

CHAPTER 3

IMPACT FEE

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**CHAPTER 3**  
**IMPACT FEE**

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**ARTICLE I**

**IMPACT FEE PROGRAM**

*History - Adopted by the Board of Supervisors of Center Township as Ordinance No. 2006-06-03, June 26, 2006.*

**§3-101. Title**

This Chapter shall be known as the “Center Township Impact Fee Program.”

**§3-102. Purpose**

The purpose of this Chapter is to establish the Center Township Impact Fee Program, including a transportation capital improvements plan, to ensure that the transportation system is available and adequate to support existing volumes of traffic and traffic projected to be generated by new growth and development. To advance this objective, the Center Township Impact Fee Program shall be based upon the imposition of an impact fee payable to the Township at the time of building permit issuance. Additionally, the program identifies existing deficiencies due to pass through trips and future trip generation attributable to new development. The program will provide a continuing generation of funds necessary for the Township to initiate and complete capital transportation improvements as needed in support of new growth and development. Such a program will involve participation by developers as well as local, state and federal governments. Through the Impact Fee Program, the Township is establishing a process whereby future traffic needs can be addressed in a timely manner and the impact of increased traffic volumes can be minimized to the extent possible.

**§3-103. Findings**

The Board of Supervisors hereby finds and declares that:

- A. The Township is committed to the provision of a transportation system at service levels necessary to support residential and non-residential growth and development.
- B. Transportation service levels will be provided by the Township utilizing funds allocated via all available sources including the capital improvements programs and impact fees.
- C. The aggregation of development in the defined transportation service areas intensifies the demand for transportation improvements designed to accommodate traffic volumes at a “d”

level of service for intersections and the “c” level of service for roadway segments as defined by the Transportation Research Board of the National Academy of Science.

- D. The development potential of properties in the defined transportation service areas is reflected in the Land Use Assumptions report adopted by resolution 2005-11-22 on November 9, 2005 and the Road Sufficiency Analysis on March 8, 2006.
- E. To the extent that new development in the transportation service areas places demands upon the transportation system, those demands should be satisfied by the establishment of an Impact Fee Program that distributes the the responsibility of financing the provision of such transportation facilities among the Township, state and federal governments and developers.
- F. The amount of the impact fee to be imposed shall be calculated in accordance with the provisions of the Municipalities Planning Code, 42 Pa. C.S.A. §10501-A et seq., as amended and this Chapter, applying the engineering standards set forth in Trip Generation, 7<sup>th</sup> Ed. 2003 Vols. 1-3, Institute of Transportation Engineering, and any amendments or future editions thereof.
- G. The Township hereby finds and declares that an impact fee imposed upon new development, in order to assist in the financing of specified major transportation capital improvements in the defined transportation service areas, the demand for which has been quantified through the application of land use assumptions provided by the Impact Fee Advisory Committee appointed by the Board of Supervisors, is in the best interest of the Township and its residents.

### **§3-104. Definitions**

As used in this Ordinance, the following words and terms shall have the following meaning unless another meaning is plainly intended:

- A. **BUILDING PERMIT:** A permit for activities regulated under the Center Township Codification of Ordinances Chapter 2, Article II, Uniform Construction Code, as may be amended from time to time, including the following activities:
  - 1. construct or alter a man-made object having a stationary location on land or water, construct an addition, demolish or move a man-made object having a stationary location on

land or water, make a change of occupancy, install or alter any equipment regulated by the Center Township Codification of Ordinances Chapter 2, Article II, Uniform Construction Code or move a lot line which divides a lot from another lot or street.

- B. **DEVELOPER:** Any person who has legal title of land, agent of the legal title or tenant with the permission of the person who has the legal title of land, who makes application for development.
- C. **IMPACT FEE:** Shall mean a fee, to be paid at building permit issuance, and calculated in accordance with the provisions of the Municipalities Planning Code, 42 Pa C.S.A. §10501-10507, as amended and this Chapter.
- D. **NEW DEVELOPMENT:** Any commercial, industrial or residential or other project which involves new construction, enlargement, reconstruction, redevelopment, relocation or structural alteration and which is expected to generate additional vehicular traffic within the transportation service area of the municipality. New development also includes any change in use that increases peak hour trips generated by an improved development.
- E. **OFF-SITE IMPROVEMENTS:** Those public capital improvements that are not on-site improvements and that serve the needs of more than one development.
- F. **ON-SITE IMPROVEMENTS:** All improvements constructed on the applicant's property or the improvements constructed on the property abutting the applicant's property necessary for the ingress or egress to the applicant's property and required to be constructed by the applicant pursuant to any municipal ordinance including, but not limited to, the municipal building code, subdivision and land development ordinance and zoning ordinance.
- G. **P.M. PEAK-HOUR:** The Township has identified the p.m. peak hour as the relevant peak hour period for the calculation of impact fees.
- H. **TRANSPORTATION CAPITAL IMPROVEMENTS:** Those off-site road improvements that have a life expectancy of three or more years, not including costs for maintenance, operation or repair.
- I. **TRANSPORTATION CAPITAL IMPROVEMENTS PLAN:** A plan adopted by the Board of Supervisors of the Township prior to the enactment of any Impact Fee ordinance for the purpose of

