

**Section XX. (X)**

**Transportation Impact Fees**

**A. Short title and applicability.**

1. This section may be known and cited as the "Transportation Impact Fee Ordinance," and is referred to herein as "this section."
2. The provisions of this section shall apply to all of the territory within the City of Baton Rouge and the unincorporated area of East Baton Rouge Parish.

**B. Intent.**

1. The intent of this section is to ensure that impact-generating development bears a proportionate share of the cost of improvements to the City-Parish's major roadway facilities; to ensure that the proportionate share does not exceed the cost of providing facilities to the development that paid the fee; and to ensure that funds collected from impact-generating development are actually used to construct system improvements that serve such development. It is further the intent of this section to use impact fees to implement the City-Parish's Horizon Plan and Major Street Plan.
2. It is not the intent of this section to collect any money from any impact-generating development in excess of the actual amount necessary to offset demands generated by that development for improvements for which the fee was paid.

**C. Findings.**

1. The protection of the health, safety, and general welfare of the citizens of the City-Parish requires that major roadway facilities of the City-Parish be expanded and improved to meet the demands of new development.
2. The creation of an equitable impact fee system would enable the City-Parish to impose a more proportionate share of the costs of required improvements to major roadway facilities on those developments that create the need.
3. The impact fee study sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the City-Parish's major roadway facilities.
4. The impact fees described in this section are based on the impact fee study, and do not exceed the costs of improvements required to serve the development that will pay the fees.
5. There is both a rational nexus and a rough proportionality between the development impacts created by each type of new development covered by this section and the impact fees that such development will be required to pay.
6. This section creates a system by which transportation impact fees paid by impact-generating development will be used to expand major roadway

facilities, so that the development that pays each fee will receive a corresponding benefit within a reasonable period of time after the fee is paid.

**D. Definitions.**

For the purpose of interpreting this section, certain terms used herein are defined as follows:

*Non-Vehicular Use Floor Area:* The gross floor area of a building, excluding vehicle parking garages and accessory or commercial vehicular parking areas and structures.

*Impact Fee Administrator:* The City-Parish employee primarily responsible for administering the provisions of this section, or his or her designee (Chief Traffic Engineer).

*Impact Fees:* Transportation impact fees.

*Impact-Generating Development:* Any land development designed or intended to permit a use of the land that will increase the number of service units/trips generated.

*Impact-Generating Development, Commencement of:* Occurs upon the application for a building permit for new construction or redevelopment. In the event that a building permit is not required, commencement occurs at the time of issuance of any other type of development permit. In the event that no development permit is required, commencement occurs when the impact-generating development opens for business or goes into use.

*Major Roadway Facilities:* Arterials and collectors, including State roads, but excluding Federal highways and interstates, located within the City-Parish.

*Offsite Improvements:* Improvements which are deemed necessary to mitigate the traffic impact of a site. These would include, but not limited to, left turn lanes, deceleration lanes and traffic signals. These shall be the responsibility of the developer; however, those costs would offset the calculated traffic impact fee. Should those costs be greater than the calculated impact fee, there should be no credit. Should the offsite improvements cost less than the calculated impact fees, that balance shall be paid by the developer.

*Onsite Improvements:* Improvements which are onsite or contiguous to the development and are required and utilized 100% by the Development. This would include, but not be limited to, right turn lanes and deceleration lanes into the development. Onsite improvements shall be the responsibility of the Developer.

*Transportation System Improvements:* Improvements that expand the capacity of major roadway facilities, including but not limited to the acquisition of right-of-way, construction of new roads, widening of existing roads, intersection improvements, and installation of traffic signals. Lane reconstruction, sidewalk construction, medians, landscaping, street lighting and other ancillary components of a capacity-expanding road improvement shall not be considered system improvements when not an integral part of a capacity-expanding improvement.

*Impact Fee Study: The Duncan and Associates Transportation Impact Fee Study* accepted by the City-Parish in 2006 and updated in 2007.

