Pennsylvania Department of Transportation

Transportation Impact Fees

A Handbook for Pennsylvania's Municipalities

Updated
March 2009

PUB 639

This work was sponsored by the Pennsylvania Department of Transportation and the United States Department of Transportation.

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Acronyms

CIP – Capital Improvements Plan

DCED – Department of Community and Economic Development

GIS – Geographic Information Systems

HCM – Highway Capacity Manual

HCS – Highway Capacity Software

HOP – Highway Occupancy Permit

ITE – Institute of Transportation Engineers

LOS – Level of Service

LUA – Land Use Assumptions

LUAR – Land Use Assumptions Report

LUPTAP – Land Use Planning Technical Assistance Program

MPC – Municipalities Planning Code

MPO – Metropolitan Planning Organization

PennDOT – Pennsylvania Department of Transportation

PIB – Pennsylvania Infrastructure Bank

PSATS – Pennsylvania State Association of Township Supervisors

RPO – Rural Planning Organization

RSA – Roadway Sufficiency Analysis

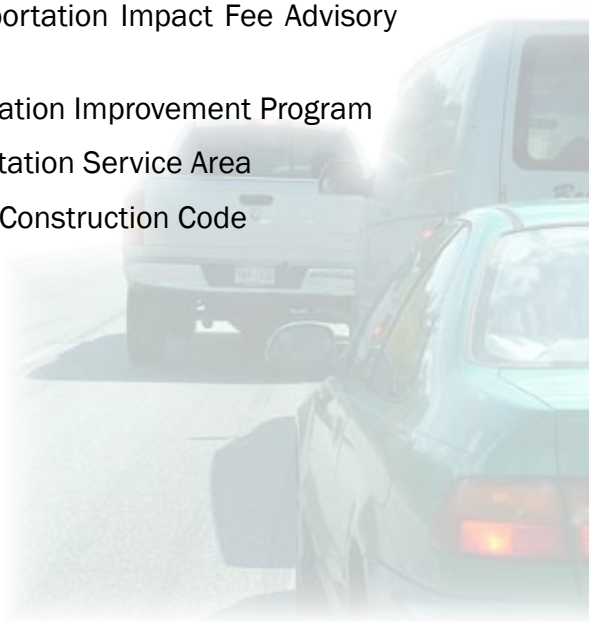
TIF – Tax Increment Financing

TIFAC – Transportation Impact Fee Advisory Committee

TIP – Transportation Improvement Program

TSA – Transportation Service Area

UCC – Uniform Construction Code



Introduction

Municipalities experiencing intense residential, commercial, and/or industrial development often struggle to fund roadway improvements needed to serve that development. Transportation impact fees are one tool to narrow the funding gap.

Transportation impact fees are a funding mechanism permitted by the Pennsylvania Municipalities Planning Code (MPC). Fees can be assessed to new development in proportion to its impact on transportation—the traffic the development is expected to generate during peak commuter periods. Funds collected are used to improve roadways used by development-related traffic, enabling Pennsylvania municipalities to provide adequate infrastructure to support economic growth and development.

However, adopting an impact fee ordinance involves complying with certain regulations and completing specific studies, which represent a significant investment by the municipality.

PennDOT has developed this handbook to assist municipalities in:

- Understanding the background of impact fee use in Pennsylvania.
- Determining the feasibility of impact fees for their community.
- Understanding the process required by the MPC to establish an impact fee ordinance.
- Administering the program after ordinance adoption.
- Developing ordinance language.
- Funding and implementing a Capital Improvements Plan.

Impact Fee Background

Enabling Legislation

The MPC authorizes municipalities within the Commonwealth to enact, amend, and repeal impact fee ordinances and to charge impact fees to cover the cost of off-site road improvements necessitated by new land development as defined in sections 501-A through 506-A of the MPC. Sections 501-A through 506-A of the MPC were added on December 19, 1990, via Act 209 of 1990, and were amended via Act 68 of 2000.

Section 501-A of the MPC provides the purposes of transportation impact fees:

> *To further the purposes of this act in an era of increasing development and of a corresponding demand for municipal capital improvements, to insure that the cost of needed capital improvements be applied to new developments in a manner that will allocate equitably the cost of those improvements among property owners and to respond to the increasing difficulty which municipalities are experiencing in developing revenue sources to fund new capital infrastructure from the public sector, the following powers are granted to all municipalities, other than counties, which municipalities have adopted either a municipal or county comprehensive plan, subdivision and land development ordinance and zoning ordinance.*

The amendments (MPC Section 508-A) from Act 68 of 2000 enable municipalities to adopt joint transportation impact fee ordinances.

Each of the participating municipalities must have adopted a joint comprehensive plan prior to adopting joint impact fees. The same requirements must be followed for joint impact fee ordinances as those for sole municipal impact fee ordinances. Each municipality must act on the appointment of the Transportation Impact Fee Advisory Committee (TIFAC) and adopt the Land Use Assumptions Report, Roadway Sufficiency Analysis, and Capital Improvements Plan. A joint impact fee ordinance does not become effective until it has been properly adopted by all participating municipalities. The amendments did not include special provisions for joint impact fee ordinances regarding the permitted size of the Transportation Service Area (TSA), preferred Level of Service (LOS) or expenditure of impact fee revenues across municipal boundaries.

Grant of Power

According to Section 503-A(b) of the MPC, no municipality has the power to require as a condition for approval of a land development or subdivision application, the construction, dedication or payment of any off-site road improvements or capital expenditures of any nature whatsoever or impose any contribution in lieu thereof, exaction fee, or any connection, tapping, or similar fee except as may be authorized by the MPC. Section 503-A(f) states that no municipality may delay or deny any application for building permit, certificate of occupancy, or development or any other approval or permit required for construction, land development, subdivision or occupancy for the reason that any project of an approved capital improvement program has not been completed.

Section 503-A(e) does not alter the municipality's existing power to require an applicant for municipal approval of any new development or subdivision from paying for the installation of on-site improvements as provided for in the municipality's subdivision and land development ordinance.

The provisions of the MPC do not alter or diminish the powers, duties, or jurisdiction of PennDOT with respect to state-owned roads. More specifically, the payment of transportation impact fees to a municipality in no way alters or diminishes PennDOT's authority to require off-site road improvements through the Highway Occupancy Permit (HOP) approval process that may be needed to mitigate the traffic impact of a particular land development.

Permitted Uses of Transportation Impact Fees

Section 503-A(d) of the MPC permits transportation impact fees to be used for costs incurred by a municipality for the construction of roadway improvements designated in a transportation Capital Improvements Plan that are attributable to new development within a designated service area or areas. Impact fees can be utilized for the following project costs:

- construction
- acquisition of land and rights-of-way
- engineering
- legal costs for activities such as right-of-way acquisition
- planning costs such as traffic studies and conceptual plans for design engineering
- debt service
- pro-rata share by TSA for preparing a roadway sufficiency analysis

Transportation impact fees cannot be assessed or used for the following costs:

- Construction acquisition or expansion of municipal facilities other than capital improvements identified in the Capital Improvements Plan.
- Repair, operation, or maintenance of existing or new capital improvements.
- Upgrading, updating, expanding, or replacing capital improvements to serve existing land uses in order to meet stricter safety, efficiency, environmental, or regulatory standards.
- Preparing the land use assumptions and capital improvements plan required for the adoption of a transportation impact fee ordinance.