identifying and planning for transportation capital improvements. Specifically, the Impact Fee Advisory Committee prepared or directed to be prepared a Transportation Capital Improvements Plan. Said plan is dated April 2006 and was prepared by HRG and adopted by the Township on May 10, 2006.

- J. **TRANSPORATATION SERVICE AREAS:** Shall mean geographically defined areas of the Township which, pursuant to the Zoning Ordinance and applicable district regulations, have an aggregation of sites with development potential creating the need for transportation improvements for such area to be funded by impact fees. (See Exhibit A)
- K. **TRIP GENERATION RATES:** Those rates of traffic for the peak hour of adjacent street traffic between 4:00 P.M. and 6:00 P.M. as determined in Trip Generation, 7<sup>th</sup> Edition 2003 Vols. 1-3, The Institute of Transportation Engineers, and any amendments or future editions thereof.
- L. **UNIT COST PER TRIP:** The dollar figure calculated by dividing the total costs of the road improvements included in the adopted Transportation Capital Improvement Plan within a given transportation service area attributable to and necessitated by new development within the service area divided by the number of anticipated P.M. peak hour trips generated by all new development consistent with the land use assumptions and calculated in accordance with Trip Generation, 7<sup>th</sup> Ed. 2003 Vols. 1-3, The Institute of Transportation Engineers, and any amendments and future editions thereto.

**§3-105. Applicability of Impact Fee and De Minimus New Development**

- A. This Chapter shall be uniformly applicable to all new development that occurs within a defined transportation service area.
- B. This Chapter shall not apply to de minimus new development. De minimus is defined to be new development that results in a total of 2 or less P.M. peak hour trips including any pre-existing p.m. peak hour trips. This sub-section sets forth a threshold limit for the applicability of this Chapter and shall not be construed to provide a 2 trip credit to new development.
- C. This Chapter shall not apply to public schools, or buildings associated therewith, or to Center Township, or any other Township agency or authority. Schools and local government agencies serve

an overriding public interest, warranting an exemption from impact fees.

**§3-106. Imposition of Impact Fee**

No building permit subject to this Chapter shall be issued for a development in a transportation service area unless the applicant has paid the impact fee imposed by and calculated pursuant to this Chapter.

**§3-107. Calculation of Impact Fee**

- A. The unit cost per trip is derived from the Transportation Capital Improvement Plan and may be amended as transportation needs dictate and as directed by the Board of Supervisors.
- B. The impact fee imposed by this Chapter upon all new development shall be determined by applying the unit improvement cost to the PM peak hour trips generated by a project as identified in Trip Generation, 7<sup>th</sup> Edition 2003 Vols. 1-3, The Institute of Transportation Engineers, and any amendments or future editions thereof, or by a Special Transportation Study pursuant to Section 10. To determine the fee for a specific use, the PM peak hour trip generation rate for the proposed use shall be multiplied by the unit improvement cost rate in each transportation service area.
- C. If the development for which a building permit is sought contains a mix of uses, the applicant must separately calculate the impact fee due for each type of development.

**§3-108. Additional Impact Fee**

- A. **Applicability:** An additional impact fee shall be imposed upon new developments that generate 1,000 or more P.M. peak hour trips, net of pass-by trips as defined by Trip Generation 7<sup>th</sup> Ed. 2003 Vols. 1-3, Institute of Transportation Engineers, and any amendments or future editions thereof. This section is in addition to the impact fee calculated under this Chapter.
- B. **Traffic Study:** An applicant for a new development that generates 1,000 or more P.M. peak hour trips shall be required to perform a traffic analysis of development traffic impact on highways, roads or streets outside the transportation service area in which the new development is located, but within the boundaries of the Township. Any highways, roads or streets or parts thereof, outside the transportation service area that will accommodate 10 percent or more of the new development traffic and 100 or more new P.M. peak hour trips may be required to be studied. The traffic study is to be conducted in accordance with the Township requirements as determined by the Township Traffic Engineer.

- C. Mitigation: Applicants for new development that generate 1,000 or more new P.M. peak hour trips, less pass by trips will be required to mitigate the traffic impact of the new development on the affected roads, highways and streets per the traffic study to maintain the pre-development conditions.