*System Improvements:* Transportation system improvements.

**E. Time of fee obligation and payment.**

1. On and after the effective date of this section, any person who causes the commencement of impact-generating development shall be obligated at that time to pay impact fees, pursuant to the terms of this section. The obligation to pay the impact fees shall run with the land.
2. The transportation impact fees shall be determined and paid prior to commencement of impact-generating development. In all instances, the fee shall be paid prior to the issuance of the final building permit or, if no building permit is required, prior to the issuance of the occupancy permit.
3. In the case of redevelopment as defined in the Ordinance, the traffic impact fee shall be paid prior to the issuance of the final building permit/occupancy.
4. Failure to pay any required traffic impact fee, in addition to any other remedy provided by law shall subject the applicant, owner, occupant, developer, and or builder to the issuance of a stop work order, revocation of any building and/or occupancy permits and termination of utility service for the traffic generating site.

**F. Exemptions.**

The following shall be exempt from the terms of this section. An exemption must be claimed prior to the commencement of an impact-generating development.

1. Alterations of an existing single-family detached dwelling unit where no additional dwelling units are created.
2. Replacement of a destroyed, partially destroyed or moved residential building or structure with a new building or structure of the same use, and with the same number of dwelling units and with a total non-vehicular use floor area that does not exceed the size of the original building or structure.
3. Replacement of destroyed, partially destroyed or moved nonresidential building or structure with a new building or structure of the same use and not exceeding the non-vehicular use floor area of the original building or structure unless it was been vacant for more than five (5) years.
4. Any development for which a completed application for a building permit was submitted prior to the effective date of this section, provided that the construction proceeds according to the provisions of the permit and the permit does not expire prior to the completion of the construction.
5. The impact fee administrator shall determine the validity of any claim for exemption pursuant to the criteria set forth in this section.

6. In order to promote the economic development of the City-Parish or the public health, safety, and general welfare of its residents, the City-Parish may agree to pay some or all of the impact fees imposed on a proposed development or redevelopment from other funds of the City-Parish that are not restricted to other uses. Any such decision to pay impact fees on behalf of an applicant shall be at the discretion of the City-Parish and shall be made pursuant to goals and objectives articulated by the City-Parish.

**G. Fee determination.**



1. Any person who commences an impact-generating development, except those exempted or preparing an independent fee calculation study, shall pay transportation impact fees in accordance with the attached fee schedule.
2. Impact fees due and payable shall be net of any approved offsets available pursuant to Section XX.(K), Pre-ordinance offsets. It shall be the responsibility of the applicant to claim offsets prior to payment of the impact fees. Any offsets not claimed shall be deemed waived.
3. If the type of impact-generating development is not specified on the above schedule, the impact fee administrator shall determine the fee on the basis of the fee applicable to the most nearly comparable type of land use on the fee schedule. The impact fee administrator shall be guided in the selection of a comparable type of land use by trip generation rates contained in the most current edition of the report titled *Trip Generation*, prepared by the Institute of Transportation Engineers (ITE), or articles or reports appearing in the ITE Journal. If the impact fee administrator determines that the proposed use is not comparable to any use listed in the fee schedule, the impact fee administrator may initiate an independent fee calculation study via existing staff or by contract.
4. In general, impact fees shall be paid based on the principal use of a building or lot. For example, a warehouse that contained a small administrative office would be assessed at the warehouse rate for all of the square footage. Shopping centers are assessed at the retail/commercial rate, regardless of the type of tenants. For a true mixed-use development, such as one that includes both residential and nonresidential development, the fee shall be determined by adding up the fees that would be payable for each use as if it was a free-standing land use type pursuant to the fee schedule.
6. If the type of impact-generating development is for a change of land use type or for the expansion, redevelopment, or modification of an existing development, the fee shall be based on the net increase in the fee for the new land use type as compared to the previous land use type.