In summary, impact fees can be used for capacity improvements to accommodate traffic generated by new development, but not to address existing or anticipated deficiencies unrelated to the development. Eligible improvements include adjustments to existing

Section 503-A(e) does not alter the municipality's existing power to require an applicant for municipal approval of any new development or subdivision from paying for the installation of on-site improvements as provided for in the municipality's subdivision and land development ordinance.

traffic signals, new traffic signals, auxiliary turn lanes, additional through travel lanes, new roads, and any other items associated with those types of improvements. Improvements can also include the correction of any existing design deficiencies within the limits of work for the capacity improvements.

Pennsylvania Municipalities with Transportation Impact Fees

At the time of publication of this handbook more than 60 municipalities in Pennsylvania have adopted, or are in the process of adopting, transportation impact fees. In general, these municipalities are clustered around the Philadelphia, Harrisburg, and Pittsburgh regions, mainly because these areas have experienced the most land development activity since the enactment of the enabling legislation for impact fees in 1990.

Impact fees were first adopted in Cranberry Township, Butler County, and Manheim Township, Lancaster County. In recent years, municipalities in south central Pennsylvania have adopted fees due to development pressure from Maryland. Municipalities in the Pittsburgh region have begun to adopt impact fees due to land development activity generated by shifts in population within the region. A list of the municipalities with impact fees and a corresponding map can be found in Appendix A.

Benefits of Transportation Impact Fees

Transportation impact fees can be an effective funding mechanism for municipalities that are projected to experience moderate or intense land development pressures. Impact fees can be used to fund 100 percent of the cost of improvements to municipal and county-owned roads. They can expedite preconstruction phases and leverage state and federal funds for improvements to state-owned roadways by funding 50 percent of the total project cost. Although some obstacles may exist in the process of project implementation using impact fees, more than 60 municipalities located in growing areas throughout Pennsylvania have implemented impact fees as a viable funding tool to manage growth in their communities. However, impact fees are not an appropriate tool for every municipality.

Impact fees can be used for capacity improvements to accommodate traffic generated by new development, but not to address existing or anticipated deficiencies unrelated to the development.

Are Transportation Impact Fees Right for My Municipality?

Before incurring the up-front costs of implementing a transportation impact fee ordinance, municipalities should consider several issues related to existing traffic conditions and projected land development activity to help determine whether the investment would indeed be worthwhile. A municipality should conduct a feasibility or cost-benefit analysis of these issues before proceeding with the implementation of an impact fee ordinance. The analysis should focus on the following factors:

Future Land Use Projections

Based upon the future land use plan contained in the municipal comprehensive plan, projections should be completed for the number of residential units and non-residential square footage that could be developed in future growth areas. As a general rule, for impact fees to be an effective funding tool potential should exist for development of at least 50 to 100 residential units per year and approximately 50,000 to 100,000 square feet of non-residential development per year for a minimum of five years. Municipalities that are near build-out or do not expect significant growth due to current zoning, economic conditions, environmental features, or preserved lands generally do not benefit from impact fees.

Review of Proposed Road Improvements

The municipality should compile an inventory of roadway improvements planned by PennDOT and land development proposals that have been given preliminary or final land development approval by the municipality within and surrounding future growth areas. If significant capacity improvements are planned or programmed in the immediate future along arterial and collector corridors that may negate the need for future improvements, impact fees may not be needed in the municipality.

Traffic Volumes and Roadway Capacity

An inventory of traffic volumes and capacities should be completed for the roadways and intersections within and surrounding future growth areas. An existing level of service analysis should be completed to identify deficiencies. If existing levels of service are acceptable but will likely become deficient with future growth or numerous deficiencies already exist, impact fees could be an effective tool to fund improvements to accommodate new development. If the existing conditions analysis indicates that significant capacity currently exists and future development will not create deficiencies, the municipality may not need impact fees.

Potential Revenue Generation From Impact Fees

Based on future land use projections, the municipality should complete an approximate revenue projection. First, the residential unit and non-residential square footage should be used to calculate the total approximate trip generation. The total trip generation should then be multiplied by an assumed traffic impact fee to determine the amount of approximate revenue. As a general guide, the interim impact fee amount of $1,000 per peak hour trip can be used as a multiplier.

In order to complete a general cost-benefit analysis, the municipality should identify possible improvements that would be needed to improve deficiencies created by new development and assign order of magnitude cost estimates. The total cost of improvements and the approximate amount of revenue that could be generated by impact fees should then be compared to the estimated costs to implement the transportation impact fee ordinance. The municipality should remember that no more than 50 percent of the total project cost can be funded with impact fees on state-owned roadways.

Each municipality must determine whether the up-front costs will provide a sufficient benefit in the future. If the projected revenue from impact fees is approximately $150,000 versus $100,000 for implementation costs, impact fees may not be a good option. If the projected revenue is $5,000,000 versus implementation costs of $100,000, the benefit of future revenue far exceeds the hardship of the implementation costs.

General scenarios in which impact fees may be a viable funding mechanism for a municipality:

- A township with suburban or rural characteristics that anticipates significant residential, commercial, and employment growth over the next few years. Most intersections and roadways operate at acceptable LOS. Several intersections and roadways will require significant capacity improvements in order to accommodate the anticipated traffic growth.
- A township with suburban or rural characteristics that has already experienced significant growth in particular areas. However, it anticipates significant residential, commercial, and employment growth in other areas of the municipality over the next few years. Some intersections and roadways operate at acceptable LOS. Several intersections and roadways will require significant capacity improvements in order to accommodate the anticipated traffic growth.
- A borough or city that anticipates the redevelopment of brownfield sites that will contain a variety of uses that will generate significant amounts of new traffic. Most intersections and roadways operate at acceptable LOS and are not constrained by physical or environmental features for future expansion.
- A borough or city that anticipates the redevelopment of its central business district that will include new uses or expansion of existing uses that generate significant amounts of new traffic. Most intersections and roadways operate at acceptable LOS and are not constrained by physical or environmental features for future expansion.

General scenarios in which an impact fee may not be a viable funding mechanism for a municipality:

- A rural township that anticipates very little growth. Most vacant land is under conservation easement or is environmentally constrained, thus preventing significant development.
- A suburban township, borough, or city that is nearly built out and does not anticipate moderate or significant development activity. Many of the necessary intersection and roadway improvements are to address existing conditions and not eligible to be funded with impact fees.
- A township with suburban or rural characteristics that anticipates moderate residential, commercial, and employment growth over the next few years. Most intersections and roadways currently do not operate at acceptable LOS. Several intersections and roadways will require significant capacity improvements in order to address existing conditions.

