

**ORDINANCE NO. 20170302-077**

**AN ORDINANCE AMENDING TITLE 25 OF THE CITY CODE RELATING TO PROPORTIONALITY DETERMINATIONS AND TRANSPORTATION IMPROVEMENTS REQUIRED AS A CONDITION TO DEVELOPMENT APPROVAL.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** City Code Section 25-6-1 (*Definitions*) is amended to add the following new definitions and to renumber the remaining definitions accordingly:

- (10) **SITE IMPROVEMENT** means an improvement or facility for the primary use, operation, safety, or other benefit of a development for which the developer or property owner is solely responsible under applicable development regulations.
- (11) **SYSTEM IMPROVEMENT** means an improvement or facility that is not a site improvement.
- (12) **TRANSPORTATION PLAN** means the Austin Metropolitan Area Transportation Plan, or its successor plan, and other multi-modal transportation plans referenced in the Imagine Austin Comprehensive Plan, including the CAMPO Mobility Plan, Sidewalk Master Plan, Bicycle Plan, Urban Trails Plan, and adopted corridor plans.
- (13) **TRANSPORTATION SYSTEM** means an individual component of the overall transportation network designed for the movement of people and goods, including arterials and collector streets, sidewalks, trails, and other multi-modal transportation facilities identified in the Transportation Plan.

**PART 2.** City Code Chapter 25-6 (*Transportation*) is amended to amend the title of Article 2 (*Reservation and Dedication of Right-of-Way*) to read as follows:

**ARTICLE 2. [~~RESERVATION AND DEDICATION OF~~] TRANSPORTATION IMPROVEMENTS AND RIGHT-OF-WAY DEDICATION.**

**PART 3.** City Code Chapter 25-6 (*Transportation*) is amended to add a new Section 25-6-23 to read as follows:

**§ 25-6-23 PROPORTIONALITY OF REQUIRED INFRASTRUCTURE.**

- (A) If the City requires an applicant to dedicate right-of-way, construct or fund system transportation improvements, or dedicate right-of-way beyond the boundaries of a development, the applicant's costs may not exceed the amount required for infrastructure improvements that is roughly proportionate to the proposed development as determined by a professional engineer licensed under Chapter 1001, Occupations Code, and retained by the City.
- (B) The director shall issue a written determination of an applicant's roughly proportionate share of infrastructure costs attributable to a proposed development prior to approval of an application for which dedication or reservation of right-of-way or the construction or funding of system transportation improvements is required. A determination issued under this section:
- (1) need not be made to a mathematical certainty, but is intended to be used as a tool to fairly assess the roughly proportionate impacts of a development based on the level of transportation demand created by a proposed development relative to the capacity of existing public infrastructure;
  - (2) shall be completed in accordance with generally recognized and approved measurements, assumptions, procedures, formulas, and development principles; and
  - (3) shall state the roughly proportionate share to the property owner for the dedication and construction of transportation-related improvements necessary to ensure an effective and safe transportation system that is sufficient to accommodate the traffic generated by a proposed development.
- (C) If a proposed development is subject to a proportionality determination under this section, the director shall identify in writing all infrastructure improvements

required in conjunction with approval of the development application. The infrastructure improvements may include right-of-way dedication or reservation, the construction or funding of system improvements, or any combination thereof, in an amount not to exceed the total infrastructure costs attributable to the proposed development as established by the proportionality determination.

(D) To aid in making a proportionality determination and identifying required infrastructure improvements, the director may:

(1) adopt administrative guidelines establishing requirements for:

(a) conducting a traffic impact analysis and neighborhood traffic analysis under Article 3 (*Traffic Impact Analysis and Mitigation*); and

(b) funding or constructing system transportation improvements required under Section 25-6-101 (*Mitigation of Transportation Impacts*); and

(2) if an applicant contests the director's proportionality determination under this section, require an applicant to provide:

(a) a transportation impact analysis, regardless of whether one is required under Section 25-6-113 (*Traffic Impact Analysis Required*);

(b) a neighborhood traffic analysis, regardless of whether one is required under Section 25-6-114 (*Neighborhood Traffic Analysis Required*); or

(c) other information related to the traffic and safety impacts of a proposed development.

**PART 4.** City Code Section 25-6-51 (*Reservation of Right-of-Way*) and Section 25-6-55 (*Dedication of Right-of-Way*) are amended to read as follows:

**§ 25-6-51 RESERVATION OF RIGHT-OF-WAY.**

(A) The City may, as a condition to approval of a site plan or subdivision, require the reservation of [reserves] right-of-way that is reasonably likely to be acquired for public use consistent with this article. To be subject to

reservation, land must be located along a roadway designated in:

- (1) the Transportation Plan;
  - (2) an approved collector plan; or
  - (3) an established capital improvement project located in the planning jurisdiction of the City.
- (B) The extent and location of right-of-way reserved under Subsection (A) must conform to the Transportation Plan, approved collector plan, or capital improvement project.

