

CITY OF BASTROP, TX

**ORDINANCE NO. 2023-38**

**ROADWAY IMPACT FEE**

**AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, ESTABLISHING AND ADOPTING ROADWAY IMPACT FEES; AMENDING THE BASTROP CODE OF ORDINANCES, CHAPTER 13, ARTICLE 13.12, BY ENACTING SECTIONS 13.12.094 - 13.12.099 PROVIDING FOR DEFINITIONS; PROVIDING FOR ASSESSMENT OF SAID IMPACT FEES; PROVIDING FOR THE GENERAL ADMINISTRATION OF SAID IMPACT FEES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE AND AN OPEN MEETINGS CLAUSE.**

**WHEREAS,** Texas Local Government Code, chapter 395, authorizes and provides the requirements for political subdivisions to impose impact fees on new developments in order to generate funding or recoup the costs of capital improvements or facility expansion necessitated by and attributable to the new development; and

**WHEREAS,** the Statute requires the City to conduct an impact fee study to determine the feasibility of adopting impact fees and the study includes development of the City's Land Use Assumptions and Capital Improvements Plan Report and the calculation of the maximum allowable impact fees; and

**WHEREAS,** pursuant to Texas Local Government Code, Section 395.058, the City appointed the Impact Fee Advisory Committee, which is composed of the City's Planning and Zoning Commission to assist in adopting land use assumptions and reviewing the capital improvements plan; and

**WHEREAS,** after notice of a public hearing was given as required by Texas Local Government Code, chapter 395, the City Council held a public hearing on June 13<sup>th</sup>, 2023 at which it approved the land use assumptions and capital improvements plan; and

**WHEREAS,** the City Council held a public hearing on September 19<sup>th</sup>, 2023 to consider the imposition of impact fees, and the Capital Improvement Advisory Committee filed its written comments on the proposed impact fees before the fifth business day of the date of the said public hearing; and

**WHEREAS,** the City Council files that the City has fully complied with Texas Local Government Code, chapter 395, in adopting an imposing the impact fees in this ordinance; and

**WHEREAS**, the City Council finds it to be in the best interest of the citizens of the City to adopt and approve the impact fees and related administrative processes described herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, THAT:**

- Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.
- Section 2. Adoption of Roadway Impact Fees.** The City Council hereby approves and adopts “Roadway Impact Fees” consistent with this ordinance.
- Section 2. Amendment:** Chapter 13, Division 13.12 of the City of Bastrop Code of Ordinances is hereby amended by revising Sections 13.12.001- 13.12.005 and adding Section 13.12.094 – 13.12.099 entitled “Roadway Impact Fees” to read as set forth in *Exhibit A* attached hereto and incorporated herein for all purposes.
- Section 3. Repealer:** To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated.
- Section 4. Severability:** Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.
- Section 5. Codification:** The City Secretary is hereby directed to record and publish the attached rules, regulations, and policies in the City’s Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.
- Section 6. Effective Date:** This ordinance shall take effect upon the date of final passage noted below, or when all applicable publication requirements, if any, are satisfied in accordance with the City’s Charter, Code of Ordinances, and the laws of the State of Texas. The provisions set forth in *Exhibit “A”* shall take effect on September 26<sup>th</sup>, 2023.
- Section 7. Proper Notice & Meeting:** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said

meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED & APPROVED on *First Reading*** by the City Council of the City of Bastrop, on this, the 19th day of September, 2023.

**PASSED & APPROVED on *Second Reading*** by the City Council of the City of Bastrop, on this, the 26th day of September, 2023.

**APPROVED:**

by: \_\_\_\_\_  
Lyle Nelson, Mayor

**ATTEST:**

\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Alan Bojorquez, City Attorney

**City of Bastrop  
Code of Ordinances  
Chapter 13: Utilities  
Article 13.12 : IMPACT FEES**

**DIVISION 1. - GENERALLY**

**Sec. 13.12.001 - Short title. (Amended)**

This ordinance shall be known and cited as the ~~water and wastewater~~-impact fees ordinance.

**Sec. 13.12.002 - Intent. (Amended)**

This article is intended to impose roadway, water and wastewater impact fees, as established in this article, in order to finance public facilities, the demand for which is generated by new development in the designated service area.

