have not clearly defined these standards. Any proposed fee increases must meet this legal standard.

This policy appears to allow mechanisms like special assessments, Mello-Roos, grants or other non-tax revenues, to fulfill new development's funding obligations.

Policy 3.5.1.6.1 may require denial of residential projects of 5 or more units which move any County roadway from level of service ("LOS") E to LOS F, or, add any traffic to roadways already at LOS F, unless mitigating roadway improvements are constructed concurrent with the project. If these improvements are infeasible in connection with any individual project, project denial could be required. Such a policy would apply to most residential developments of 5 or more units.

The proponents of the measure state that it does not require immediate mitigation concurrent with any individual project, and that projects can be approved, and mitigate their share of cumulative impacts through TIM fees, if fees and other mitigation will fully mitigate cumulative impacts of new development. Proponents state that actual construction of roadway improvements may be phased as development proceeds and funds accumulate. However, the ultimate interpretation of the policy's language is uncertain.

Policy 3.5.1.6.2. The General Plan calls for maintaining LOS E or better on all roadways. Several roadways are exempted. Policy 3.5.1.6.2 would require voter approval to exempt additional roadways.

Policy 3.2.1.5 would require findings that residential developments of 5 or more units comply with the new policies before approving such projects.

A "yes" vote is a vote in favor of adding the proposed policies to the El Dorado County General Plan.

A "no" vote is a vote against adding the proposed policies to the El Dorado County General Plan.

s/ Louis B. Green
County Counsel