Steps Required to Establish a Transportation Impact Fee

A municipality that chooses to adopt an impact fee ordinance must complete a series of reports: Land Use Assumptions, Roadway Sufficiency Analysis, and a Capital Improvements Plan. Each report requires action by the Traffic Impact Fee Advisory Committee and governing body after receiving public comment. It is critical that a municipality meet all of these legal requirements of the MPC so that land development applicants cannot challenge the legality of impact fee implementation procedures.

A checklist follows on page 17 as a guide through the legal procedural requirements. The checklist includes each major element required for the adoption of an impact fee ordinance, including establishing the Traffic Impact Fee Advisory Committee; completing the Land Use Assumptions Report, Roadway Sufficiency Analysis, and Capital Improvements Plan; and adopting the ordinance. For each of these elements, the checklist contains a sequential list of steps including review periods, public hearing advertisements, public hearings, Traffic Impact Fee Advisory Committee actions and Governing Body actions that are required by the MPC. In addition, model public notices and resolutions are contained in Appendix B through E for a municipality to use as templates for the corresponding steps listed in the checklist. The templates are meant to serve only as a guideline to municipalities in structuring their notices and resolutions. Municipal officials should not advertise or adopt the templates without following the procedures outlined in the Pennsylvania Municipalities Planning Code. The municipality should utilize its general counsel throughout the process to ensure all legal requirements have been satisfied.

Selection of Qualified Consultants

Completion of the necessary steps to establish a transportation impact fee requires the assistance of qualified consultants. The traffic and land use studies must be completed according to the specific requirements of the MPC. These specific requirements are not typically used for the completion of other traditional studies such as comprehensive plan-

It is critical that a municipality meet all legal requirements of the MPC so that land development applicants cannot challenge the legality of impact fee implementation procedures.

ning or traffic impact studies. Municipalities should consider the following qualifications when selecting consultants:

- The number of transportation impact fee studies completed by the consultant.
- Referrals from municipalities that have previously used the consultant for impact fees.
- Any legal challenges to the impact fee studies completed by the consultant.
- Familiarity with the study requirements and procedural steps required for establishment of a fee.
- The consultant's ability to complete the work within the 18-month period established by the MPC.
- The consultant's ability to use cost savings measures to reduce the cost to the municipality.

The municipality should first seek statements of interest and qualifications from consultants. The municipality can inquire with its county planning commission, MPO/RPO, and/or PSATS for a list of consultants that may be qualified to assist with the implementation of the impact fee program. After the review of qualifications, it is recommended that the municipality select a minimum of three consultants to provide a technical scope of work and cost proposal. The consultant proposals should be reviewed for thoroughness and consistency with the information provided in this handbook for completion of the Land Use Assumptions Report, Roadway Sufficiency Analysis, and Capital Improvements Plan. The cost proposals should be reviewed to determine whether all potential cost saving measures are being considered by the consultant. The selection should not be based solely on the lowest bid. Professional service contracts are exempt from the bidding requirements in the Pennsylvania Code. The municipality should factor cost in the consultant selection as it deems appropriate. The municipality should feel comfortable with the qualifications of the consultant and have confidence in their ability to complete the effort in full compliance with the MPC. The municipality should also consider interviews with the short-listed consultants before making the final selection.

Cost proposals should be reviewed to determine whether all potential cost saving measures are being considered by the consultant.

Checklist for Establishing Transportation Impact Fees

Establish Traffic Impact Fee Advisory Committee (TIFAC)

- ☐ Governing body approves a resolution appointing the TIFAC, establishing interim impact fee, and defining general study area
- ☐ First advertisement of Notice of Intent to adopt a transportation impact fee ordinance
- ☐ Second advertisement of Notice of Intent to adopt a transportation impact fee ordinance

Complete Land Use Assumptions Report

- ☐ 30-day review period for county planning, adjacent municipalities, and the school district
- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Land Use Assumptions Report
- ☐ Governing body approves Land Use Assumptions Report by resolution

Complete Roadway Sufficiency Analysis

- ☐ TIFAC provides governing body with recommendation for action on Roadway Sufficiency Analysis
- ☐ Governing body approves Roadway Sufficiency Analysis by resolution

Complete Capital Improvements Plan

- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ Capital Improvements Plan on public display for at least 10 business days prior to public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Capital Improvements Plan
- ☐ Governing body approves Capital Improvements Plan by resolution

Adopt Transportation Impact Fee Ordinance

- ☐ Impact fee ordinance must be on public display 10 business days prior to scheduled adoption by the governing body
- ☐ Governing body adopts the transportation impact fee ordinance

Note: The procedural steps contained in this checklist are those provided by Sections 504 and 505 of the MPC. The municipality should consult its solicitor or general counsel to determine whether any additional steps are needed for the adoption of its ordinance based on the normal procedures typically used by the municipality for advertisement of public hearings and adoption of ordinances.

Transportation Impact Fee Advisory Committee

The first step in adopting a transportation impact fee ordinance is to appoint a Transportation Impact Fee Advisory Committee (TIFAC). The TIFAC assists with developing studies required for the adoption of the ordinance and provides recommendations to the governing body for approval or disapproval of reports at various stages of the process. The TIFAC has five primary functions:

1. Develop the Land Use Assumptions Report.
2. Prepare the Roadway Sufficiency Analysis.
3. Develop the Capital Improvements Plan based on the Land Use Assumptions Report and Roadway Sufficiency Analysis.
4. Establish the impact fee and impact fee ordinance.
5. Periodically review the progress of the Capital Improvements Plan implementation and provide recommendations to the governing body for revisions or updates to the land use assumptions, capital improvements plan, or impact fees.

The TIFAC may elect to use the services of traffic engineers and planners in the preparation of the Land Use Assumptions Report, Roadway Sufficiency Analysis, and Capital Improvements Plan. When consultants are used, the TIFAC oversees the preparation of these studies and works closely with the consultants throughout the study process.

The TIFAC may be dissolved after passage of the impact fee ordinance and appoint a new committee in the future. However, a municipality may choose to keep the original committee for a period of time, or indefinitely, to monitor and evaluate the implementation of the Capital Improvements Plan and the assessment of impact fees and to advise the municipality of the need to revise or update the land use assumptions, capital improvements program, or impact fees.

It is important to note that the TIFAC is advisory only; the municipality's governing body is the entity responsible for the ultimate adoption and enforcement of the impact fee ordinance. In addition, it can be expected that the municipality's governing body will be involved with the impact fee ordinance implementation process to ensure that the best interests of the municipality are being served by the consultants and committee.

As described in subsequent sections of the

The TIFAC is advisory only; the municipality's governing body is the entity responsible for the ultimate adoption and enforcement of the impact fee ordinance.

handbook, the TIFAC is required to hold public hearings to provide recommendations to the governing body for the disapproval or approval of documents. The TIFAC will need to meet periodically with the consultants and municipal staff during the development of the various documents. It is recommended that each meeting is advertised and open to the public, and that minutes are taken.