**Sec. 13.12.003 - Authority. (Amended)**

This article is adopted pursuant to Texas Local Government Code, chapter 395 and the city Charter. The provisions of this article shall not be construed to limit the power of the city to utilize all powers and procedures authorized Texas Local Government Code, chapter 395, or other methods authorized under state law or pursuant to other city powers to accomplish the purposes set forth herein, either in substitution or in conjunction with this article. Guidelines may be developed by ordinance, resolution, or otherwise to implement and administer this article.

**Sec. 13.12.004- Definitions. (Amended)**

*Capital improvement* means a roadway facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the city (including the city's share of costs for roadways and associated improvements designated on the City's master plan but constructed by another entity. "Capital improvement" includes a newly constructed roadway facility or the expansion of an existing roadway facility necessary to serve new development.

*City* means the City of Bastrop, Texas.

*Credit* means an amount equal to:

- (1) That portion of ad valorem tax revenues generated by new service units during the program period that is used for the payment of improvements, including the payment of debt, that are included in the capital improvements plan; or

- (2) In the alternative, a credit equal to 50 percent of the total projected cost of implementing the roadway improvements plan.

(Credit is not to be confused with offset which is defined below.)

*Development Agreement* means a written agreement, including a consent agreement, between the City and the owner or developer of a property that establishes comprehensive defined transportation improvement requirements for the entire development.

*Development unit(s)* is the expression of the size of each land use planned within a particular development and is used to compute the number of service units consumed by each individual land use application.

*Final plat approval* means the point at which the applicant has complied with all conditions of approval and the plat has been released for filing with the county. This term applies to both original plats and replats.

*Final plat recordation* means the point at which the applicant has complied with all conditions precedent to recording an approved final plat in the county, including the final completion of and acceptance by the city of any infrastructure or other improvements required by the subdivision ordinance or any other ordinance and the plat is filed for record with the county clerk's office.

*Land use assumptions* means and includes 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, as may be amended from time to time, in each service area over a ten-year period upon which the roadway improvements plan is based. The land use assumptions are set out in the most recently updated land use assumptions for roadway impact fees adopted by resolution of the city council as amended from time to time.

*Land use vehicle-mile equivalency tables* or *LUVMET* are tables set forth in Table C in Section 13.12.095(c) that provide the standardized measure of consumption or use of roadway facilities attributable to a new development based on the land use category of the development and historical data and trends applicable to the city during the previous ten years. The LUVMET recognizes and expresses the magnitude of the transportation demand created by different land use categories within a particular development and allows different uses of land to more accurately bear the cost and expense of the impacts generated by such uses. The LUVMET expresses the number of service units consumed by each individual land use application as "vehicle miles per development unit".

*Maximum assessable roadway impact fees* mean the fees set out in Table A in Section 13.12.095(a).

*New development* means the subdivision of land and/or the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of the use of land which has the

effect of increasing the requirements for capital improvements, measured by an increase in the number of service units to be generated by such activity.

*Offset* or *offsets* means the amount of the reduction of an impact fee designed to fairly reflect the value of any construction of, contributions to, or dedications of a system facility agreed to or required by the city as a condition of development approval, pursuant to rules herein established or pursuant to city council-approved administrative guidelines which value shall be credited on an actual cost basis against roadway facilities impact fees otherwise due from the development. (Offset is not to be confused with "credit", which is defined above.)

*Recoup* means to reimburse the city for capital improvements which the city has previously installed or caused to be installed.

*Roadway* means any or arterial or collector streets or roads designated in the city's adopted master thoroughfare plan, as may be amended from time to time. The term includes the city's share of costs for roadways designated as a numbered highway on the official federal or state highway system.

*Roadway facility* means an improvement or appurtenance to a roadway which includes, but is not limited to, rights-of-way, whether conveyed by deed or easement; intersection improvements; traffic signals; turn lanes; drainage facilities associated with the roadway; street lighting or curbs. "Roadway facility" also includes any improvement or appurtenance to an intersection with a roadway officially enumerated in the federal or state highway system. "Roadway facility" includes the city's share of costs for roadways and associated improvements designated as a numbered highway on the official federal or state highway system, including local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, drainage appurtenances, and rights-of-way. "Roadway facility" excludes those improvements or appurtenances to a roadway which are site-related facilities.