**§3-109. Establishment of Transportation Service Areas**

The Township has defined transportation service areas as shown on the Transportation Service Area Map (See Exhibit A, attached hereto and incorporated herein) in accordance with the provisions of the Municipalities Planning Code, 53 Pa. C.S.A. §10101, et seq.

**§3-110. Special Transportation Study**

- A. Applicability of this Section: The Board of Supervisors may permit or require a new development to perform a Special Transportation Study to document actual trip generation from a particular use. The instances when a Special Transportation Study can or must be performed are limited to instances where:
  - 1. The Township requests a Special Transportation Study;
  - 2. No “R” value or fitted curve equation is provided for the use in the most recent version of Trip Generation 7<sup>th</sup> Ed. 2003 Vols. 1-3, The Institute of Traffic Engineers;
  - 3. The use is not represented in any amendments or future editions of Trip Generation 7<sup>th</sup> Ed. 2003 Vols. 1-3, The Institute of Traffic Engineers.
- B. Guidelines for Conducting a Special Transportation Study: Special Transportation Studies must be conducted in accordance with the guidance in the most recent version of Trip Generation 7<sup>th</sup> Ed. 2003 Vols. 1-3, The Institute of Traffic Engineers. The new development is responsible for all costs associated with the Special Transportation Study.

**§3-111. Administration of Impact Fees**

- A. Collection of impact fees: Impact fees due pursuant to this Chapter shall be collected by the Township in the manner prescribed herein prior to issuance of a building permit.
- B. Establishment and Maintenance of Accounts: The Township shall establish interest-bearing fund accounts created solely for impact fees and shall maintain records whereby impact fees collected are segregated by transportation service areas. All interest earned

shall become the funds of that account. Impact fees generated from new development may only be expended for transportation capital improvements identified as being funded by impact fees under the Transportation Capital Improvements Plan in a particular transportation service area, except as provided in Section 3-113.

- C. Maintenance of Records: The Township shall maintain and keep adequate financial records for each such account that will show the source and disbursement of all revenues, that will account for all moneys received and that shall ensure that the disbursement of funds from each account will be used solely and exclusively for the provision of projects specified in the transportation Capital Improvements Plan for the particular transportation service area.

**§3-112. Impact Fees Advisory Committee**

- A. Role of the Impact Advisory Committee: The Impact Fee Advisory Committee or Advisory Committee is a committee formed pursuant to the Municipalities Planning Code, 42 Pa. C.S.A. §10101 et seq., as amended, to serve in an advisory capacity to the Board of Supervisors. The Advisory Committee has as its duties:
  - 1. To make recommendations, with respect to land use assumptions, the development of comprehensive road improvements and impact fees;
  - 2. To make recommendations to approve, disapprove or modify a capital improvement program by preparing a written report containing these recommendations to the Township;
  - 3. To monitor and evaluate the implementation of a capital improvements program and the assessment of impact fees and report annually to the Township with respect to the same;
  - 4. To advise the Township of the need to revise or update the land use assumptions, capital improvements program or impact fees;
  - 5. To conduct public hearings with respect to any recommendations on land use assumptions in accordance with the requirements of the Ordinance and the Municipalities Planning Code, 53 Pa. C.S.A. §10101 et seq., as amended;
  - 6. To prepare or cause to be prepared a road way sufficiency analysis in accordance with the requirements of this

Ordinance and the Municipalities Planning Code, 53 Pa. C.S.A §10101 et seq., as amended.

- B. Review of transportation capital improvements or impact fees charge: The Board of Supervisors may request, no more than annually, the Advisory Committee to review and make recommendations on the transportation capital improvements or impact fee charges based only on:
1. Subsequent new development which has occurred in the Township;
  2. Completion of capital improvements in the Transportation Capital Improvements Plan;
  3. Unavoidable delays in construction of capital improvements contained in the plan beyond the Township's control or responsibility;
  4. Significant changes in the land use assumptions;
  5. Changes in the estimated costs of the transportation improvements proposed which may be recalculated by applying the construction cost index as published in the American City/County Magazine or the Engineering News Record;
  6. Significant changes in the projected revenue from sources listed.

**§3-113. Disbursement of Impact Fees for Projects Not Listed on the Transportation Capital Improvements Plan**

The Township may expend impact fees paid by an applicant on projects not contained in the adopted Transportation Capital Improvements Plan if all of the following criteria are met:

- A. The applicant has provided written consent to use of its collected impact fees for specific transportation projects which are not included in the Transportation Capital Improvements Plan;
- B. The alternative transportation project, whether highway or multi-modal, has as its purpose the reduction of traffic congestion or the removal of vehicle trips from the roadway network;

- C. The Township amends its Transportation Capital Improvements Plan components required by Section 504-A (e)(1)(vi) of the Municipalities Planning Code, 53 P.S. §10504-A(e)(1)(vi) to provide replacement of the collected impact fees transferred to transportation projects outside the approved Transportation Capital Improvements Plan from sources other than impact fees or developer contributions within three years of completion of the alternative projects to which the transferred fees were applied.

