

CITY OF SANGER, TEXAS

ORDINANCE 10-18-24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANGER, DENTON COUNTY, TEXAS, AMENDING CHAPTER 10 SUBDIVISION, ARTICLE 10.200 ROADWAY IMPACT FEES; ESTABLISHING PROCEDURES FOR THE ASSESSMENT, COLLECTION, COMPUTATION, EXPENDITURE, REFUND AND GENERAL ADMINISTRATION OF ROADWAY IMPACT FEES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A CUMULATIVE CLAUSE; PROVIDING FOR CONSTRUCTION, SEVERABILITY, AND CONFLICT CLAUSES; PROVIDING FOR A SAVINGS CLAUSE; AUTHORIZING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Sanger (the “City”) is a home rule municipality regulated by state law and Charter; and

WHEREAS, Chapter 395, Tex. Loc. Gov’t Code (the “Stature”) provides the requirements and procedures for the adoption of Land Use Assumptions, Roadway Impact Fee Capital Improvements Plan, and Roadway Impact Fees; and

WHEREAS, the City Council finds it necessary for the public health, safety and welfare that development occur in a controlled and orderly manner; and

WHEREAS, the City Council approved Ordinance 08-15-16 adopting Roadway Impact Fees per service unit on August 1, 2016; and

WHEREAS, the Capital Improvement Advisory Committee on November 11, 2024, duly covered and conducted a public hearing and provided written comments on the Roadway Impact Fees, recommending approval to move proposed fee study to City Council; and

WHEREAS, as required by Section 395.054, Tex Loc. Gov’t Code, the City Council conducted a public hearing on December 2, 2024 on the adoption of Roadway Impact fees in which any member of the public had the right to appear at the hearing and present evidence for or against the plan and proposed fee; and

WHEREAS, the City Council finds that the passage of this Ordinance is in the best interest of the citizens of Sanger.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANGER, TEXAS:

SECTION 1. That Chapter 10 Subdivision, Article 10.200 Roadway Impact Fees and the Sections below are amended as follows:

10.205. Incorporation of Land Use Assumptions and Roadway Impact Fee Capital Improvements Plan.

The roadway impact fee capital improvements plan and land use assumptions, as considered and adopted by the city council with the roadway impact fee study as exhibit A to Ordinance 10-18-24 is incorporated herein by reference for all purposes, including any future amendments thereto.

10.206. Definitions.

In this article:

Assessment. The determination of the amount of the maximum assessable roadway impact fee per service unit which can be imposed on new development pursuant to this article.

Capital Improvement. A roadway facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the city.

City. The City of Sanger, Texas.

Credit. A reduction in the amount of a roadway impact fee(s), payments, or charges for approved construction or provision of the same type of capital improvement for which a fee has been assessed for a new development. This is done by either by a proven decrease in the number of service units attributable to such development or a decrease in the amount of roadway impact fees otherwise due, that results from contributions of land, improvements or funds to construct system improvements in accordance with the city's subdivision and development regulations, policies or requirements, as determined by the city.

Final Plat Approval. Authorization by the planning and zoning commission that the final map of a proposed subdivision meets all city standards and conditions in accordance with the city's subdivision regulations and that the plat may be recorded in the office of the county clerk. The term applies both to original plats and replats.

Impact Fee or Roadway Impact Fee. A fee, charge, or assessment for roadway facilities imposed on new development by the city pursuant to this article in order to generate revenue to fund or recoup all or part of the costs of capital improvements or facility expansion necessitated by and attributable to such new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction and any other fee that functions as described by this article or the statute. The term is inclusive of both the maximum assessable roadway impact fee and the roadway impact fee collection rate as herein described.

Land Use Assumptions. The description of the service area 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, upon which the roadway impact fee capital improvements plan is based.

Land Use Equivalency Table. A table converting the demands for capital improvements generated by various land uses to numbers of service units, as may be amended from time to time. The land use equivalency table may be incorporated in a schedule of impact fee rates, attached as appendix D of exhibit A to Ordinance 10-18-24 and incorporated by reference herein.

Maximum Assessable Roadway Impact Fee. The impact fee that is established for each service area computed by calculating the total projected costs of capital improvements necessitated by and attributable to new development and subtracting a portion of ad valorem tax revenues to be generated by new service units, including the payment of debt, associated with the roadway CIP, and then dividing that amount by the total number of service units anticipated within the service area based upon the land use assumptions. The maximum assessable roadway impact fee shall be established and reflected in exhibit A, attached to Ordinance 10-18-24 and incorporated herein. The city may adopt a roadway impact fee collection rate that is less than this amount, but in no instance shall the roadway impact fee exceed the maximum assessable roadway impact fee except by amendment of this article.

