

**ORDINANCE NO. 20201210-062**

**AN ORDINANCE AMENDING CITY CODE CHAPTER 25- 6 ESTABLISHING A STREET IMPACT FEE PROGRAM.**

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

**PART 1. FINDINGS.**

The City Council makes the following findings in support of this ordinance:

- (1) Texas Local Government Code Chapter 395 (“Chapter 395”) authorizes the City to offset the impacts of new development on the City’s roadway network by imposing street impact fees by service area within city limits.
- (2) The City has adopted land use assumptions by service area that project anticipated residential and employment growth from new development within each delineated service area over a ten-year period, in accordance with the methodology prescribed by Chapter 395.
- (3) The City has prepared and adopted a roadway capacity plan that identifies capital improvements necessary to serve new development within each service area over a ten-year period, in accordance with the methodology prescribed by Chapter 395.
- (4) The City has prepared and adopted a Transportation Plan that addresses all transportation needs within the City and that contains strategies for reducing the need for new capital improvements for the roadway system in the future by shifting demand to other modes of transportation.
- (5) The Transportation Plan contains strategies for funding transportation needs.
- (6) Street impact fees for a new development are calculated according to the trip generation rate and trip length for the new development.
- (7) Street impact fees for a new development are calculated according to the standardized trip generation rate and trip length within the service area for the new development.
- (8) Overall vehicular demand for roadway improvements generated by a new development can be reduced from that projected in the roadway capacity plan

by employing transportation demand management strategies recognized by the professional transportation engineering and planning fields.

- (9) It is appropriate to reduce street impact fees for applied measures that result in reduction in overall vehicular demand for a new development.
- (10) The strategies for reduction in overall vehicular demand from a new development include the following:
  - (a) internal trip capture resulting from mixed land uses within a new development;
  - (b) proximity of a development to existing and planned transit facilities that facilitate use of transit as an alternative to vehicular transportation; and
  - (c) reduction in the number of parking spaces and other parking management techniques within a new development that discourage demand for vehicular travel to and from such new development.
- (11) The amount of the reduction of vehicular demand from such strategies can be quantified based on transportation studies in other communities.
- (12) The City has a transportation criteria manual that provides methodology for the reduction in vehicular demand for a new development.
- (13) It is anticipated that the manual shall be updated in advance of the collection of any street impact fee for a new development.
- (14) It is appropriate to apply the reduction in overall vehicular demand from a new development, as calculated in accordance with the methodology prescribed in the manual, against street impact fees otherwise due.
- (15) The maximum assessable street impact fee for a new development, reduced by any applicable strategies for lessening overall vehicular demand, is a reasonable measure for quantifying the demand for roadway improvements created by the new development for purposes of determining rough proportionality.
- (16) Chapter 395 provides for reduction or waiver of street impact fees for certain affordable housing units.

- (17) It is appropriate to waive street impact fees for such affordable housing units that qualify under the provisions of Chapter 395.

**PART 2.** City Code Chapter 25-6 (*Transportation*) is amended to add a new Article 9 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 DEFINITIONS.**

(A) In this article:

- (1) **ASSESSMENT** means 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) **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.
- (6) **LAND USE, VEHICLE-MILE EQUIVALENCY TABLE** or **LUVMET** means the table set forth in the street impact fee study that provides the standardized measure of use of roadway facilities attributable to a new development, in terms of vehicle miles per development unit.

- (7) **INSIDE LOOP SERVICE AREAS** means those service areas located within the highway boundaries of SH 71, US 183 and SL 360.
- (8) **MAXIMUM STREET IMPACT FEE** means the street impact fee that is established for each service area. The maximum assessable street impact fee shall be established and reflected in the 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** means the amount of the reduction of a street impact fee to reflect the value of any construction of or contributions to a system facility, or dedications of an offsite system facility, and which are identified on or eligible for inclusion in the roadway capacity plan.
- (11) **OUTSIDE LOOP SERVICE AREAS** means those service areas located outside the highway boundaries of SH 71, US 183 and SL 360.
- (12) **RECOUP** means to reimburse the City for capital improvements which the City has previously installed or caused to be installed.
- (13) **ROADWAY CAPACITY PLAN** or RCP means 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.
- (14) **ROADWAY FACILITY** means an improvement or appurtenance to a street.
- (15) **SERVICE AREA** means the geographic area within the City's corporate limits and within the geographic area street impact fees for capital improvements will be collected for new development.
- (16) **SERVICE UNIT** means one vehicle mile of travel in the afternoon peak hour of traffic.
- (17) **SITE RELATED FACILITY** means a site improvement, as defined in Section 25-6-1 (*Definitions*).
- (18) **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.

- (19) STREET IMPACT FEE STUDY means the study that includes the land use assumptions, designation of street impact fee services areas, roadway capacity plan, the vehicle-mile equivalency table, and the computation of maximum street impact fees per service unit for each service area.
- (20) SYSTEM FACILITY means a system improvement, as defined in Section 25-6-1 (*Definitions*).