*Roadway impact fee* means a charge or assessment imposed by the city, as set forth in subsection 13.12.095(b), against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. "Impact fees" or "roadway impact fees" do not include road escrow payments for site-related facilities imposed under facility agreements in existence on the 7<sup>th</sup> day of January, 2023, roadway adequacy fees, or fee in lieu of TIA. The term is inclusive of both the maximum assessable roadway impact fee and the roadway impact fee collection rate as herein described. The term also does not include dedication of rights-of-way or easements or construction or dedication of drainage facilities, streets, sidewalks, or curbs if the dedication or construction is required by the subdivision ordinance and is necessitated by and attributable to the new development.

*Roadway impact fee collection rate* means the fees set out in Table B in Section 13.12.095(B)

*Roadway improvements plan* identifies the capital improvements or facility expansions and associated costs for each roadway service area that are necessitated by and which

are attributable to new development within the service area, for a period not to exceed ten years, which capital improvements are to be financed in whole or in part through the imposition of roadway impact fees pursuant to this article. The roadway improvements plan and land use assumptions were adopted by resolution of the city council, and may be amended from time to time. This definition does not include the City's approved 5-year CIP evaluated on an annual basis pursuant to City Charter and local ordinance.

*Roadway service area* means the geographic area(s) within the city's corporate limits, which do not exceed six miles and within which geographic area(s) roadway impact fees for capital improvements will be collected for new development occurring within such area, and within which fees so collected will be expended for those capital improvements identified in the roadway improvements plan to be located within the roadway service area. "Roadway service area" does not include any land outside the city limits.

*Service unit* means one vehicle mile of travel in the afternoon peak hour of traffic and is also referred to as a "vehicle mile."

*Site-related facility* means an improvement or facility which is constructed for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of roadway facilities to serve the new development and which is not included in the roadway improvements plan and for which the developer or property owner is solely responsible under the subdivision, and/or other applicable, regulations. Site-related facility may include an improvement or facility which is located offsite, or within or on the perimeter of the development site.

*System facility* means a capital improvement which is designated in the roadway improvements plan and which is not a site-related facility. A system facility may include a capital improvement which is located off-site, within, or on and along the perimeter of the new development site.

*TIA* means a traffic impact analysis prepared in accordance with applicable City ordinances, guidelines, manuals, and policies. TIA does not include a fee in lieu of a TIA.

### **Sec. 13.12.005 - Applicability (Amended)**

- (a) This article shall be uniformly applicable to new development that occurs within the water and wastewater service areas. This article shall be uniformly applicable to new development in roadway impact fee service areas, except for section 13.12.007 through section 13.12.016 and section 13.12.018 through section 13.12.022 and section 13.12.024 through section 13.12.026, which are not applicable. Specific provisions for roadway impact fees are included in section 13.12.094 through section 13.12.099.
- (b) No new development shall be exempt from the assessment of impact fees except as defined in this article or in Texas Local Government Code Chapter 395.

**DIVISION 4. – ROADWAY FACILITIES (New)**

**Sec. 13.12.094 Service areas; applicability; effective date**

(a) The city is hereby divided into two roadway service areas as shown on the official roadway service area map. The official roadway service area map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this article. The official roadway service area map shall be identified by the signature of the mayor attested by the city secretary and bearing the seal of the City of Bastrop under the following words:

**“This is to certify that this is the official roadway service area map referred to in Article 13.12.027 of the Code of Ordinances, City of Bastrop, Texas.”**

- (b) The provisions of this article apply to all new development within the service areas described above. The provisions of this article apply uniformly within each roadway service area.
- (c) This article is intended to ensure the provision of adequate roadway facilities to serve new development in the city by requiring each development to pay its share of the costs of such improvements necessitated by and attributable to such new development.
- (d) This article shall take effect on September 26<sup>th</sup>, 2023.

**Sec. 13.12.095 Roadway impact fees per service unit.**

(a) The City hereby adopts the maximum assessable roadway impact fee per service unit for each roadway service area set forth in Table A below. Each new development shall be assessed the maximum assessable roadway impact fee and shall pay the roadway impact fee collection rate set forth in Table B, as applicable, minus any applicable offsets, as described herein.