New Development. A project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of land, which has the effect of increasing the requirements for capital improvements or facility expansions, measured by the number of service units to be generated by such activity.

Recoupment. The imposition of an impact fee to reimburse the city for capital improvements which the city has previously oversized to serve new development.

Roadway Impact Fee Collection Rate. The current amount of roadway impact fee adopted by the city council to be paid by the property owner, as may from time to time be amended, which is the result of a percentage reduction of the adopted maximum assessable roadway impact fee. The adopted roadway impact fee collection rate shall be established and reflected in exhibit B, attached to Ordinance 10-18-24 and incorporated herein. The adopted roadway impact fee collection rate may be further reduced with credits, designed to fairly reflect the value of roadway facilities provided by a developer in accordance with the city's development regulations or requirements.

Roadway. Any primary and secondary arterial or collector designated in the city's adopted thoroughfare plan, as may be amended from time to time.

Roadway Facility. 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 facility; street lighting or curbs, and water and wastewater improvements affected by the roadway facility. Roadway facility also includes any improvement or appurtenance to an intersection with a roadway officially enumerated in the federal or state highway system, and to any improvements or appurtenances to such federal or state highway, to the extent that the city has incurred capital costs for such facilities, including without limitation local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances and rights-of-way. Roadway facility excludes those improvements or appurtenances to any roadway which is a site-related facility.

Roadway Facility Expansion. The expansion of the capacity of an existing roadway in the city, but does not include the repair, maintenance, modernization, or expansion of an existing roadway to better serve existing development.

Roadway Impact Fee Capital Improvements Plan or Capital Improvements Plan (CIP). The adopted plan included in exhibit A to Ordinance 10-18-24, as may be amended from time to time, which identifies the roadway facilities or roadway facility expansions and their costs for the service area, which are necessitated by and which are attributable to new development, for a period not to exceed 10 years, which are to be financed in whole or in part through the imposition of roadway impact fees pursuant to this article.

Service Area. The roadway service area within the city's corporate boundary, within which impact fees for roadway capital improvements or roadway facility expansions may be collected for new development occurring within such area and within which fees so collected will be expended for those types of improvements or expansions identified in the roadway impact fee capital improvements plan applicable to the service area.

Service Unit. A vehicle-mile. A vehicle-mile shall be defined as one (1) vehicle traveling a distance of one (1) mile during the afternoon peak hour as calculated herein.

Site-Related Facility. An improvement or facility which is for the primary use or benefit of one or more new developments and/or which is for the primary purpose of safe and adequate provision of roadway facilities to serve the new development, including access to the development, which is not included in the roadway capital improvements plan, and for which the developer(s) or property owner(s) is solely responsible under subdivision or other applicable development regulations. Site-related facility may include a roadway improvement which is located offsite, or within or on the perimeter of the development site.

System Facility. A roadway improvement or facility expansion which is designated in the roadway impact fee capital improvements plan and which is not a site-related facility. System facility may include a roadway improvement which is located offsite, or within or on the perimeter of the development site.

10.207. Roadway Service Area.

The city hereby establishes one (1) roadway service areas, constituting all land within the city's corporate boundaries, as depicted in exhibit A attached to Ordinance 10-18-24 and incorporated by reference herein.

10.208. Roadway Impact Fees Adopted.

The city hereby adopts the maximum assessable roadway impact fee attached to Ordinance 10-18-24 and incorporated as exhibit A, and the roadway impact fee collection rate attached to Ordinance 10-18-24 and incorporated as exhibit B. Each nonexempt new development shall be assessed the maximum assessable roadway impact fee and shall pay the roadway impact fee collection rate, minus any applicable credits, as described herein. Except as herein otherwise provided, the assessment and collection 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 property.

10.210. Assessment of Impact Fees.

Assessment of the impact fee for any new development shall be made as follows:

For a new development which has received final plat approval before the effective date of this article, assessment of impact fees shall occur on the effective date of this article, and shall be the amount of the maximum assessable roadway impact fee per service unit as set forth in exhibit A to Ordinance 10-18-24. However, the roadway impact fee collection rate shall not be collected on any service unit which has received final plat approval before the effective date of this article and for which a valid building permit is issued within one year after the date of adoption of this article.

For land which is not required to be platted at the time of application for a building permit pursuant to the city's subdivision regulations prior to development, assessment of roadway impact fees shall occur at the time application is made for the building permit, and shall be the amount of the maximum assessable roadway impact fee per service unit as set forth in exhibit A to Ordinance 10-18-24 then in effect.