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

The street impact fee study shall be adopted by separate ordinance.

**§ 25-6-660 ACCOUNTS.**

- (A) The city manager shall establish accounting controls to ensure compliance with Section 395.024 of the Texas Local Government Code.
- (B) The city manager shall establish separate interest-bearing accounts for street 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 street impact fee is deposited into the account.
- (D) The city manager will keep financial records for street impact fees showing the source and disbursement of all street impact fees collected in or expended from each service area.
- (E) The street impact fees collected may be used to:
  - (1) finance, pay for, or recoup the costs of any roadway facility identified in the roadway capacity plan for the service area;
  - (2) pay for the contract services of an independent qualified engineer or financial consultant; or

- (3) 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.
- (F) After ten years have passed from the date of payment of a street impact fee, the record owner of the property or governmental entity that paid the original street impact fee may apply for a proportional refund of any street impact fees that have not been expended within the service area within such period. Street impact fees shall be considered expended on a first in, first out basis. The application for a refund must be submitted to the City within 60 days after the expiration of the ten-year period. The refund shall include interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Texas Finance Code Section 302.002, or its successor statute.

Division 2. Fee Established.

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

The city 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) Assessment of the street impact fee for any new development shall occur:
- (1) on December 21, 2020, if the final plat approval occurred before December 21, 2020;
  - (2) at the time of final plat approval if the development has not received plat approval; or
  - (3) at the time an application is submitted for a building permit for development that is exempted from platting under Section 25-4-2 (*Exemption from Platting Requirements*).
- (B) For a development that has been assessed a street impact fee under Section 25-6-662(A)(1), the street impact fee shall be reassessed if the owner submits a new application for plat approval.

- (C) An application for an amended plat shall not be subject to reassessment for an impact fee.
- (D) 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.
- (E) The amount of the maximum street impact fee for a new development, less any applicable percentage reduction in fees attributable to internal recapture, transit proximity, or parking management techniques under Section 25-6-667 (*Mobility Related Reductions*), may be considered by the director's designated engineer as an appropriate measure of the new development's demand for roadway system facilities under Section 25-6-23 (*Proportionality of Required Infrastructure*). 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 are not roughly proportionate to the proposed development. To the extent that the street impact fee collected from a new development is less than the maximum impact fee per service unit, except for reductions under Section 25-6-667 (*Mobility Related Reductions*), such difference hereby is declared to be founded on policies unrelated to measurement of the impacts of the new development on the City's roadway system.

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

- (A) The amount of the street impact fee to be assessed for each service unit and the amount of the street impact fee to be collected for each service unit shall be set by separate ordinance. The street impact fee to be collected may be increased by ordinance prior to the next scheduled street impact fee update without amending the street impact fee study, provided that the impact fee to be collected does not exceed the street impact fee that was assessed.
- (B) A street impact fee shall be collected at the time of the issuance of a building permit.
- (C) The city 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.
  - (3) Multiply the number of service units for the new development by the street impact fee per service unit to be collected for the applicable service area and applicable land use.
- (B) If an agreement as described in City Code Section 25-6-669 (*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 applicant 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 street impact 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 speculative building, the amount of the street impact fee shall 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. The director 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) The City may reduce the amount of street impact fees assessed if the new development qualifies for and the applicant requests a reduction under Sections 25-6-667 (*Mobility Related Reductions*) or 25-6-668 (*Affordability Related Reductions*). The burden of qualifying for a reduction is on the applicant.
- (B) New 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 MOBILITY RELATED REDUCTIONS.**

- (A) For new developments with an accepted transportation analysis demonstrating that the internal capture will reduce the number of trips from the trip counts calculated from the adopted LUVMET, the amount of street impact fees shall be reduced according to the following table:

Trip Capture	Street Impact Fee Reduction
5% - 9%	5%
10% - 14%	10%
15% - 19%	15%
20% or greater	20%

- (B) The amount of street impact fees may be reduced by up to the maximums shown in the table below for any new development that utilizes an accepted transportation demand management plan per the Transportation Criteria Manual.

TDM Category	Service Area DT OR UNO District	Service Areas F, I, J, L, parts of K	All other Service Areas
Transit Proximity	20%	10%	5%
Parking	20%	10%	5%

**§ 25-6-668 AFFORDABILITY RELATED REDUCTIONS.**

- (A) An applicant who complies with the requirements of this section may request a 100 percent reduction of the street impact fee for all service units that meet the requirements in Subsection (B).
- (B) To be eligible for a reduction under this section, affordable housing must be a housing unit located within the corporate limits of the City that is:
  - (1) approved for local, state, or federal funding for affordable housing as verified by the director of the Housing and Planning Department; or
  - (2) certified by the director of the Housing and Planning Department under another affordable housing program of City Code that meets the requirements of this section.
- (C) To retain a reduction under this section, a unit of affordable housing must comply with the requirements of this subsection.
  - (1) A rental unit must be available for occupancy for a period of not less than 40 years by an occupant whose gross household income does not exceed 60 percent of the median family income for the Austin Metropolitan Statistical Area.
  - (2) An owner-occupied unit must be available for occupancy for a period of not less than 99 years by an occupant whose gross household income does not exceed 80 percent of the median family income for the Austin Metropolitan Statistical Area.
  - (3) An affordability period prescribed by this subsection begins on the date that an affordable unit is available for occupancy.
- (D) An applicant who requests a reduction under this section must submit an application to the director of the Housing and Planning Department demonstrating compliance.
- (E) If the director of the Housing and Planning Department certifies that a proposed development meets the requirements of this division, the accountable official is authorized to process a development application.