**Table A  
MAXIMUM ASSESSABLE ROADWAY IMPACT FEE PER SERVICE UNIT**

Service Area A	\$2,349.00
Service Area B	\$1,414.00

(b) The roadway impact fee per service unit for all service areas shall be adopted, assessed, and collected as set forth below. No building permit shall be issued until an assessment of an impact fee pursuant to this article is made and paid in accordance with the assessment and collection procedures set forth herein.

- (1) For all property with final plat approval dated before the effective date of this article, the roadway impact fees will be assessed on September 26<sup>th</sup>, 2023 and will be charged at building permit application dated on or after September



- 26<sup>th</sup>, 2024 as set forth in Table B. No roadway impact fees shall be collected for any building permit issued prior to September 26<sup>th</sup>, 2024
- (2) For all property with final plat approval on or after the effective date of this article, the roadway impact fees will be assessed at final plat approval and will be charged at building permit application as set forth in Table B. No roadway impact fees shall be collected for any building permit issued prior to September 26<sup>th</sup>, 2024

**Table B – Collection Rate Table**

<b>Service Areas</b>	<b>Collection Rate</b>
A	\$1,562.85
B	\$919.10

- (c) The land use vehicle-mile equivalency tables are set forth below:

**Table C**  
**Land Use Vehicle-Mile Equivalency Table ("LUVMET")**

Land Use Category	ITE Land Use Code	Development Unit	Trip Gen Rate (PM)	Pass-by Rate	Trip Rate	Trip Length (mi)	Adj. For O-D	Adj. Trip Menth (mi)	Max Trip Length (mi)	Veh-Mi Per Dev-Unit
									6.00	
<b>PORT AND TERMINAL</b>										
Truck Terminal	30	1,000 SF GFA	1.87	0%	1.87	13.20	50%	6.60	6.00	11.22
<b>INDUSTRIAL</b>										
General Light Industrial	110	1,000 SF GFA	0.65	0%	0.65	13.20	50%	6.60	6.00	3.90
Industrial Park	130	1,000 SF GFA	0.34	0%	0.34	13.20	50%	6.60	6.00	2.04
Warehousing	150	1,000 SF GFA	0.18	0%	0.18	13.20	50%	6.60	6.00	1.08
Mini-Warehouse	151	1,000 SF GFA	0.15	0%	0.15	13.20	50%	6.60	6.00	0.90
<b>RESIDENTIAL</b>										
Single-Family Detached Housing	210	Dwelling Unit(s)	0.94	0%	0.94	7.81	50%	3.91	3.91	3.68
Single-Family Attached Housing	215	Dwelling Unit(s)	0.57	0%	0.57	7.81	50%	3.91	3.91	2.23
Multifamily Housing (Low-Rise)	220	Dwelling Unit(s)	0.51	0%	0.51	7.81	50%	3.91	3.91	1.99
Multifamily Housing (Mid-Rise)	221	Dwelling Unit(s)	0.39	0%	0.39	7.81	50%	3.91	3.91	1.52
Multifamily Housing (High-Rise)	222	Dwelling Unit(s)	0.32	0%	0.32	7.81	50%	3.91	3.91	1.25
Senior Adult Housing-Detached	251	Dwelling Unit(s)	0.30	0%	0.30	7.81	50%	3.91	3.91	1.17
Senior Adult Housing-Attached	252	Dwelling Unit(s)	0.25	0%	0.25	7.81	50%	3.91	3.91	0.98
Assisted Living	254	Bed(s)	0.24	0%	0.24	7.81	50%	3.91	3.91	0.94
<b>LODGING</b>										
Hotel	310	Room(s)	0.59	0%	0.59	6.41	50%	3.20	3.20	1.89
Motel	320	Room(s)	0.36	0%	0.36	6.41	50%	3.20	3.20	1.15
<b>RECREATIONAL</b>										
Campground/RV Park	416	Occupied Campsites	0.27	0%	0.27	10.95	50%	5.47	5.47	1.48
Golf Driving Range	432	Driving Position(s)	1.25	0%	1.25	10.95	50%	5.47	5.47	6.84
Golf Course	430	Hole(s)	2.91	0%	2.91	10.95	50%	5.47	5.47	15.92
Recreational Community Center	495	1,000 SF GFA	2.50	0%	2.50	10.95	50%	5.47	5.47	13.68
Ice Skating Rink	465	1,000 SF GFA	1.33	0%	1.33	10.95	50%	5.47	5.47	7.28
Miniature Golf Course	431	Hole(s)	0.33	0%	0.33	10.95	50%	5.47	5.47	1.81
Multiplex Movie Theater	445	Screen(s)	13.96	0%	13.96	10.95	50%	5.47	5.47	76.36
Racquet/Tennis Club	491	Court(s)	3.82	0%	3.82	10.95	50%	5.47	5.47	20.90
