

**AN ORDINANCE AMENDING CITY CODE CHAPTER 25- 6
(TRANSPORTATION) ADDING A NEW ARTICLE 9 ESTABLISHING A
STREET IMPACT FEE PROGRAM**

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

PART 1. City Code Chapter 25-6 (Transportation) is amended to add a new Article 9 establishing a street impact fee program and to read as follows

ARTICLE 9. STREET IMPACT FEES

Division 1. - General Provisions.

§ 25-6-657 - APPLICABILITY.

This Article applies to development within the corporate boundaries of the City.

§ 25-6-658 – DEFINITION.

(A) In this Article:

- (1) **ASSESSMENT** means the amount of the maximum street impact fee per service unit imposed on new development.
- (2) **CAPITAL IMPROVEMENT** means a roadway facility with a life expectancy of at least three years, to be owned and operated by or on behalf of the City including a newly constructed roadway facility or the expansion of an existing roadway facility necessary to new development.
- (3) **DEVELOPMENT UNIT** is a measure of each land use used to determine number of service units. The development unit is identified in the Land-Use, Vehicle-Mile Equivalency Table.
- (4) **FINAL PLAT APPROVAL** means when the plat has been released by the City for filing with the County. This term applies to both original plats and replats.
- (5) **IMPACT FEE**, also known as “Street Impact Fee”, means a fee, charge, or assessment for roadway facilities imposed on new development by the City to recoup all or part of the costs of capital improvements or facility expansion necessitated by and attributable to such new development.
- (6) **LAND USE ASSUMPTIONS** mean a description of the service areas and the projections of population and employment growth and associated changes in land uses, densities and intensities adopted by the City.

- (7) LAND USE, VEHICLE-MILE EQUIVLENCY TABLE (“LUVMET”) are tables set forth in Street Impact Fee Study that provide the standardized measure of use of roadway facilities attributable to a new development, in terms of vehicle miles per development unit.
- (8) MAXIMUM STREET IMPACT FEE means the impact fee that is established for each service area. The maximum assessable street impact fee shall be established and reflected in Street Impact Fee Study.
- (9) NEW DEVELOPMENT means a project which requires either the approval of a plat or the issuance of a building permit.
- (10) OFFSET or OFFSETS means the amount of the reduction of an impact fee to reflect the value of any construction of, contributions to, or dedications of a system facility identified on the roadway capacity plan.
- (11) RECOUP means to reimburse the City for capital improvements which the city has previously installed or caused to be installed.
- (12) ROADWAY CAPACITY PLAN (“RCP”) identifies the capital improvements or roadway facility expansions and associated costs for each service area that are necessitated by and which are attributable to new development within the service area, for up to ten years.
- (13) ROADWAY FACILITY means an improvement or appurtenance to a street.
- (14) SERVICE AREA(S) means the geographic area(s) within the City's corporate limits and within which geographic area(s) street impact fees for capital improvements will be collected for new development.
- (15) SERVICE UNIT or Vehicle Mile means one vehicle mile of travel in the afternoon peak hour of traffic.

§ 25-6-659 - ADOPTIONS BY SEPARATE ORDINANCE.

The Street Impact Fee Study including land use assumptions, designation of the Street Impact Fee service areas, capacity improvement plan, and the vehicle-mile equivalency table shall be adopted by separate ordinance.

§ 25-6-660 - ACCOUNTS.

- (A) The Manager will establish accounting controls to ensure compliance with Section 395.024 of the Texas Local Government Code.
- (B) The Manager will establish separate interest-bearing accounts for impact fees collected for each street impact fee service area.
- (C) Funds may be disbursed as reasonably necessary to carry out the purposes of this Article within a reasonable period, but not to exceed 10 years from the date the fee is deposited into the account.

- (D) The Manager will keep financial records for street impact fees showing the source and disbursement of all fees collected in or expended from each service area:
- (1) the street impact fees collected may be used to finance, pay for, or recoup the costs of any roadway facility identified in the roadway capacity plan for the service area;
 - (2) street impact fees may be used to pay for the contract services of an independent qualified engineer or financial consultant; or
 - (3) Street impact fees may be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such capital improvements.
- (E) A street impact fee, or portion thereof, which has not been expended within ten years from the date of payment may be refunded, upon application, to the record owner of the property, at the time of application, or governmental entity that paid the original street impact fee:
- (1) the refund shall include interest calculated from the date of collection to the date of refund at the statutory rate; and
 - (2) the application for refund must be written and submitted to the City within 60 days after the expiration of the ten-year period for expenditure of the fee.

Division 2. – Fee Established.

§ 25-6-661. - ASSESSMENT AND COLLECTION OF IMPACT FEES AUTHORIZED.

The Manager shall collect the street impact fee on new development in accordance with this Article and Chapter 395 of the Texas Local Government Code.

§ 25-6-662. - ASSESSMENT OF STREET IMPACT FEES.

- (A) For a new development which has received final plat approval before August 10, 2020, assessment of impact fees shall occur on August 10, 2020.
- (B) If the new development has not yet received final plat approval, then the assessment shall occur at the time of final plat approval.
- (C) All assessments of street impact fees shall be the amount of the maximum street impact fee per service unit as set forth in adopted Street Impact Fee Study in effect.
- (D) The assessment of a street impact fee to new development shall be considered the written determination of an applicant's share of infrastructure costs as required under City Code Section 25-6-23. The amount of street impact fees assessed may be used in evaluating any claim by an applicant that the infrastructure improvements required in conjunction with approval of the development application is not roughly proportionate to the proposed development.