Composition of the Impact Fee Advisory Committee

The TIFAC must be comprised of 7 to 15 members. Although an even number of members is permitted, an odd number is recommended to avoid tie votes on recommended actions to the governing body. A minimum of 40 percent of the TIFAC must be made up of real estate professionals, developers (commercial and/or residential), and building industry professionals that live or conduct business in the municipality. The remaining 60 percent must be residents. If a municipality chooses, its planning commission may be appointed as the TIFAC, provided that the 40 percent requirement is met. If this cannot be met, appropriate people must be appointed to serve as ad hoc voting members of the advisory committee when the planning commission acts as the TIFAC. It is desirable to have people with municipal planning experience serve on the committee, such as people who serve on the planning commission and/or other committees. However, municipal staff may not serve on the TIFAC. Traffic and transportation engineers may be appointed to the TIFAC, so long as they are not employed by the municipality for development of or for consultation on the Land Use Assumptions Report, Roadway Sufficiency Analysis, or Capital Improvements Plan that will be prepared for the impact fee ordinance.

The composition of the TIFAC may be legally challenged within 90 days of the first public meeting of the committee. If a member leaves the committee and the committee chooses to appoint a new member, a new resolution must be passed to appoint the new member. The appointment of a new committee member starts a new 90-day period for challenging the composition of the committee. Although it is not required that a new member be appointed, it may be necessary to ensure that at least 40 percent of the committee includes people from the real estate, land development, and building industries. If this requirement can be met even after the departure of a member, it still may be advantageous to appoint a replacement member to maintain an odd number of committee members.

Adoption of the Resolution Appointing the Transportation Impact Fee Advisory Committee

Once a municipality has decided to pursue an impact fee ordinance, a resolution to appoint the TIFAC must be adopted by the governing board of the municipality. In addition, this resolution must identify the general location of the area(s) to be included in the study (e.g., the portion of the municipality north of Main

A minimum of 40 percent of the TIFAC must be made up of real estate professionals, developers (commercial and/or residential), and building industry professionals that live or conduct business in the municipality.

Street and south of Township Line Road). Transportation Service Areas (TSAs) do not have to be delineated at this time, but a general study area must be identified in the resolution. With the adoption of this resolution, an 18-month period starts in which an interim impact fee applies to land development applications submitted to the municipality for the first time, and during which the committee and municipality must complete the study requirements and adopt an impact fee ordinance. If the municipality does not adopt an interim impact fee, the 18-month period does not apply for the completion of the study requirements and adoption of the ordinance. However, it is recommended that municipalities adopt an interim fee in all cases.

Notice of Intent

After adoption of the resolution appointing the TIFAC and identifying the general study area, the municipality must publish its intent to establish an impact fee. The notice of intent must be published twice in one newspaper of general circulation. The first publication should be as soon as possible after the adoption of the resolution. The second notice must be published one to three weeks after the first publication.

An 18-month retroactive period starts with the first publication of the resolution that enables the municipality to assess an interim impact fee. If the municipality does not publish the notice of intent immediately after the adoption of the resolution, they may lose potential revenue from any new land development applications that are filed with the municipality during that lag period.

Interim Impact Fee

Adoption of the resolution also allows the municipality to assess and collect an interim impact fee. The MPC permits the municipality to start collecting impact fees while the study requirements (Land Use Assumptions Report, Roadway Sufficiency Analysis, and Capital Improvements Plan) are underway. The maximum interim impact fee permitted by the MPC is $1,000 per peak hour trip. After the actual impact fee has been adopted, the municipality may only collect the lesser of the interim impact fee or the actual impact fee from land developments filed for the first time with the municipality during the 18-month retroactive period. A municipality may charge an interim fee less than $1,000; however, it is recommended that they implement the highest allowable interim fee. For example, if a municipality establishes an interim impact fee of $800 per trip and the ultimate impact fee ends up being $1,200 per trip, the municipality loses $400 per trip. However, if they had used the maximum allowable interim impact fee ($1,000), the municipality would only have lost $200 per trip. Use of the maximum allowable interim impact fee minimizes the potential loss of collectable fees.

Municipalities are frequently concerned that if they charge the maximum interim impact fee of $1,000, but the actual adopted fee is less than that amount, they will have to process refunds—a costly and time-consuming administrative task. Although it is possible that the municipality would have to refund a portion of paid impact fees, it is unlikely, especially for a larger development. In Pennsylvania, the land development process typically takes 18 to 24

It is desirable to have people with municipal planning experience serve on the committee, such as people who serve on the planning commission and/or other committees.

months from initial application until issuance of the building permits. Since impact fees are not due until issuance of the building permit, it is unlikely that a development will have made it through the entire land development process and paid the interim impact fees during this 18-month retroactive period. Another option is to defer collection of the impact fees by informing all new applicants during the 18-month retroactive period that the impact fee will be assessed and collected after the ordinance has been adopted. However, any land development applications submitted to the municipality for the first time during the 18-month retroactive period are still subject to the interim fee under this option.

If the transportation impact fee ordinance is not adopted within the 18-month retroactive period, all new land developments that have submitted plans to the municipality after the publishing of the notice of intent are no longer subject to the impact fee. Any interim fees collected from these applicants during the 18-month retroactive period must be refunded to the respective applicants. If the 18-month retroactive period expires, the TIFAC must be reappointed by resolution, the notice of intent must be published again, and a new 18-month retroactive period begins. If the municipality decides to abandon the impact fee process and not to adopt the impact fee ordinance, it must refund all collected fees to the respective land development applicants.

With the adoption of this resolution, an 18-month period starts in which the committee and municipality must complete the study requirements and adopt an impact fee ordinance.

Land Use Assumptions Report

The TIFAC's first action is to develop a Land Use Assumptions Report. According to the MPC, the land use assumptions report shall have two primary purposes:

- Describe the existing land uses within the designated area or areas and the highways, roads, or streets incorporated therein.
- To the extent possible, reflect projected changes in land uses, densities of residential development, intensities of non-residential development, and population growth rates which may affect the level of traffic within the designated area or areas over a period of at least the next five years. These projections shall be based on an analysis of population growth rates during the prior five-year period, current zoning regulations, approved subdivision and land developments, and the future land use plan contained in the adopted municipal comprehensive plan. It may also refer to all professionally produced studies and reports pertaining to the municipality regarding such items as demographics, parks and recreation, economic development, and any other study deemed appropriate by the municipality.

Report Scope and Potential Costs

The suggested table of contents and recommendations contained herein can provide an effective basis for the scope of work for the land use assumptions report. The advisory committee should also gather other applicable materials in the development of a scope of work to help refine the availability of existing data and the actual work that needs to be part of the land use assumptions report process. The documents that may prove helpful in this process are identified below.