**§ 25-6-55 DEDICATION OF RIGHT-OF-WAY.**

- (A) If the director [~~city manager~~] determines that dedication of [~~all or a portion of a~~] right-of-way is needed to accommodate the transportation system, the applicant may be required to dedicate the amount of land determined to be roughly proportionate to the development under Section 25-6-5 (Proportionality of Required Infrastructure) or a lesser amount, as determined by the director based on the adequacy of the transportation system.[:
- ~~(1) an amount of land not to exceed 150 feet for a roadway that is subject to reservation of right of way under Section 25-6-51 (Reservation Of Right-Of-Way) and that is internal to a proposed subdivision or development project; or~~
  - ~~(2) an amount of land not to exceed 50 percent of the total right of way requirement for an existing or proposed roadway that: (a) is subject to reservation of right of way under Section 25-6-51 (Reservation Of Right-Of-Way); and (b) adjoins a proposed subdivision or development project].~~
- (B) [~~An applicant may not be required to dedicate more than 75 feet of land under Subsection (A)(2)].~~
- ~~[(C) The director may require the dedication of right of way in an amount greater than established in Subsection (A):~~
- ~~(1) for a street that is not subject to reserved right of way and that does not comply with the standards in the Transportation Criteria Manual; or~~
  - ~~(2) if the additional right of way is necessary to accommodate traffic~~

~~generated by the proposed development.]~~

~~[(D)]~~ The director may defer the dedication of right-of-way required at one stage of the development process to a later stage. A person must comply with all dedication requirements before the release of the subsequent application.

~~[(E)]~~ ~~In addition to the dedication of right of way, the City may require the applicant to construct a roadway improvement or may assess a fee instead of requiring construction of a roadway improvement to offset the traffic effects generated by the proposed development.]~~

**PART 5.** City Code Chapter 25-6 (*Transportation*) is amended to amend the title of Article 3 (*Traffic Impact Analysis*) to read as follows:

**ARTICLE 3.      *TRAFFIC IMPACT ANALYSIS AND MITIGATION.***

**PART 6.** City Code Chapter 25-6, Article 3 (*Traffic Impact Analysis and Mitigation*) is amended to add a new Division 1 to read as follows and to renumber the remaining divisions accordingly:

***Division 1. – Transportation System Improvements***

**§ 25-6-101    MITIGATION OF TRANSPORTATION IMPACTS.**

(A) In addition to requiring dedication of right-of-way under Section 25-6-55 (*Dedication of Right-of-Way*), the director may require an applicant to construct or fund all or a portion of system improvements required to mitigate traffic impacts of a proposed development.

(B) If a proposed development does not require an impact analysis under Section 25-6-113 (*Traffic Impact Analysis Described*) or Section 25-6-114 (*Neighborhood Traffic Impact Analysis Described*), the director may condition approval of the application on construction or funding of system improvements as described in this subsection.

(1) System improvements are limited to:

- (a) sidewalks and curb ramps;
- (b) traffic signs, markings, and upgrades to signal infrastructure;
- (c) traffic calming devices;

- (d) bike lanes or upgrades to bike facilities;
  - (e) rectangular rapid flashing beacons;
  - (f) pedestrian refuge islands;
  - (g) pedestrian hybrid beacons;
  - (h) urban trail improvements;
  - (i) right-of-way dedications; and
  - (j) measures to limit transportation demand.
- (2) System improvements required under this section must be located:
- (a) within the boundaries of the development for which they are required; or
  - (b) no farther from the proposed development than:
    - (i) one-quarter mile; or
    - (ii) three-fourths of a mile, for an improvement required to provide access between the proposed development and a school, bus stop, public space, or major roadway as designated under the transportation plan.
- (C) If a proposed development requires a traffic impact analysis under Section 25-6-113 (*Traffic Impact Analysis*) or Section 25-6-114 (*Neighborhood Traffic Impact Analysis*), the director may require an applicant to construct or fund system improvements identified by the traffic impact analysis.
- (D) The total cost of system improvements required under this section may not exceed the lesser of:
- (1) the applicant's roughly proportionate share of infrastructure costs as established by the proportionality determination required under Section 25-6-23 (*Proportionality of Required Infrastructure*), less the cost of any right-of-way dedication required under Section 25-6-55 (*Dedication of Right-of-Way*); or
  - (2) the total cost of offsite transportation improvements identified in a traffic impact analysis approved by the director, whether or not the

analysis is required under Section 25-6-113 (*Traffic Impact Analysis Required*) or submitted by an applicant voluntarily.