§ 25-6-663 - AMOUNT OF FEE: COLLECTION RATE.

- (A) The amount of the impact fee to be assessed for each service unit and the amount of the impact fee to be collected for each service unit shall be set by separate ordinance.
- (B) A street impact fee shall not be collected on any application for new development before August 10, 2021.
- (C) Except as provided in Subsection (B), street impact fees shall be collected before the issuance of a building permit. The Manager may enter into an agreement with a developer for a different time and manner of payment of street impact fees.

§ 25-6-664 - COMPUTATION OF IMPACT FEES TO BE COLLECTED.

- (A) The City shall compute the amount of street impact fees to be paid and collected for new development in the following manner:
 - (1) determine the number of development units for each land use category using the LUVMET then in effect;
 - (2) multiply the number of development units for each land use category in the new development by the service unit for each corresponding land use category in the LUVMET to determine the number of service units attributable to the new development; and
 - (3) multiply the number of service units for the new development by the street impact fee per service unit for the applicable service area and applicable land use.
- (B) If an agreement as described in City Code Section 25-6-667 (*Offsets Against Street Impact Fees*) providing for offsets exists, the amount of the offsets shall be deducted from the street impact fees as calculated above.
- (C) If the property owner proposes to increase the number of service units for a development that has already paid a street impact fee, the additional street impact fees collected for such new service units shall be determined by using the LUVMET.
- (D) Any additional fees shall be measured by the increase in the number of service units proposed from the number of service units from the preceding land use within the last five years.
- (E) If a building permit application is for a “shell” or speculative building, the amount of the street impact fee will be calculated assuming that the entire building will be used as either “General Office”, “Light Industrial”, or “Shopping Center” as shown in the LUVMET. When a subsequent application for a building permit is submitted, an additional street impact fee shall be calculated if the proposed use results in an increase of service units.

Division 3. – Determination of Service Units.

§ 25-6-665 – ALTERNATIVE CALCULATION OF SERVICE UNITS.

If an equivalent land use is not found in the LUVMET for the proposed development, an applicant may submit an alternative service unit computation, based upon a trip generation study as defined by the Institute of Transportation Engineers. If acceptable, the City may use the alternative service unit computation to calculate the street impact fee.

Division 4. – Reductions and Offsets.

§ 25-6-666 - REDUCTION ON COLLECTION OF STREET IMPACT FEES.

- (A) An applicant may request that the amount of street impact fees be reduced if the proposed new development meets the criteria for a reduction as authorized in this Section.
- (B) The amount of street impacts fees may be reduced by up to 20% for any new development where an accepted analysis demonstrates internal capture of a development will reduce vehicle trips from those contained in the adopted LUVMET.
- (C) The amount of street impacts fees may be reduced by up to 40% for any new development that utilizes an accepted transportation demand management plan.
- (D) New development will qualify for additional reductions if:
 - (1) The development has entered into an agreement with the City to provide for affordable housing for at least fifteen years;
 - (2) The developer has provided a letter from NHCD certifying the affordability levels and period of affordability; and
 - (3) The development is utilizing transportation demand management approved by the director.
- (E) If a development qualifies under Subsection (D), the amount of street impact fees can be reduced by the following percentages:
 - (1) The percentage will be the equivalent of affordable units being provided if the new development is proposing at least 10 percent, but less than 20 percent, of the dwelling units are affordable;

- (2) Fifty percent if the new development is proposing at least 20 percent, but less than 50 percent, of the dwelling units are affordable; or
 - (3) One hundred percent if the new development is proposing at least 50 percent of the dwelling units are affordable.
- (F) For existing residential land uses that add up to three additional dwelling units, an 100% reduction will be received if no additional parking is added.
- (G) Existing occupied buildings whose building is not being demolished and the total square footage is modified by less than 1,000 additional square feet will receive an 100% reduction for the original square footage and expansion of up to 1,000 square feet.
- (H) The reductions authorized under this section are cumulative so that a development that qualifies for the maximum reduction under each provision may reduce the amount of street impact fees due up to one hundred percent.

§ 25-6-667 - OFFSETS AGAINST STREET IMPACT FEES.

- (A) The City may offset the improvements or funding for construction of any system facility included on the roadway capacity plan that is required or agreed to by the City, pursuant to rules established in this section and administrative guidelines:
- (1) the roadway facility shall be associated with the plat or other detailed plan of development for the property that is to be served by the roadway facility; no offset shall be given for the dedication or construction of site-related facilities;
 - (2) no offset shall be given for a roadway facility which is not identified within the roadway capacity plan, unless the facility qualifies for inclusion on the roadway capacity plan;
 - (3) the City's cost participation in the construction of a system facility on the roadway capacity plan shall not be considered an offset;
 - (4) no offsets shall be granted for the dedication of rights-of-way and easements as required by this Chapter;
 - (5) construction of capital improvements must be completed and accepted by the City in order to qualify as an offset with the following limitations:

- (a) construction that occurred before August 10, 2020 will only be qualify as an offset until August 10, 2030;
 - (b) construction that begins after August 10, 2020 will qualify as an offset for ten years from the date the improvement is completed and accepted by the City unless the applicant requests an extension.
- (B) Before street impact fees can be reduced by offsets authorized under this section, the owner of the property shall enter into an agreement with the City determining the allocation of the offsets. Unless the agreement specifies otherwise, an offset associated with a plat shall be applied when the first building permit is submitted and to each subsequent building permit application to reduce street impact fees due until the amount associated with offset is exhausted.
- (C) For multi-phased projects, the City may require that total offsets be proportionally allocated among phases within the project.