- County and municipal comprehensive plans
- Current municipal zoning ordinance
- Approved subdivision and land development plans with available building lots
- Analysis/summary of approved building permits within at least the last 5 to 10 years
- Municipal population and employment totals for at least the last two decennial (every 10 years) census reports
- Act 537 Plan (if within the document's stated planning period) documenting planned sewer service areas
- Roadway capital improvements plan
- Base mapping for the municipality depicting at a minimum the current roadway system and current parcel boundaries
- Current public water system mapping,

A municipality can elect to complete the necessary studies in-house or contract the work to a qualified consultant.

as applicable, indicating any planned system expansion areas

- Available traffic impact studies, similar documents, and traffic counts
- Applicable portion of PennDOT's Twelve-Year Transportation Plan (contact local MPO/RPO as necessary)
- Applicable school district long-range plans
- Any other similar plans or studies deemed applicable by the advisory committee

If the advisory committee plans to contract out the work for the land use assumptions report, the above documents should be identified in the scope of work and made available for review during the proposal preparation process. If the municipality elects to complete the report in-house, either by the committee or municipal staff, a listing of the available documents should be made for quick reference throughout the planning process.

The remaining step during the scope of work definition process is to refine the planned study area as much as possible. The advisory committee can elect to include the entire municipality in the project area or identify any portion of the municipality as broken into one or more subareas, such as preliminary TSAs of seven square miles.

As indicated above, the municipality can elect to complete the necessary studies in-house or contract the work to a qualified consultant. The estimated cost to prepare land use assumptions reports can vary significantly depending on the size of the area under study, the availability of recent planning documents and data such as comprehensive plans and zoning ordinances, and several other factors. Current (2007) costs typically range from $10,000 to $25,000. Funding assistance may be sought through the Department of Community and Economic Development's (DCED) Land Use Planning and Technical Assistance Program (LUPTAP), Shared Municipal Services (if multiple municipalities are involved), or other applicable program.

Compatibility with Comprehensive Plan and Ordinances

The MPC does not specifically require that the land use assumptions report be compatible with the municipality's comprehensive plan and ordinances, but given the MPC's requirement to have a comprehensive plan and ordinance in place prior to adopting impact fees, it is implied that compatibility between these documents is highly recommended. The greatest potential concern involves development assumptions in the land use report that conflict with existing zoning, leading to potential developer challenges to the validity of the land use assumptions report or the zoning ordinance. There may even be some economies of scale to completing multiple planning documents concurrently.

Another issue regarding compatibility is whether special exceptions and/or conditional uses should be factored into the land use assumptions report or if only those uses

Compatibility of the land use assumptions report with the municipality's comprehensive plan and ordinances is highly recommended.

allowed by right should be considered. This issue is not specifically addressed in the MPC, thus providing the municipality with the latitude to decide this matter. In either case, the issue should be addressed in the land use assumptions report.

Existing Conditions/Historic Trends

Land use

The accurate depiction of existing land use types within the study area is a critical first step in the planning process. This task can be very time consuming depending on the availability of existing information and mapping. Geographic Information System (GIS) mapping and data is highly recommended if available through the municipality or county. If recent land use mapping has not been completed as part of a comprehensive plan or other similar planning effort, GIS data from county planning and/or assessment offices, or MPOs/RPOs, can be an important resource. The age of the data should be identified and the mapping updated to the current condition at the time of the study. County assessment data often have land use codes if no other land use mapping is available. These data provide a good starting point, but should be checked closely for accuracy and level of detail.

There are no land use categories officially identified in the MPC for inclusion in the land use assumptions report, leaving the actual categories to the discretion of the advisory committee. The zoning categories in the municipal zoning ordinance provide a good starting point for the identification of appropriate uses to be identified. Whether completed by the committee, municipal staff, or a consultant, there should also be awareness of the categories for which traffic generation factors are available from the Institute of Transportation Engineers *Trip Generation Manual,* enabling a close linkage between existing land use mapping and traffic generation rates within the study area.

Another good resource for existing land use mapping is the aerial photography that is now available throughout Pennsylvania through the PAMAP (Pennsylvania base map) program. This photography, which is vintage 2003 at the oldest, can be a very effective tool for identifying existing land uses, especially in rural areas. Some counties or municipalities may have additional aerial photography flown for special purposes that may post-date the PAMAP imagery, so coordination with these levels of government is advisable. While this tool is an effective means of reducing the amount of time to complete land use mapping, it should not be the sole method of identifying land uses. Field verification of existing land uses is highly advisable. Additional time savings can be realized by completing the field exercise digitally with the GIS technology identified earlier.

After field efforts are completed, the land uses should be mapped using the categories as selected by the advisory committee. In addition, tabular and text summaries of the land use types should also be completed for the study area.

Developable Lands

Using the existing land use map as a base, properties within the study area that are available for future development or deemed by the advisory committee to be likely for redevelopment within the planning horizon of the study should be identified. The initial task is to identify those parcels that are evaluated as already being developed to their highest and best use. Examples typically include single family residential lots and commercial or industrial sites that conform to the municipal zoning ordinance. Other areas unlikely to be

developed in the future include publicly held lands, properties subject to permanent conservation easements, floodplains, wetlands, and any other areas subject to environmental constraints. Once these areas have been identified and mapped, the amount of developable land within the study area can be quantified and mapped. Again, GIS technology can significantly reduce the overall work effort for this task.

Zoning

Once available or developable areas have been identified as described in the above section, these areas should be overlaid with existing zoning district boundaries to quantify the amount of land within the study area available for development by zoning district. Again, these data should be summarized in tabular format and mapped. Once this task has been completed, the person(s) completing the analyses should review the uses permitted in each of the applicable districts including those permitted by right, by special exception, and by conditional use. A determination will have to be made during the projections portion of the report as to the most likely uses of these available lands under current zoning.

Population

The most common source of existing and past population levels for municipalities is the U.S. Census Bureau (http://www.census.gov/). These data are available on a decennial basis, along with some mid-census estimates. However, the actual decennial population numbers should be the primary sources of data for the analysis. Depending on the timing of the studies, relatively accurate mid-census estimates can be completed through coordination with local entities such as school districts or by multiplying the number of residential building permits issued since the last decennial census by the average number of persons per dwelling unit in the census data, and adding this figure to the decennial count. Other entities such as the county planning commission, economic development organizations, or utility providers may also have data on estimated current population levels. Recent planning documents including comprehensive plans, sewage facilities plans, recreation plans or others may also have relatively recent data that can be used.

Employment

Much like the discussion on existing population levels, employment data including the number of residents employed in the municipality and the number of employees for the larger employers in the municipality can be extracted from the census data. This data can be supplemented through personal contacts with known employers in the municipality and/or coordination with local economic development entities such as a chamber of commerce, industrial development authority, or similar organizations. Ideally, these employment figures can then be quantified in terms of estimated employment per unit of area under the applicable land use types (i.e., number of jobs per square foot or acre of

A good resource for existing land use mapping is the aerial photography that is now available throughout Pennsylvania (by the end of 2007) through the PAMAP program.

commercial or industrial use).