For new development which is submitted for approval pursuant to the city's subdivision regulations or which is proposed for replatting on or after the effective date of this article, assessment of impact fees shall be at the time of final plat or replat approval, and shall be the amount of the maximum assessable roadway impact fee per service unit as set forth in exhibit A to Ordinance 10-18-24 then in effect.

Following assessment of the impact fee pursuant to this section, the amount of the impact fee assessment per service unit for that 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 other development application that results in approval of additional service units, in which case a new assessment shall occur at the exhibit A to Ordinance 10-18-24 rate then in effect for such additional service units.

The city manager or his or her designee shall compute the roadway impact fees for new development by first determining whether the new development is eligible for credits calculated in accordance with this article, which would further reduce impact fees otherwise due in whole or in part. The total amount of impact fees for the new development shall be attached to the development application as a condition of approval.

Approval of an amending plat pursuant to Tex. Loc. Gov't Code, section 212.016 and the city's subdivision regulations is not subject to reassessment for an impact fee.

10.212. Collection of Impact Fees.

Roadway impact fees shall be collected in the following manner; however, the city has the ability to require construction greater than the roadway impact fee collection rate for amounts up to the maximum assessable roadway impact fee:

The roadway impact fee collection rate shall be paid at the time the city issues a building permit for a new development.

For properties requiring a plat, the roadway impact fee collection rate to be paid and collected per service unit for new development shall be the amount listed in exhibit B to Ordinance 10-18-24 in effect at the time of final plat approval for up to a one-year period following such final plat approval. After the one-year period has expired, the roadway impact fee collection rate shall be paid according to the current amount listed in exhibit B to Ordinance 10-18-24 then in effect.

For properties that do not require the filing of a plat, the roadway impact fee collection rate shall be paid and collected per service unit for new development in the amount listed in exhibit B to Ordinance 10-18-24 in effect at the time that the building permit is filed.

If the building permit for which an impact fee has been paid has expired, and a new application is thereafter filed, the roadway impact fee collection rate shall be computed using exhibit B to Ordinance 10-18-24 in effect at the time of the new application, with credits for previous payment of impact fees being applied against the new impact fees due.

Whenever the property owner proposes to increase the number of service units for a development, the additional impact fees collected for such new service units shall be determined by using exhibit B to Ordinance 10-18-24 in effect at the time of the request, and such additional fee shall be collected at the times prescribed by this section.

The maximum assessable roadway impact fee per service unit for roadway facilities, as may be amended from time to time, hereby is declared to be an approximate and appropriate measure of the impacts generated by a new unit of development on the city's roadway system. To the extent that the roadway impact fee collection rate charged against a new development, as may be amended from time to time, is less than the maximum assessable roadway impact fee per service unit assessed, 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. The maximum assessable roadway impact fee may be used in evaluating any claim by a property owner that the dedication or construction of a capital improvement within a service area imposed as a condition of development approval pursuant to the city's subdivision or development regulations is disproportionate to the impacts created by the development on the city's roadway system.

10.213. Credits against Impact Fees.

The city may credit the contribution of land, improvements or funding for 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:

The credit shall be associated with the plat or other detailed plan of development for the property that is to be served by the roadway facility.

Master planned community projects, including subdivisions containing multiple phases, and whether approved before or after the effective date of these impact fee regulations, may apply for

credits against roadway impact fees for the entire project based upon contributions of land, improvements or funds toward construction of system facilities, or other roadway capital improvements supplying excess capacity. Credits shall be determined by comparing 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 credit determination shall be incorporated within an agreement for credits, in accordance with this article. The roadway requirements of an agreement for credits shall not be less than what is required by the city's subdivision ordinance.

The city's 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 fee assessed against the new development under exhibit A to Ordinance 10-18-24. Construction required under such policies and regulations shall be a credit against the amount of impact fees otherwise due. If the costs of constructing a system facility in accordance with the current city policies and regulations are greater than the amount of the roadway impact fee collection rate due, the amount of the credit due shall be deemed to be 100% of the assessed impact fees and no impact fee shall be collected thereafter for the development, unless the number of service units is subsequently increased.

All credits against roadway impact fees shall be based upon standards promulgated by the city, which may be adopted as administrative guidelines, including the following standards:

No credit shall be given for the dedication or construction of site-related facilities.

No credit shall be given for a roadway facility which is not identified within the roadway impact fee capital improvements plan, unless the facility is on or qualifies for inclusion on the thoroughfare plan and the city agrees that such improvement supplies capacity to new developments other than the development paying the roadway impact fee and provisions for credits are incorporated in an agreement for credits pursuant to this article.