- (F) Before the director of the Housing and Planning Department may certify that a proposed development meets the requirements of this section, the applicant shall execute:
- (1) an agreement to preserve the minimum affordability period and related requirements imposed by this division; and
  - (2) a document for recording in the real property records that provides notice of or preserves the minimum affordability requirements imposed by this division.
  - (3) The form of the documents described in this section must be approved by the city attorney.
- (G) If an applicant who receives a reduction under this section does not comply with Subsection (B), defaults on its obligations under documents executed under Subsection (C), or does not perform in accordance with the conditions for receipt of the reduction, the City may initiate legal proceedings to recover the street impact fees that would have applied to the housing unit and damages.
- (H) A reduction under this section may not be assigned or transferred by the applicant to another property.

**§ 25-6-669 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 under 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.
  - (2) No offset shall be given for the dedication, funding, or construction of site-related facilities.
  - (3) No offset shall be given for a roadway facility which is not identified within the roadway capacity plan unless the system facility qualifies for inclusion on the roadway capacity plan and is incorporated within an allocation agreement with the City under Subsection (D).

- (4) The value of any offset for a system facility shall be reduced by the City's cost participation in the construction or funding of such facility.
  - (5) If the amount of the offsets for a new development exceeds the total amount of street impact fees due for the development, the remaining amount of the offsets may not be transferred or assigned to other new developments for which street impact fees are due, nor is the City responsible for reimbursing the property owner for such remaining amount, unless an allocation agreement under Subsection (D) expressly so provides.
- (B) No offsets shall be granted for the on-site dedication of rights-of-way or easements required by this chapter. On-site dedication of rights-of-way or easements for roadway system facilities may be considered in determining the development's share of roadway infrastructure improvement costs under Section 25-6-23 (*Proportionality of Required Infrastructure*).
- (C) Construction of capital improvements must be completed and accepted by the City in order to qualify as an offset with the following limitations:
- (1) Construction completed and accepted before December 21, 2020, will only qualify as an offset until December 21, 2030.
  - (2) Construction that begins after December 21, 2020, will qualify as an offset for ten years from the date the improvement is completed and accepted by the City unless the applicant is granted an extension.
- (D) 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 allocation 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 the offset is exhausted.
- (E) Master planned projects, including subdivisions containing multiple phases, whether approved before or after the effective date of the street impact fee regulations, may apply for offsets against street impact fees for the entire project based upon improvements or funds toward construction of system facilities. For projects where development has already occurred, the amount of any offset shall be reduced by the value attributable to any service units for which a building permit has been issued prior to one year from the effective date of this article. Offsets

shall be spent within the same service area using a methodology approved by the City and incorporated within an agreement under Subsection (D).

- (F) For new development that consists of multiple phases, the City may require that total offsets be proportionally allocated among phases within the new development.

**§ 25-6-670 APPEAL.**

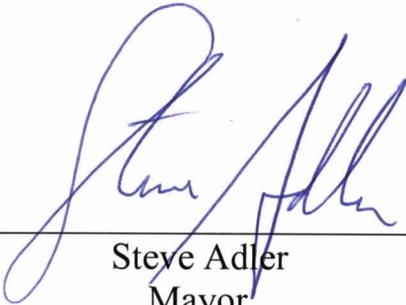
- (A) The property owner or applicant for a new development may appeal the following administrative decisions to the Land Use Commission:
  - (1) The applicability of a street impact fee to the development;
  - (2) The amount of the street impact fee due;
  - (3) The availability of, the amount of, or the expiration of an offset;
  - (4) The application of an offset against a street impact fee due;
  - (5) The amount of a refund due, if any; or
  - (6) The availability of a reduction against the collection of street impact fees.
- (B) Before a public hearing is scheduled for Land Use Commission consideration, the property owner or applicant must meet with the director to discuss and attempt to resolve the issues raised by an appeal of an administrative decision.
- (C) The property owner or applicant may appeal a Land Use Commission action on an administrative decision to Council.

**PART 3.** This ordinance takes effect on December 21, 2020.

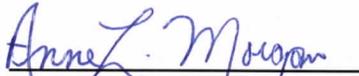
**PASSED AND APPROVED**

December 10, 2020

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Steve Adler  
Mayor

**APPROVED:**   
Anne L. Morgan  
City Attorney

*by  
JThomas*

**ATTEST:**   
Jannette S. Goodall  
City Clerk