Building Permits

There a number of municipalities that did not require or otherwise document building permits prior to the establishment of the Uniform Construction Code (UCC) in Pennsylvania. If this is the case, the number of building permits issued for new units in each structure type (i.e., residential, commercial, office, industrial, etc.) should be quantified for the period of time since building permits were required and/or documented. Ideally, the length of time for the data will match the projection period (see next section) as a minimum. A longer period of past building permit activity is valuable for identifying trends within the municipality. Building permits issued for renovations to existing structures should not be included in the analysis.

Population, Employment, and Building Permit Projections

The MPC mandates that projections be completed for a period of at least five years from the date of the land use assumptions report. Past practice indicates that the optimal period for the projections may be 10 years, providing a reasonable portrayal of future conditions with an acceptable level of accuracy. However, the municipality may want to periodically review this time period depending on the rate and type of growth actually occurring in the municipality.

Population projections for municipalities are typically available through several sources: recent comprehensive plans, either at the municipal, regional, or county level; Act 537 sewage facilities plans; school district long-range plans; long-range transportation plans available through PennDOT or the regional metropolitan or rural planning organization; or other similar planning efforts. These projections are almost exclusively available at the municipal level, and are rarely broken down into subareas within the municipal boundaries. Therefore, a key role of the advisory committee in this portion of the planning effort is to decide which, if any, of the available projections are most likely to be accurate. The rationale for selecting or developing a population projection should be summarized clearly in the report. Secondly, the advisory committee must determine the amount of population growth likely to take place within the study area. This decision should be based on the amount of available land within the study area that is zoned for residential use and the densities allowed under current zoning.

Much like population projections, estimates of future employment within the recommended 10-year planning period can typically be obtained through existing sources. Coordination with the municipal planning commission or governing body can help identify proposed commercial, industrial, or office developments in the study area. Similarly, economic development organizations may also be able to provide projections of employment by type for the municipality as a whole.

Finally, building permit projections for the

The MPC mandates that projections be completed for a period of at least five years from the date of the land use assumptions report. However, past practice indicates that the optimal period for the projections may be 10 years.

study area should be based on the number of overall permits for new structures estimated for the municipality based on past trends and/or projections of future conditions and the available properties in the study area. A quantification of the number of approved, but unbuilt, lots by type can prove very useful in this analysis. The number of projected building permits should be broken down into primary use types (i.e., residential, commercial, office, industrial, etc.). Both a tabular summary and mapped projection of the anticipated areas to be developed should be completed.

Future Land Use Projections

Using the analyses described in the previous section, the advisory committee must develop a future land use map for the study area depicting the projected conditions within the planning period (recommended to be 10 years). The number of projected new residential units and the square footage of expected non-residential development should also be quantified in a tabular format. The rationale for the development projections should also be clearly described in the text of the report. It is important to note that the projections should be done for the planning period only, not for a full build-out scenario if full build-out is not expected to occur during the time period selected for the study.

The most common method of completing the future land use map involves the use of GIS technology to depict the number of parcels and areas available by zoning district and the data prepared regarding the projected number of building units by type for the planning period. Advisory committee members can then look at the number of approved parcels by zoning district and the projected numbers of new units for the study area and "assign" them to available parcels. Open coordination with municipal, county, and other planners, property owners, and/or developers may also prove worthwhile in this process to facilitate as accurate a future land use map as possible. Any land developments that have been proposed to the municipality should also be included in the projections. The projections should identify which proposals were submitted for the first time prior to publishing the Notice of Intent. These developments cannot be assessed an impact fee.

During mapping of future land uses, the advisory committee may identify areas that warrant consideration for rezoning or zoning amendments. It is not recommended that uses that are currently inconsistent with zoning be incorporated into the report without clearly identifying them in the text of the report and presenting the inconsistencies to the governing body. The advisory committee should collaborate with the governing body regarding making zoning and/or other planning changes concurrently with the land use assumptions report.

Another area of concern that has arisen in past studies is whether uses permitted by special exception or conditional use should be incorporated into the decision-making

It is not recommended that uses that are currently inconsistent with zoning be incorporated into the report without clearly identifying them in the text of the report and presenting the inconsistencies to the governing body.

process of highest and best use of available lands. This is a discretionary issue for the advisory committee that should be decided at the municipal level. The decisions should be clearly presented in the report.

Finalizing the Land Use Assumptions Report

After the above analyses have been completed, the findings and recommendations must be brought together into the draft Land Use Assumptions Report. The report should clearly explain the methodology used in obtaining the results and identify compliance with the appropriate sections of the MPC, as necessary. The draft report should also contain the series of maps as described herein and should ideally include the GIS data contained in the future land use analyses, potentially included in a digital format bound with the overall document. Once complete, the draft report enters the review and adoption processes.

30-Day Review Period

The initial step in the review and adoption process is the distribution of the draft document to the county planning agency, all contiguous municipalities, and the local school districts for a 30-day minimum non-binding review and comment period. This review period must be completed prior to the mandatory public hearing and adoption as described below.

Public Hearing Process/ Advertisements/Board Resolution

Following the mandatory comment period, the TIFAC must hold a public hearing. The public hearing must be advertised in a newspaper of general circulation in the municipality for two consecutive weeks. The first published advertisement cannot be more than 30 days prior to the hearing and the second advertisement cannot be less than seven days prior to the hearing.

The TIFAC must then incorporate the findings from the public hearing in the final report presented to the governing body. The governing body may choose to approve or disapprove the report, choosing either to request the TIFAC take further action or to discontinue the process. However, if the report is generally acceptable to the governing body, they must either modify its contents as deemed necessary or allow it to remain as presented by the TIFAC before approving it by resolution in accordance with the MPC and any applicable municipal code. A sample resolution and advertisement are included in Appendix C of this handbook. The resolution and advertisement should be finalized in consultation with the municipal solicitor.

The public hearing must be advertised in a newspaper of general circulation in the municipality for two consecutive weeks. The first published advertisement cannot be more than 30 days prior to the hearing and the second advertisement cannot be less than seven days prior to the hearing.

Roadway Sufficiency Analysis

The purpose of the Roadway Sufficiency Analysis is to determine the improvements that would be required to obtain a preferred level of service (LOS) for intersections and roadways in the transportation service area of the municipality for existing conditions, projected conditions prior to land development, and projected conditions after land development. The improvements that are identified for projected conditions are based on the traffic impact resulting from the projected land development from the approved Land Use Assumptions Report.

According to Section 504-A(e)(1)(iv) of the MPC, improvements identified for existing and pre-development conditions are not eligible to be funded with transportation impact fees. Post-development traffic conditions are projections based on the expected land development pattern documented in the Land Use Assumptions Report and are eligible to be funded with impact fees.