In no event will the city grant a credit when no roadway impact fees can be collected pursuant to this article or for any amount exceeding the roadway impact fee collection rate due for the development, unless expressly agreed to by the city in writing.

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 credit for construction of a system facility shall be reduced by the amount of any participation funds received from the city.

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:

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 exhibit B to Ordinance 10-18-24 for those units of development for which building permits already have been issued;

Any remaining funds shall be credited against impact fees due for the development under exhibit B to Ordinance 10-18-24 at the time building permits are issued.

Credits for construction of capital improvements shall be deemed created when the capital improvements are completed and the city has accepted the facility, or in the case of capital improvements constructed and accepted prior to the effective date of this article, on such effective date. Credits created after the effective date of this article shall expire ten (10) years from the date the credit was created. Credits arising prior to such effective date shall expire ten (10) years from such effective date. Upon application by the property owner, the city may agree to extend the expiration date for the credit on mutually agreeable terms.

Unless an agreement for credits, as described herein, is executed providing for a different manner of applying credits against roadway impact fees due, a credit 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 impact fees due until the credit is exhausted.

An owner of a 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 credits against roadway impact fees due for the development in accordance with this paragraph. The agreement shall identify the basis for and the method for computing and the amount of the credit due and any reduction in credits 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 credits be proportionally allocated among the phases. If authorized by the city, the agreement also may provide for allocation of credits among new developments within the project, and provisions for the timing and collection of impact fees.

10.217. Updates to Plans and Revision of Fees.

The city shall update its land use assumptions and capital improvements plan and make any revision of fees as indicated below:

The city shall update its land use assumptions and roadway impact fee capital improvements plans and shall recalculate the roadway impact fees based thereon in accordance with the procedures set forth in Texas Local Gov't Code, Ch. 395, or in any successor statute. However, this does not preclude the city from reviewing its land use assumptions, roadway impact fee capital improvements plans, roadway impact fees, and other factors such as market conditions more frequently than provided for herein to determine whether the land use assumptions and roadway capital improvements plans should be updated and the roadway impact fees recalculated accordingly, utilizing statutory update procedures.

Exhibit B to Ordinance 10-18-24 may be amended without revising the land use assumptions and roadway capital improvements plans at any time prior to the update provided for in this section, provided that the roadway impact fee collection rate to be collected under exhibit B do not exceed the maximum assessable roadway impact fees assessed under exhibit A to Ordinance 10-18-24.

If, at the time an update is required as indicated herein and the city council determines that no change to the land use assumptions, roadway impact fee capital improvements plan or roadway impact fees are needed, it may dispense with such update by following the procedures in Texas Local Gov't Code, section 395.0575 or its successor statute.

The city may amend any other provisions of this article in accordance with procedures for ordinance amendments contained in the city's charter or state law.

SECTION 2. Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein and are hereby found to be true and correct factual and legislative determinations of the City of Sanger, Texas.

SECTION 3. Purpose. This Ordinance is intended to assure the provision of adequate roadway facilities to serve new development in the City by requiring each development to pay a share of the costs of such capital improvements or roadway facility expansions necessitated by the attributable to such new development.

SECTION 4. Authority. This Ordinance is adopted pursuant to Texas Local Government Code (TLGC) Chapter 395 and the Sanger City Charter. Chapter 395 supplements this Ordinance to the extent that its provisions may be applicable hereto and, to such extent, its provisions are incorporated herein by reference. The provisions of this Ordinance shall not be construed to limit the power of the City to utilize 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 Ordinance. Guidelines may be developed by ordinance, resolution, or otherwise to implement and administer this Ordinance.

SECTION 5. Applicability. The provisions of this Ordinance apply to all new, non-exempt development within the corporate boundaries of the City.

SECTION 6. Incorporation of Land Use Assumptions and Roadway Impact Fee Capital Improvement Plan. The Roadway Impact Fee Capital Improvements Plan and Land use Assumptions, as considered and adopted by the City Council with the Roadway Impact Fee Study as Exhibit A hereto is incorporated herein by reference for all purposes, including any future amendments thereto.

SECTION 5. This ordinance will take effect January 1, 2025, as the law and Charter in such case provides.

PASSED AND APPROVED by the City Council of the City of Sanger, Texas, on this 2nd day of December, 2024.

APPROVED:

Thomas E. Muir, Mayor

ATTEST:

Kelly Edwards, City Secretary

APPROVED TO FORM:

Hugh Coleman, City Attorney