<b>INSTITUTIONAL</b>										
Elementary School	520	Student(s)	0.16	0%	0.16	1.67	50%	0.83	0.83	0.13
Middle School/Junior High School	522	Student(s)	0.15	0%	0.15	1.67	50%	0.83	0.83	0.12
High School	525	Student(s)	0.14	0%	0.14	1.67	50%	0.83	0.83	0.12
Church	560	1,000 SF GFA	0.49	0%	0.49	1.51	50%	0.75	0.75	0.37
Day Care Center	565	1,000 SF GFA	11.12	44%	6.23	1.67	50%	0.83	0.83	5.17
University/College	550	Student(s)	0.15	0%	0.15	1.67	50%	0.83	0.83	0.12
<b>MEDICAL</b>										
Clinic	630	1,000 SF GFA	3.69	0%	3.69	5.99	50%	3.00	3.00	11.07
Hospital	610	1,000 SF GFA	0.86	0%	0.86	5.99	50%	3.00	3.00	2.58
Nursing Home	620	Bed(s)	0.14	0%	0.14	5.99	50%	3.00	3.00	0.42
Animal Hospital/Veterinary Clinic	640	1,000 SF GFA	3.53	30%	2.47	5.99	50%	3.00	3.00	7.41
<b>OFFICE</b>										
Corporate Headquarters Building	714	1,000 SF GFA	1.30	0%	1.30	7.04	50%	3.52	3.52	4.58
General Office Building	710	1,000 SF GFA	1.44	0%	1.44	7.04	50%	3.52	3.52	5.07
Medical-Dental Office Building	720	1,000 SF GFA	3.93	0%	3.93	7.04	50%	3.52	3.52	13.83
Single Tenant Office Building	715	1,000 SF GFA	1.76	0%	1.76	7.04	50%	3.52	3.52	6.20
Office Park	750	1,000 SF GFA	1.30	0%	1.30	7.04	50%	3.52	3.52	4.58
<b>COMMERCIAL</b>										
<b>Automobile Related</b>										
Automobile Care Center	942	1,000 SF GFA	3.11	40%	1.87	5.83	50%	2.92	2.92	5.46
Automobile Parts Sales	843	1,000 SF GFA	4.90	43%	2.79	5.83	50%	2.92	2.92	8.15
Gasoline/Service Station	944	Fueling Position(s)	13.91	57%	5.98	1.51	50%	0.75	0.75	4.49
Gasoline Station w/ Convenience Market	945	Fueling Position(s)	18.42	56%	8.10	1.51	50%	0.75	0.75	6.08
Automobile Sales (New)	840	1,000 SF GFA	2.42	20%	1.94	5.83	50%	2.92	2.92	5.66
Quick Lubrication Vehicle Shop	941	Service Position(s)	4.85	40%	2.91	5.83	50%	2.92	2.92	8.50
Automated Car Wash	948	Car Wash Tunnel(s)	77.50	40%	46.50	1.51	50%	0.76	0.76	35.34
Tire Store	848	1,000 SF GFA	2.09	25%	1.57	5.83	50%	2.92	2.92	4.58
<b>Dining</b>										
Fast-Food Restaurant w/ D.T.	934	1,000 SF GFA	33.03	50%	16.52	1.55	50%	0.78	0.78	12.89
Fast-Food Restaurant w/o D.T.	933	1,000 SF GFA	33.21	50%	16.61	1.55	50%	0.78	0.78	12.96
High-Turnover (Sit-Down) Restaurant	932	1,000 SF GFA	9.05	43%	5.16	1.55	50%	0.78	0.78	4.02
Quality Restaurant	931	1,000 SF GFA	7.80	44%	4.37	1.55	50%	0.78	0.78	3.41
Coffee/Donut Shop w/ D.T.	937	1,000 SF GFA	38.99	70%	11.70	1.55	50%	0.78	0.78	9.13
<b>Other Retail</b>										
Free Standing Discount Store	813	1,000 SF GFA	4.83	20%	3.86	5.83	50%	2.92	2.92	11.27
Nursery (Garden Center)	817	1,000 SF GFA	6.94	30%	4.86	5.83	50%	2.92	2.92	14.19
Home Improvement Superstore	862	1,000 SF GFA	2.29	42%	1.33	5.83	50%	2.92	2.92	3.88
Pharmacy/Drugstore w/o Drive-Through Window	880	1,000 SF GFA	8.51	53%	4.00	5.83	50%	2.92	2.92	11.68
Pharmacy/Drugstore w/ Drive-Through Window	881	1,000 SF GFA	10.25	49%	5.23	5.83	50%	2.92	2.92	15.27
Shopping Center (>150k SF)	820	1,000 SF GFA	3.40	29%	2.41	5.83	50%	2.92	2.92	7.04
Shopping Plaza (40-150k)	821	1,000 SF GFA	5.19	40%	3.11	5.83	50%	2.92	2.92	9.08
Strip Retail Plaza (<40k SF)	822	1,000 SF GFA	6.59	40%	3.95	5.83	50%	2.92	2.92	11.53
Supermarket	850	1,000 SF GFA	8.95	24%	6.80	5.83	50%	2.92	2.92	19.86
Toy/Children's Superstore	864	1,000 SF GFA	5.00	30%	3.50	5.83	50%	2.92	2.92	10.22
Department Store	875	1,000 SF GFA	1.95	30%	1.37	5.83	50%	2.92	2.92	4.00
<b>SERVICES</b>										
Walk-In Bank	911	1,000 SF GFA	12.13	40%	7.28	6.11	50%	3.05	3.05	22.20
Drive-In Bank	912	Drive-In Lane(s)	21.01	35%	13.66	6.11	50%	3.05	3.05	41.66
Hair Salon	918	1,000 SF GLA	1.45	30%	1.02	6.11	50%	3.05	3.05	3.11