The scope of the Roadway Sufficiency Analysis includes the following components:

- Identification of study intersections and roadway segments.
- Identification of peak hours for the development of traffic volumes and capacity analysis.
- Designation of preliminary transportation service area(s) (TSA).
- Traffic volumes for existing, projected pre-development conditions, and projected conditions after land development.
- Identification of a preferred LOS.
- Capacity analysis for existing, projected pre-development conditions and projected conditions after land development.
- Identification of intersection and roadway improvements for existing, projected pre-development conditions, and projected conditions after land development.
- Roadway Sufficiency Analysis report.

The MPC requirements for the Roadway Sufficiency Analysis are contained in Section 504-A(d). The MPC requires that the roadway sufficiency analysis must be completed by a traffic engineer. The cost for completing the Roadway Sufficiency Analysis is largely dependant on the number of study intersections and roadway segments and to a lesser extent the number of TSAs. The current (2007) cost of completing the Roadway Sufficiency Analysis typically begins at approximately $25,000.

According to the MPC, improvements identified for existing and pre-development conditions are not eligible to be funded with transportation impact fees.

Identifying Intersections and Roadways to be Studied

The identification of study intersections and roadways is the first step in completing the Roadway Sufficiency Analysis. The municipality should refer to resources such as recently completed traffic studies for land development projects, PennDOT capital projects, roadway functional classification systems defined by PennDOT or the municipal comprehensive plan, and MPO/RPO planning studies. These resources may contain peak hour traffic volume data and LOS analysis that will be helpful in making selections.

Because of the expenses associated with preparing the Roadway Sufficiency Analysis, only the intersections and roadways that will be negatively impacted by new development should be studied. The Roadway Sufficiency Analysis should not include study intersections or roadways that will not have a significant amount of traffic added from new development. Most locations that currently have highly acceptable LOS (i.e., LOS A or B) and will not have significant traffic added from new development should not be added, because moderate or even significant new development traffic may not result in unacceptable LOS. Study locations with existing perceived safety problems and no expected capacity deficiencies resulting from new development should not be included in the Roadway Sufficiency Analysis because they are not eligible to be funded with impact fees. Safety improvements needed to correct design deficiencies within the limits of work for capacity improvements are eligible to be funded with impact fees. The municipality should rely largely on the judgment of the municipal engineer and/or traffic engineer contracted to complete the transportation impact fee study for the selection of study locations. The identification of study intersections and roadways should not be finalized until the completion of preliminary land use projections for the Land Use Assumptions Report so that the impacts of new development are better understood.

Identification of Traffic Volume Peak Hour for Analysis

After the selection of study intersections and roadway segments, a peak hour of traffic must be selected for the development of traffic volumes and capacity analysis. The peak hour of traffic is the four consecutive 15-minute intervals during a peak period that result in the highest traffic volumes.

The majority of land uses generate the highest number of trips during the afternoon (4:00 to 6:00 p.m.) peak period. Therefore, in most cases the afternoon peak hour should be selected for the basis of the impact fee. The selection of the afternoon peak hour will enable the municipality to evaluate the greatest traffic impact resulting from new development and maximize the amount of revenue generated by the impact fee. In some cases,

In order to reduce costs of the Roadway Sufficiency Analysis to the municipality, the intersections and roadways studied should consist of only those that will be negatively impacted by new development.

unique circumstances may exist where the majority of the type of development projected within a TSA may consist of particular uses that generate the most trips during the weekday morning (7:00 to 9:00 a.m.) or Saturday (11:00 a.m. to 1:00 p.m.) peak periods. However, these situations are very rare.

Designation of Preliminary Transportation Service Area

Although the TSA is only required to be included in the Capital Improvements Plan, a preliminary service area should be identified during the completion of the Roadway Sufficiency Analysis for the purpose of developing projected traffic volumes. Future traffic generated outside of the service area must be attributed to projected pre-development conditions, because it cannot be included in the total trips used to calculate the impact fee adopted by the ordinance.

The MPC restricts the size of a TSA to seven square miles. A municipality may have more than one service area, but each area cannot exceed seven square miles. The boundary of the TSA must be contiguous and an area cannot overlap between TSAs. In order to reduce study costs, the municipality should reasonably attempt to reduce the number of TSAs. Areas of the municipality that are not expected to experience modest land development activity, parcels under preservation, previously developed residential areas, parks, golf courses (if they are not expected to be redeveloped for a different use) and cemeteries should not be included in the TSA, because those land areas will not generate impact fee revenue for the municipality. The municipality may wish to include already developed commercial areas if they are expected to experience future changes in use. Some retail uses generate more trips than others. Therefore, changes in use may generate impact fee revenue.

A higher number of TSAs can actually result in a lower impact fee amount. Trips generated in one TSA cannot be used in the calculation of the impact fee in another TSA. Therefore, these trips must be included in the projected pre-development condition. As a result, many intersection and roadway improvements may arise in this condition that cannot be funded with impact fees.

The municipality should attempt to have the TSA boundary follow parcel lines, natural features such as streams or rivers, or utility rights-of-way. The boundary should not divide a parcel, because the municipality will not be able to collect fees for a portion of the property. If a boundary between multiple TSAs splits a property, the impact fee can be very difficult to determine. In most cases, roads should not be used as a TSA boundary. The use of a particular road as a boundary can create disputes over which improvements along that road contained in the Capital Improvements Plan are actually eligible to be funded with impact fees. If the municipality has multiple TSAs with a road as a common boundary, it may have to draw funds from multiple TSA accounts to complete an improvement from

The identification of study intersections and roadways should not be finalized until the completion of preliminary land use projections for the Land Use Assumptions Report so that the impacts of new development are better understood.

the Capital Improvements Plan. A road may have to be used as a boundary if it serves as the Township boundary. In addition, roads that are not included in the study for improvements may serve as a boundary.

Traffic Volume Data

The Roadway Sufficiency Analysis must contain peak hour traffic volumes for existing conditions, projected pre-development conditions, and projected conditions after development. The traffic volumes serve as the basis for the capacity analysis that will identify intersection and roadway improvements. The projected traffic volumes should use the same projection year used in the Land Use Assumptions Report.

Existing Traffic Volumes

In order to establish existing peak hour traffic volumes, traffic counts must be completed at the locations selected for study. Manual turning movement counts should be completed for study intersections. Automatic traffic recorder counts should be completed for study roadway segments. The municipality can save money by using traffic counts completed for other studies within the previous three years.

Projected Pre-development Traffic Volumes

These projected traffic volumes consist of three components that are added to the existing traffic volumes. The first component is pass-through or background development traffic. These volumes consist of those that can be expected due to traditional growth in traffic resulting from increased numbers of driver's licenses and vehicle registrations, traffic growth due to development in surrounding municipalities, and traffic with both origin and destination outside a TSA within the municipality. An annual growth factor multiplied by the number of years projected from existing conditions should be developed for this traffic. That number is then multiplied by the existing traffic volumes. This growth factor can be derived from a comparison of historic traffic volumes or growth rates approved by PennDOT for use in traffic studies. If particular projected development within the municipality is near the TSA boundary and near study intersections or roadways, the actual trip generation for the development should be added to existing volumes. The development of the annual growth factor should take into account the amount of development projected in the Land Use Assumptions Report so that traffic is not counted twice.