**§ 25-6-102 FEE IN-LIEU OF SYSTEM IMPROVEMENTS.**

- (A) The director may allow an applicant to pay a fee in-lieu of constructing one or more transportation system improvements required under Section 25-6-101 (*Mitigation of Transportation Impacts*) or, at the director's discretion, to post fiscal surety in the amount of the required fee in-lieu. In determining whether to allow payment of a fee in-lieu or fiscal surety, or to require construction of system improvements, the director shall consider:
- (1) the applicant's roughly proportionate share of infrastructure costs, as determined under Section 25-6-23 (*Proportionality of Required Infrastructure*), relative to the cost of constructing one or more identified system improvements;
  - (2) future transportation improvements anticipated for the area through capital improvement projects or as a condition to the approval of other proposed developments; and
  - (3) the feasibility of constructing one or more identified system improvements by supplementing the amount collected through payment of a fee in-lieu with city funds.
- (B) A fee in-lieu collected under Subsection (A) of this section shall be placed in a dedicated fund and used solely for the purpose of constructing one or more system improvements identified under Section 25-6-23 (*Proportionality of Required Infrastructure*).
- (C) A fee in-lieu collected under this section shall be spent, consistent with the requirements of Subsection (B), within ten years from the date fee is paid to the City. The owner of a property for which a fee in-lieu was paid under this section may request a refund of any funds that remain unspent after the end of the ten-year period. A refund request under this section must be submitted in writing, on a form provided by the director.

**§ 25-6-103 TRANSPORTATION MITIGATION FOR S.M.A.R.T. HOUSING PROJECTS.**

- (A) This section reduces traffic mitigation required for certain projects participating in the City's S.M.A.R.T. Housing program established under City Code Chapter 25-1, Article 15, Division 2 (*S.M.A.R.T. Housing*).
- (B) If a S.M.A.R.T. housing development does not require an impact analysis under Section 25-6-113 (*Traffic Impact Analysis Described*) or Section 25-6-114 (*Neighborhood Traffic Impact Analysis Described*), the maximum cost of system improvements that may be required under Section 25-6-101(B) (*Mitigation of Transportation Impacts*) is reduced according to the following requirements:
- (1) If at least ten percent, but less than twenty percent, of the dwelling units are reasonably-priced, the maximum cost is reduced by the percentage of affordable units;
  - (2) If at least twenty percent, but less than fifty percent, of the dwelling units are reasonably-priced, the maximum cost is reduced by fifty percent; and
  - (3) If at least fifty percent of the dwelling units are reasonably-priced, no mitigation may be required.

**PART 7.** City Code Section 25-6-141 (*Action on Application*) is amended to read as follows:

**§ 25-6-141 ACTION ON APPLICATION.**

- (A) The council or director may deny an application if:
- (1) the results of a traffic impact analysis demonstrate that a proposed development may overburden the City's street system[-]; or
  - (2)
- ~~[(B) Except as provided in Subsection (C), the council or director shall deny an application if the traffic impact analysis or neighborhood traffic analysis demonstrates that:~~
- ~~[(+)] the projected traffic generated by the project, combined with existing traffic, exceeds the desirable operating level established in Section 25-6-~~



116 (*Desirable Operating Levels For Certain Streets*) on a residential local or collector street in the traffic impact analysis study area or the neighborhood traffic analysis study area[; or].

~~(2) the project endangers the public safety.]~~

~~(B)[(C)]~~ The council or director may approve an an [a-zoning] application [that would otherwise be denied under Subsection (B) of this section] if [the council determines that]:

~~[(1)]~~ the applicant has satisfactorily mitigated adverse traffic effects as required by this Title[; or

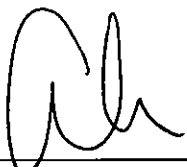
~~(2) the projected additional traffic from a project has an insignificant effect on a residential street].~~

**PART 8.** This ordinance takes effect on March 13, 2017.

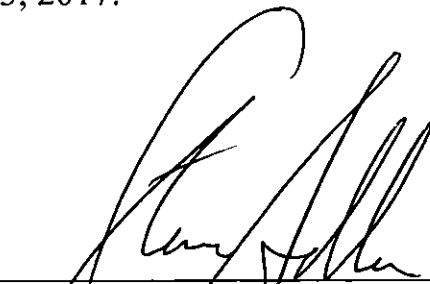
**PASSED AND APPROVED**

\_\_\_\_\_ March 2 \_\_\_\_\_, 2017


**APPROVED:**

  
\_\_\_\_\_  
Anne L. Morgan  
City Attorney

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\_\_\_\_\_  
Steve Adler  
Mayor

**ATTEST:**

  
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Jannette S. Goodall  
City Clerk