- (d) The maximum assessable roadway impact fee per service unit set forth in Table A that is assessed to new development is declared to be the roughly proportionate measure of the impact(s) generated by a new unit of development on the city's transportation system. To the extent that the roadway impact fee per service unit collected is less than the maximum assessable roadway impact fee per service unit, such difference is hereby declared to be founded on policies unrelated to the measurement of the actual impacts of the development on the city's transportation system. The maximum assessable roadway impact fee per service unit may be used in evaluating any claim by an applicant, developer, or property owner that the dedication, construction, or contribution of a capital improvement imposed as a condition of development approval pursuant to the city's regulations is not roughly proportionate to the impact(s) of the new development on the city's transportation system.
- (e) Except as herein otherwise provided, the payment of a roadway impact fee shall be additional and supplemental to, and not in substitution of, any other tax, fee, charge or assessment which is lawfully imposed on and due against the new development.

#### **13.12.096 Assessment of roadway impact fees.**

- (a) Assessment of the roadway impact fee per service unit for any new development shall be made as set forth in Section 13.12.095.
- (b) Following assessment of the roadway impact fee pursuant to subsection (a), the amount of the roadway impact fee assessed per service unit for that new development cannot be increased, unless the owner proposes to change the approved development by the submission of a new application for final plat approval or replat approval or other development applicant that results in approval of additional service units, in which case new assessment shall occur at the rate then in effect, as set forth in Section 13.12.095(b).
- (c) Following the vacating of any plat or submittal of any replat, a new assessment must be made in accordance with the then current impact fee as set forth in Section 13.12.095.
- (d) Approval of an amending plat pursuant to Texas Local Government Code § 212.016, is not subject to reassessment of a roadway impact fee hereunder provided that the use of the property remains the same.
- (e) The City Manager or designee shall compute the assessment of roadway impact fees for new development by first determining whether the new development is eligible for offsets calculated in accordance with section 13.12.098, which would further reduce roadway impact fees otherwise due in whole or in part.