**§3-114. Method of Payment**

Payment of the impact fee shall be made by the new development prior to the issuance of a building permit by the Township to the new development for development on the applicable site.

**§3-115. Credit**

- A. A traffic generator is entitled to a credit against the impact fee in the amount of the fair market value of any land dedicated by the applicant to the Township for future right of way, realignment or widening of any existing roadways or for the value of any construction of road improvements contained in the Transportation Capital Improvements Plan which is performed at the applicant's expense. The amount of such credit for any capital improvement constructed shall be the amount allocated in the capital improvement program, including contingency factors for such work. The fair market value of any land dedicated by the applicant shall be determined as of the date of the submission of the land development or subdivision application to the Township.
- B. Any new development which performs, at its own expense, off-site improvements as defined by this Ordinance, shall be eligible for a credit toward the impact fee otherwise due in the amount of the actual cost of such off-site improvements as approved by the Township Engineer. Such credit shall not exceed the amount of the impact fee. In order for a new development to be eligible for this credit it must announce the intent to perform off-site improvements during the subdivision or land development approval process. The announcement must be in writing and must set forth the off-site improvement project for which the traffic generator is seeking credit. The traffic generator must enter into an agreement with the Township prior to the issuance of any building permit. The agreement must establish the estimated cost of the improvement, the schedule for initiation and completion of the improvement, guarantee that the improvement be completed to Township and Pennsylvania Department of Transportation standards and design criteria, and such other terms and conditions as deemed necessary by the Township. The Township must review the improvement

plan, verify costs and time schedules, determine if the improvement is an eligible improvement and determine the amount of the applicable credit for such improvement to be applied to the otherwise applicable impact fee prior to issuance of any building permit. In no event may the Township provide a credit that is greater than the applicable impact fee. If, however, the amount of the credit is calculated to be greater than the amount of the impact fee due, the new development may utilize such excess credit toward the impact fees imposed on other building permits for development on the same site and in the same ownership.

- C. The Township may provide a credit against impact fees for the value of any construction projects that are not contained in the adopted Transportation Capital Improvements Plan which are performed at the traffic generator's expense, if all of the following conditions are met:
1. The applicant has provided written consent to a credit of its collected impact fees for specific transportation projects which are not included in the Transportation Capital Improvements Plan;
  2. The alternative transportation project, whether highway or multi-modal, has as its purpose the reduction of traffic congestion or the removal of vehicle trips from the roadway network;
  3. The Township amends its Transportation Capital Improvements Plan components required by Section 504-A (e)(1)(vi) of the Municipalities Planning Code, 53 P.S. §10504-A(e)(1)(vi) to provide replacement of the credited impact fees transferred to transportation projects outside the approved Transportation Capital Improvements Plan from sources other than impact fees or developer contributions within three (3) years of completion of the alternative projects to which the transferred fees were applied.

**§3-116. Refunds**

- A. The payor of the impact fee may apply for a refund of appropriate share of any such fee and any interest earned from the date of payment only for such reasons as identified in Municipalities Planning Code, 53 P.S. §10505-A (g), as may be from time to time amended.
- A. The request for refund must be submitted to the Township in writing specifying the details and basis for the request for refund.

**§3-117. Interpretation**

The words and phrases of this Chapter are to be construed in accordance with the following rules:

A. Definitions:

1. FIRST, words and phrases are to be interpreted as defined by this Chapter;
2. SECOND, words and phrases that are not defined by this Chapter are to be interpreted as defined in Sections 107 and 502-A of the Municipalities Planning Code (MPC), 53 P.S. §10107 and 10502-A, as amended;
3. THIRD, words and phrases that are not defined in this Chapter or Sections 107 and 502-A of the MPC are to be interpreted as defined in the Center Township Codification of Ordinances, Chapter 14, Land Development and Subdivision, and Chapter 20, Zoning;
4. FOURTH, words and phrases that are not defined in this Chapter, Sections 107 and 502-A of the MPC, or in the Center Township Codification of Ordinances Chapter 14, Land Development and Subdivision, and Chapter 20, Zoning, are to be given their common, ordinary dictionary meaning within the context of the sentence in which they are used.

- B. Construction: The words, phrases and provisions of this Chapter are not to be interpreted in a way the results in an absurd construction of the meaning, or in a way that causes one provision to contradict another.

**§3-118. Liberal Construction**

The provisions of this chapter shall be liberally construed to effectively carry out the purposes that are hereby found and declared to be in furtherance of the public health, safety, welfare and convenience.

