

SILVER SPRING TOWNSHIP

IMPACT FEE ORDINANCE

2017-14

THE PURPOSE OF THIS ORDINANCE IS TO ESTABLISH THE SILVER SPRING 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 SILVER SPRING 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. 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.

WHEREAS, The Township is committed to the provision of a transportation system at service levels necessary to support residential and nonresidential growth and development; and

WHEREAS, 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 responsibility for financing the provision of such transportation facilities among the Township, State and Federal governments, and developers; and

WHEREAS, The amount of the impact fee to be imposed shall be calculated in accordance with the provisions of the Municipalities Planning Code, 53 P.S. § 10501-A et seq., as amended and this ordinance, applying the engineering standards set forth in the most recent edition of Trip Generation published by the Institute of Transportation Engineering, and any amendments or future editions thereof; and

WHEREAS, 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; and

WHEREAS, The Land Use Assumptions Report was adopted by the Board of Supervisors after recommendation of the Traffic Impact Fee Advisory Committee on April 12, 2017; and

WHEREAS, The Roadway Sufficiency Analysis Report was adopted by the Board of Supervisors after recommendation of the Traffic Impact Fee Advisory Committee on September 13, 2017; and

WHEREAS, The Transportation Capital Improvements Plan was adopted by the Board of Supervisors after the Traffic Impact Fee Advisory Committee Public Hearing on November 30, 2017; and

WHEREAS, the aggregation of development in the defined Transportation Service Areas intensifies the demand for transportation improvements designed to accommodate traffic volumes at a preferred level of service as defined by the Transportation Research Board of the National Academy of Science, which is the minimum acceptable level of service to accommodate such development and the intensity thereof; and

WHEREAS, the Board of Supervisor established the following preferred minimum levels of service after recommendation of the Traffic Impact Fee Advisory Committee on July 12, 2017:

- Overall Level of Service C at signalized intersections, except Route 11 and Route 114;
- Overall Level of Service E at Route 11 and Route 114;
- Approach Level of Service E at unsignalized intersections;
- Level of Service C for roadway segments; and

WHEREAS, The development potential of properties in the defined transportation service areas is reflected in the most recently adopted roadway sufficiency analysis and is implemented via the Subdivision and Land Development Ordinance and Zoning Ordinance.

SECTION 1. DEFINITIONS: As used in this ordinance, the following words and terms shall have the following meaning unless another meaning is plainly intended:

BUILDING PERMIT

A permit for the activities regulated under the Township Building Code, including the following activities:

- 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 Pennsylvania Uniform Construction Code including Township UCC amendments.

- Move a lot line which divides a lot from another lot or street.

DEVELOPER

Any person who has legal title of land, agent of the legal title or tenant with permission of the person who has legal title of land who makes an application for development.

IMPACT FEE

A fee, to be paid at building permit issuance, and calculated in accordance with the provisions of the Municipalities Planning Code, 53 P.S. § 10101 et seq., as amended and this ordinance.

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 Township. New development also includes any change in use that increases peak hour trips generated by an improved development.

OFF-SITE IMPROVEMENTS

Those public capital improvements that are not on-site improvements and that serve the needs of more than one development.

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 Township ordinance including, but not limited to, the PA Uniform Construction Code as amended, Subdivision and Land Development Ordinance, and Zoning Ordinance.

PEAK-HOUR

The Township has identified the p.m. peak hour as the relevant peak hour period for the calculation of impact fees.

TOWNSHIP AGENCY

Any Silver Spring Township entity, including Township Administration; Police Department, Fire Department, Emergency Services and the Sewer Authority.

TRANSPORTATION IMPROVEMENTS

Those off-site road improvements that have a life expectancy of three or more years, not including costs for maintenance, operation or repair.

TRANSPORTATION IMPROVEMENTS PLAN

A plan in effect at the time an impact fee is calculated 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 and as may be amended from time to time.

TRANSPORTATION AREAS

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.)

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 the most recent edition of Trip Generation published by the Institute of Transportation Engineers, and any amendments or future editions thereof.

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 the most recent edition of Trip Generation published by the Institute of Transportation Engineers, and any amendments and future editions thereto.

SECTION 2. APPLICABILITY OF IMPACT FEE AND DEMINIMUS NEW DEVELOPMENT

This ordinance shall be uniformly applicable to all new development that occurs within a defined transportation service area.

This ordinance shall not apply to de minimus new development. "De minimus" is defined to be new development that results in a total of five or less p.m. peak hour trips including any preexisting p.m. peak hour trips. This subsection sets forth a threshold limit for the applicability of this ordinance and shall not be construed to provide a five-trip credit to new development.

This ordinance shall not apply to Township Agency, or buildings associated therewith. Local government agencies serve an overriding public interest, warranting an exemption from impact fees.

SECTION 3. IMPOSITION OF IMPACT FEE

No building permit subject to this ordinance 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 ordinance.

SECTION 4. CALCULATION OF IMPACT FEE CALCULATION

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.