#### **13.12.097 Payment and collection of roadway impact fees.**

- (a) For all new developments, roadway impact fees shall be collected at the time of application for and in conjunction with the issuance of a building permit; however, the City has the ability to require construction greater than the transportation impact fee collection rate for amounts up to the maximum assessable

transportation impact fee. The roadway impact fees to be paid and collected are listed in Section 13.12.095(b). The city reserves the right to enter into an agreement with a developer for a different time and manner of payment of roadway impact fees in which case the agreement shall determine the time and manner of payment.

- (b) The city shall compute the roadway impact fees to be paid and collected for the new development in the following manner:
  - (1) Determine the number of development units for each land use category in the new development using Table C then in effect.
  - (2) Multiply the number of development units for each land use category in the new development by the vehicle miles (per development unit) for each such land use category also found in Table C then in effect to determine the number of service units attributable to the new development.
  - (3) The amount of roadway impact fees to be collected shall be determined by multiplying the number of service units for the new development by the roadway impact fee per service unit for the applicable roadway service area and shall be calculated at the time of application for and in conjunction with the issuance of a building permit.
  - (4) If an agreement as described in section 13.12.098 providing for offsets exists, the amount of the offsets shall be deducted from the roadway impact fees as calculated above.
- (c) If the building permit for which a roadway impact fee has been paid has expired, and a new application is thereafter filed, the roadway impact fees shall be computed using the LUVMET found in Table C and section 13.12.095(b) then in effect with credits for previous payment of fees being applied against any new fees due.
- (d) Whenever the property owner proposes to increase the number of service units for a development, the additional roadway impact fees collected for such new service units shall be determined by using the LUVMET found in Table C and section 13.12.095(b) then in effect, and such additional fees shall be collected at the times prescribed by this section.
- (e) Where an application for a building permit is for a "shell" or speculative building proposed to be used as a shopping center, the amount of the roadway impact fee will be calculated assuming that the entire building will be used as a "shopping center" as shown on Table C. Where a subsequent application for a building permit is made for the finish-out of the shell building, or portion thereof, for the ultimate use, an additional roadway impact fee shall be charged and paid if the ultimate use is different from a "shopping center".
- (f) Where an application for a building permit is for a "shell" or speculative building proposed to be used as an office building, the amount of the roadway impact fee will be calculated assuming that the entire building will be used as a "general office building" as shown on Table C. Where a subsequent application for a building permit is made for the finish-out of the shell building, or portion thereof, for the

ultimate use, an additional roadway impact fee shall be charged and paid if the ultimate use is different from a "general office building".

- (g) Where an application for a building permit is for a "shell" or speculative building proposed to be used as an industrial use or industrial flex space, the amount of the roadway impact fee will be calculated assuming that the entire building will be used as "general light industrial" as shown on Table C. Where a subsequent application for a building permit is made for the finish-out of the shell building, or portion thereof, for the ultimate use, an additional roadway impact fee shall be charged and paid if the ultimate use is different from "general light industrial".

### **13.12.098 Offsets against roadway impact fees.**

- (a) The city may offset the cost of construction of any system facility that is required or agreed to by the city, pursuant to rules established in this section or pursuant to administrative guidelines promulgated by the city with the following limitations:
- (1) The offset 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) Projects that consist of multiple phases, whether approved before or after the effective date of this article, may apply for offsets against roadway impact fees for the entire project based upon improvements or funds toward construction of system facilities, or other roadway capital improvements supplying excess capacity. Offset shall be determined by comparing the actual costs of roadway capital improvements supplied by the project with the costs of roadway capital improvements to be utilized by development within the project, utilizing a methodology approved by the city. The offset determination shall be incorporated within an agreement for offsets, in accordance with this article. The roadway requirements of an agreement for offsets shall not be less than what is required by the zoning and development code.
  - (3) The city's then-current policies and regulations shall apply to determine a new development's obligations to construct adjacent system facilities. The obligation to construct, however, shall not exceed the maximum assessable roadway impact fees assessed against new development under Table A. Construction required under such policies and regulations shall be an offset against the amount of impact fees otherwise due. If the costs of constructing a system facility in accordance with the then current city policies and regulations are greater than the amount of the roadway impact fees due, the amount of the credit due shall be deemed to be one hundred percent (100%) of the assessed impact fees and no roadway impact fees shall be collected thereafter for the development, unless the number of service units is subsequently increased.
  - (4) All offsets against roadway impact fees shall be based upon standards promulgated by the city, which may be adopted as administrative guidelines, including the following standards:
    - a. No offset shall be given for the dedication or construction of site-related facilities.