7. In the event that the proposed change of land use type, redevelopment, or modification results in a net decrease in the fee for the new use or development as compared to the previous use or development, there shall be no refund of impact fees previously paid.
8. Square feet in the fee schedule refers to non-vehicular use floor area as herein defined.

**I. Use of fees.**

1. A transportation impact fee fund that is distinct from the general fund of the City-Parish is hereby created, and the impact fees received will be deposited in the impact fee fund.
2. All of the impact fee revenues collected within each benefit zone shall be placed in the corresponding account and spent on improvements located within the same benefit zone.
3. Each account shall contain only those impact fees collected pursuant to this section plus any interest that may accrue from time to time on such amounts. Any accrued interest shall be subject to the same restrictions as other funds in the account.
4. Monies in each impact fee account shall be considered to be spent in the order collected or accrued, on a first-in/first-out basis.
5. The monies in each impact fee account shall be used only for the following:
  - (a) To acquire or construct transportation system improvements;
  - (b) To pay debt service on any portion of any current or future general obligation bond or revenue bond that was used to create transportation system improvements that will be available to serve development occurring after the effective date of this section;
  - (c) As described in Section XX.(J), Post-Ordinance Reimbursements.
6. The monies in each impact fee account shall not be used for the following:
  - (a) Rehabilitation, reconstruction, replacement or maintenance of existing major roadway facilities or)
  - (b) Ongoing operational costs

**J. Post-ordinance reimbursements.**

1. Credit for reimbursements from impact fees collected by the City-Parish shall be provided for contributions toward the cost of transportation system improvements.
  - (a) Approved credits shall generally become effective when the improvements have been completed and have been accepted by the City-Parish.

- (b) No credit will be applied to the transportation impact fee for improvements to major roadway facilities that primarily serve traffic generated by the applicant's project, such as acceleration/deceleration lanes into and out of the project.
  - (c) Approved credits for land dedication shall become effective when the land has been conveyed to the City-Parish and has been accepted by the City-Parish.
2. In order to receive credit for system improvements, the developer shall submit complete engineering drawings, specifications, and construction cost estimates or property appraisals to the impact fee administrator. The impact fee administrator shall determine the amount of credit due based on the information submitted, or where such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the impact fee administrator. The impact fee administrator may independently determine the amount of credit to be approved for land dedication by securing other property appraisals.
  3. To qualify for an impact fee reimbursement credit, the developer must enter into an agreement with the City-Parish. At a minimum, the developer agreement shall specify the amount of the credit, and within how many years the developer will be reimbursed from impact fees collected by the City-Parish, assuming adequate funds are available for such repayment.
  4. The City-Parish will allocate a maximum of twenty-five (25) percent of annual impact fees collected to reimburse developers for eligible improvement credits. If the amount allocated for reimbursements is not sufficient to make all payments due to developers for that year, each developer will receive a pro rata share of the amount owed, and the unpaid amount will added to the amount owed for the following year. If less than twenty-five (25) percent of annual impact fee collections are required for reimbursements in any given year, the remainder may be used for project expenditures.

**K. Pre-ordinance offsets.**

1. Owners of property for which transportation system improvements were made prior to the effective date of this section may apply for an offset against impact fees. Offsets may be used to reduce the amount of impact fees due from the property on a dollar-for-dollar basis.
2. Application for such offsets must be made, on forms provide by the City-Parish, within one (1) year after the effective date of this section.
3. In the event that the impact-generating development for which the offset is claimed is partially completed, the amount of the offset shall be reduced by the amount of the impact fees that would have been charged for the completed portion of the development had this section been in effect. In the event that the impact-generating development project has been fully completed, no offset shall be authorized.
4. If some offset is warranted, the amount of the offset shall be determined by the impact fee administrator based on the information supplied by the

property owner. The amount of the offset shall be equal to the cost of the improvement, the fair market value of the land dedicated or the amount of the payment, inflated to present value.