The impact fee imposed by this ordinance upon all new development shall be determined by applying the unit cost per trip to the p.m. peak hour trips generated by a project as identified in the most recent edition of Trip Generation published by the Institute of Transportation Engineers, and any amendments or future editions thereof, or by a special transportation study pursuant to Section

7. To determine the fee for a specific use, the p.m. peak hour trip generation rate for the proposed use shall be multiplied by the unit cost per trip in each transportation service area.

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.

SECTION 5. ADDITIONAL IMPACT FEE

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 the most recent edition of Trip Generation published by the Institute of Transportation Engineers, and

any amendments or future editions thereof. This section is in addition to the impact fee calculated under this ordinance.

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% 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.

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.

SECTION 6. 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 P.S. § 10101 et seq.

SECTION 7. SPECIAL TRANSPORTATION STUDY

Applicability of this Section. The Board of Supervisors may 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:

The Township requests a special transportation study.

The Institute of Traffic Engineers (ITE) *Trip Generation Manual* is not applicable because the proposed land use does not match an ITE Land Use category within the most recent edition of the Trip Generation Manual.

The traffic projections provided by the most recent edition of the ITE *Trip Generation Manual* are not applicable because the site characteristics are such that local data collection is required. The ITE *Trip Generation Manual* provides guidance for land uses where local data should be collected in lieu of using data from the *Manual*.

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 published by the Institute of Traffic Engineers or as determined with consultation with the Township. The new development is responsible for all costs associated with the special transportation study. The parameters of the special transportation study should be agreed upon with the Township prior to the start of the study.

SECTION 8. ADMINISTRATION OF IMPACT FEES

Collection of Impact Fees. Impact fees due pursuant to this ordinance shall be collected by the Township in the manner prescribed herein prior to issuance of a building permit.

Establishment and Maintenance of Accounts. The Township Manager shall establish interest-bearing trust 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 for in Section 10.

Maintenance of Records. The Director of Finance 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.

Annual Accounting. The Township will provide that an annual accounting is made for any account containing impact fee proceeds and earned interest. The accounting shall include the total funds collected, the source for the funds collected, the total amount of interest accruing on such funds and the amount of funds expended on specific transportation improvements. Notice of the availability of the results of the accounting will be included and published as part of the Township's annual audit.

SECTION 9. IMPACT FEES ADVISORY COMMITTEE

Role of the Impact Advisory Committee: The Impact Fee Advisory Committee or Advisory Committee is a committee formed pursuant to the Municipalities Planning Code, 53 P.S. § 10101 et seq., as amended, to serve in an advisory capacity to the Board of Supervisors. The Advisory Committee has as its duties:

To make recommendations, with respect to land use assumptions, the development of comprehensive road improvements and impact fees.

To make recommendations to approve, disapprove or modify a capital improvement program by preparing a written report containing these recommendations to the Township.

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 P.S. § 10101 et seq., as amended.

To prepare or cause to be prepared a roadway sufficiency analysis in accordance with the requirements of this part and the Municipalities Planning Code, 53 P.S. § 10101 et seq., as amended.

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:

Subsequent new development which has occurred in the Township.

Completion of capital improvements in the Transportation Capital Improvements Plan.

Unavoidable delays in construction of capital improvements contained in the plan beyond the Township's control or responsibility.

Significant changes in the land use assumptions.

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.

Significant changes in the projected revenue from sources listed.

SECTION 10. 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:

The applicant has provided written consent to use its collected impact fees for specific transportation projects which are not included in the Transportation Capital Improvement plan.

The alternative transportation project has as its purpose the reduction of traffic congestion or the removal of vehicle trips from the roadway network.

The Township amends its transportation capital improvements plan components required by § 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.

SECTION 11. 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.

SECTION 12. CREDIT

A developer 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 which are performed at the applicant's expense and are contained in the transportation capital improvement plan. 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.

Any new development which performs, at its own expense, off-site improvements as defined by this part, 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 developer is seeking credit. The developer 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.

SECTION 13. INTERPRETATION

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

Definitions.

Words and phrases are to be interpreted as defined by this ordinance.

Words and phrases that are not defined by this ordinance are to be interpreted as defined in §§ 107 and 502-A of the Municipalities Planning Code (MPC), 53 P.S. §§ 10107 and 10502-A, as amended.

Words and phrases that are not defined in this ordinance or Sections 107 and 502-A of the MPC are to be interpreted as defined in the Township's Zoning Ordinance, Subdivision and Land Development Ordinance.

Words and phrases that are not defined in this ordinance, §§ 107 and 502-A of the MPC, 53 P.S. §§ 10107, 10502-A or in the Township's Zoning Ordinance, Subdivision and Land Development Ordinance are to be given their common, ordinary dictionary meaning within the context of the sentence in which they are used.

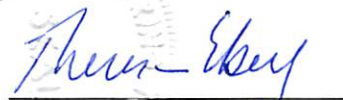
Construction. The words, phrases and provisions of this ordinance are not to be interpreted in a way the results in an absurd construction of the meaning, or in a way that causes one provision to contradict another.

SECTION 14. LIBERAL CONSTRUCTION

The provisions of this ordinance 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.

Adopted and enacted this 13TH day of December, 2017.

SILVER SPRING TOWNSHIP



Theresa Eberly, Secretary

Nancy Konhaus Griffie, Chair

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