- b. No offset shall be given for a roadway facility which is not identified within the roadway improvements plan, unless the facility is on or qualifies for inclusion on the transportation master plan and the city agrees that such improvement supplies capacity to new development other than the development paying the roadway impact fee and provisions for offsets are incorporated in an agreement for offsets pursuant to this article.
  - c. In no event will the city grant an offset when no roadway impact fees can be collected pursuant to this article or for any amount exceeding the roadway impact fees due for the new development, unless expressly agreed to by the city in writing.
  - d. The value of right-of-way dedicated for site-related facilities will not be considered for an offset.
  - e. The fair market value of right-of-way conveyed for roadway facilities that are not required by the new development will be entitled to an offset. If said roadway facilities are partially required by the new development, said portion shall not be entitled to an offset. The fair market value of the conveyed right-of-way will be determined by either:
    - 1. The appropriate Central Appraisal District,
    - 2. By agreement, or
    - 3. By a MAI appraisal obtained by the city.
  - f. The city may participate in the costs of a system facility to be dedicated to the city, including costs that exceed the amount of the impact fees due for the development, in accordance with policies and rules established by the city. The amount of any offset for construction of a system facility shall be reduced by the amount of any participation funds received from the city.
  - g. Where funds for roadway facilities have been escrowed under an agreement that was executed with the city prior to the effective date of this article, the following rules apply:
    - 1. Funds expended under the agreement for roadway facilities shall first be credited against the amount of roadway impact fees that would have been due under section 13.12.095(b) for those units of development for which building permits already have been issued;
    - 2. Any remaining funds shall be credited against roadway impact fees due for the development under section 13.12.095(b) at the time building permits are issued.
- (b) Except as provided below, offsets for construction of capital improvements shall be deemed created when the capital improvements are completed and the city has accepted the facility. In the case of capital improvements constructed and accepted prior to the September 26<sup>th</sup>, 2023, the offset shall be deemed created on said date. Offsets created on or before September 26<sup>th</sup>, 2023 shall expire ten years from such date. Offsets created after September 26<sup>th</sup>, 2023 shall expire ten years from the

date the offset was created. Upon application by the property owner, the city may agree to extend the expiration date for an offset on mutually agreeable terms.

- (c) Unless an agreement for offsets, as described herein, is executed providing for a different manner of applying offsets against roadway impact fees due, an offset associated with a plat shall be applied at the time of application for the first building permit and, at each building permit application thereafter, to reduce roadway impact fees due until the offset is exhausted.
- (d) An owner of new development who has constructed or financed a roadway capital improvement or roadway facility expansion designated in the roadway impact fee capital improvements plans, or other roadway capital improvement that supplies excess capacity, as required or authorized by the city, shall enter into an agreement with the city to provide for offsets against roadway impact fees due for the development in accordance with this subsection. The agreement shall identify the basis for and the method for computing and the amount of the offset due and any reduction in offsets attributable to consumption of road capacity by developed lots or tracts served by the roadway capital improvements. For multi-phased projects, the city may require that total offsets be proportionally allocated among the phases. If authorized by the city, the agreement also may provide for allocation of offsets among new developments within the project, and provisions for the timing and collection of roadway impact fees.

**13.12.099 Use of proceeds of roadway impact fees.**

- (a) The roadway impact fees collected within each roadway service area may be used to finance, pay for or to recoup the costs of any roadway facility identified in the roadway improvements plan for the roadway service area, including the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees), and amounts designated in any reimbursement agreements executed pursuant to section 13.12.098
- (b) Roadway impact fees may be used to pay for the contract services of an independent qualified engineer or financial consultant preparing or updating the roadway improvements plan who is not an employee of the political subdivision.
- (c) Roadway impact fees also 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 improvement.

**13.12.100 – 13.12.115 *Reserved.***