5. The offset shall be applied against the impact fees due for impact-generating development on the property until the amount of the offset is exhausted or the development project for which the capital contribution was made is completed. In no case shall any offset be transferred from the development project for which the capital contribution was made.

**L. Miscellaneous provisions.**

1. Nothing in this section shall restrict the City-Parish from requiring the construction of reasonable project improvements required to serve the development project, whether or not such improvement are of a type for which credits are available under Section XX(J), Post-Ordinance Reimbursements.
2. The impact fee administrator shall maintain accurate records of the impact fees paid, including the name of the person paying such fees, the project for which the fees were paid, the date of payment of each fee, the amounts received in payment for each fee, and any other matters that the City-Parish deems appropriate or necessary to the accurate accounting of such fees. Records shall be available for review by the public during normal business hours and with reasonable advance notice.
3. Annually, the Director of Public Works shall present to the City-Parish Administration a proposed capital improvements program that shall assign monies from each impact fee fund to specific projects and related expenses for eligible improvements of the type for which the fees in that fund were paid. Any monies, including any accrued interest, not assigned to specific projects within such capital improvements program and not expended pursuant to Section XX.(J), Post-Ordinance Reimbursements, shall be retained in the same impact fee fund until the next fiscal year.
4. If an impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated.
  - (a) Any amounts overpaid by an applicant shall be refunded by the impact fee administrator to the applicant within thirty (30) days after the acceptance of the recalculated amount, with interest since the date of such overpayment.
  - (b) Any amounts underpaid by the applicant shall be paid to the impact fee administrator within thirty (30) days after the acceptance of the recalculated amount, with interest since the date of such underpayment.
  - (c) In the case of an underpayment to the impact fee administrator, the City-Parish shall not issue any additional permits or approvals for the project for which the impact fee was previously underpaid until such underpayment is corrected, and if amounts owed to the City-Parish are not paid within such thirty (30) day period, the City-Parish may also

rescind any permits issued in reliance on the previous payment of such impact fee.

5. The impact fees and the administrative procedures established by this section shall be reviewed at least once every year.
6. The impact fees shall be reviewed annually and compared to the Consumer Index and shall be adjusted accordingly, with no adjust over four (4) percent being allowed.
7. The Traffic Impact Studies (TIS) will be performed by the Traffic Engineering personnel or by contract to the City-Parish. All engineering work will be performed to accepted Traffic Engineering standards.
8. The cutoff date for initiation of TSI development will be:
  - (a) Commercial: Less than 50,000 square feet – forty (40) days before scheduled Planning Commission Meeting
  - (b) Commercial: Greater than 50,000 square feet – sixty (60) days before scheduled Planning Commission Meeting
  - (c) Residential Subdivisions: 100 lots or less – Forty (40) days before scheduled Planning Commission Meeting
  - (d) Residential Subdivisions: 101 lots or greater – Sixty (60) days before scheduled Planning Commission Meeting

**M. Appeals.**

Any determination made by the impact fee administrator charged with the administration of any part of this section may be appealed to the Director of Public Works within thirty (30) days from the date of the decision appealed. After receiving written notice of the appeal, including the grounds of the appeal, the impact fee administrator will set the appeal on the next available regularly scheduled meeting of the Metropolitan Council. The Metropolitan Council, after hearing, shall affirm or reverse the decision of the impact fee administrator after applying the standards set forth in this section and making written findings of fact. In no case shall the Metropolitan Council negotiate the amount of the impact fee or impact fee credit or offset, or waive the impact fee. The decision by the Metropolitan Council shall be final and not subject to further administrative appeal.

**N. Violation.**

Furnishing false information on any matter relating to the administration of this section, including without limitation the furnishing of false information regarding the expected size, use, or impacts from a proposed development, shall be a violation of this section.

**O. Effective date.**

The provisions of this section will take effect ninety (90) days following the date of adoption of the ordinance creating this section.

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