The volumes should also include traffic that will be generated by any proposed developments within the TSA that have been proposed prior to the advertisement of the notice of intent to adopt a transportation impact fee. These developments are not eligible for the assessment of an impact fee and must be included in the projected pre-development conditions. In addition, those developments approved by the municipality but not constructed and occupied prior to the completion of the existing condition traffic counts must be included in this condition. The trip generation from the approved traffic impact study should be added to existing volumes for these developments.

Trips generated in one TSA cannot be used in the calculation of the impact fee in another TSA.

Traffic Volumes after Projected Development

The traffic volumes for this condition are developed by calculating the trip generation for each projected development from the Land Use Assumptions Report. The trip generation for these developments must be calculated according to the latest edition of *Trip Generation,* an Institute of Transportation Engineers (ITE) Informational Report. For land developments proposed after the advertisement of the notice of intent to adopt a transportation impact fee, the traffic impact study completed for the development should be consulted for its respective trip generation. The trips generated by these developments should be distributed and assigned to the study intersections and roadway segments using travel demand modeling software or other accepted transportation industry traffic distribution practices.

Capacity and Roadway Improvement Analysis

After the development of existing and projected traffic volumes, capacity analysis must be completed for each condition in order to identify LOS. The capacity analysis must be completed based on the most recent methodologies contained in the 2000 Highway Capacity Manual. After the LOS are calculated, improvements must be identified in order to achieve the preferred LOS for existing, projected pre-development and projected post-development conditions separately as described herein.

Section 504-A(d)(1)(ii) of the MPC requires that a preferred LOS be identified by the municipality as a standard for which intersection and roadway improvements will be identified for each condition. Preferred LOS can be established on a per TSA basis. For example, TSA 1 can have a preferred LOS C and TSA 2 can have a preferred LOS D.

The Roadway Sufficiency Analysis must contain capacity analysis for the following conditions:

- Existing conditions
- Existing conditions with improvements
- Projected pre-development conditions
- Projected pre-development conditions with improvements
- Projected post-development conditions
- Projected post-development conditions with improvements

The improvements identified from each condition must be carried forward to the subsequent conditions. For example, improvements identified for existing conditions must be included in the projected pre-development conditions analysis. The improvements identified in existing and projected pre-development conditions must be included in the projected post-development conditions analysis. Any improvements programmed by PennDOT on the TIP, planned and funded by the municipality, or proposed for approved land development projects should be included in the projected

When identifying improvements for any condition, all improvement options must be investigated for the existing roadway network before identifying the construction of new roadways.

pre-development conditions capacity analysis and assumed for all subsequent conditions.

When identifying improvements for any condition, all improvement options must be investigated for the existing roadway network before identifying the construction of new roadways. Section 504-A(d)(1)(ii)(2) of the MPC provides the circumstances in which the preferred LOS may be waived for the existing road network and new roadways may be identified for implementation. These circumstances include the unavailability of right-of-way, physical or environmental constraints, or improvements to existing facilities that would be more costly than the construction of a new roadway. If the Roadway Sufficiency Analysis identifies the construction of a new roadway because it would be less expensive than improving existing facilities, conceptual level construction cost estimates should be completed to verify this determination. These provisions were included in the MPC to ensure municipalities do not build new roadways that are funded by developers but not needed as the result of new land development. In addition, it was decided that developers should not be held responsible for the construction of new roadways if existing facilities could be improved at a reasonable cost.

Roadway Sufficiency Analysis Report

After the development of traffic volumes, completion of capacity analysis, and identification of roadway improvements, the Roadway Sufficiency Analysis report can be developed reflecting the results of these elements. The report should clearly explain the methodologies used in obtaining the results of the Roadway Sufficiency Analysis and identify compliance with the appropriate sections of the MPC, as necessary. The report should include figures showing the preliminary TSA, existing lane configurations and traffic control for study locations, and existing and projected traffic volume data and LOS for each condition, including figures for each condition showing LOS with the identified improvements.

Roadway Sufficiency Analysis Approval by Governing Body

Although development of the Roadway Sufficiency Analysis should be conducted in consultation with the TIFAC, official action is not required by the committee. The completed draft Roadway Sufficiency Analysis report should be forwarded to the governing body of the municipality. The report must be approved by resolution of the governing body at a normally scheduled public meeting. A sample resolution and advertisement are included in Appendix D of this handbook. The resolution and advertisement should be finalized by the municipal solicitor. Prior to approval of the Roadway Sufficiency Analysis report, the municipality should review the identified improvements on state-owned roads with its respective PennDOT District to verify general consistency with applicable PennDOT design standards.

Although development of the Roadway Sufficiency Analysis should be conducted in consultation with the TIFAC, official action is not required by the committee.

Capital Improvements Plan

The improvements identified in the Roadway Sufficiency Analysis report are carried forward to a Capital Improvements Plan in order to identify estimated project costs, schedule for completion, and potential funding sources. In addition, the Capital Improvements Plan establishes the amount of the impact fee on a per peak hour trip basis to be adopted in the impact fee ordinance.

The Capital Improvements Plan includes the following components:

- Identification of improvements at study locations from the Roadway Sufficiency Analysis report.
- Preliminary cost estimates for the engineering, right-of-way, and construction phases of each improvement.
- Project costs for the existing, projected pre-development, and projected post-development conditions separately for each study location.
- Schedule for completing the engineering, right-of-way, and construction phases for each study location.
- Potential funding sources for each study location.
- Calculation of the proportionate cost of the Roadway Sufficiency Analysis to be reimbursed to the municipality with impact fees.
- Calculation of the transportation impact fee to be adopted in the ordinance.
- Capital Improvements Plan.

The requirements for the Capital Improvements Plan are contained in Section 504-A(e) of the MPC. The current (2007) cost of completing the Capital Improvements Plan typically begins at around $15,000 and is largely dependent on the number of study locations and associated improvement cost estimates.

Improvement Cost Estimates

Preliminary cost estimates must be developed for each improvement at each study location and separately for the existing, projected pre-development, and projected post-development conditions. The estimates for each condition must be kept separate in order to calculate the amount of the impact fee to be adopted by the ordinance. The improvement cost estimates should contain the following components:

Engineering

These costs include survey, preparation of preliminary engineering and final design plans, and environmental clearances and

The estimates for each condition must be kept separate in order to calculate the amount of the impact fee to be adopted by the ordinance.

permits, if necessary. Engineering costs typically begin at approximately 15 percent of the construction cost of the improvement. The engineering cost may be higher depending on the complexity of environmental issues.

Right-of-Way

The cost for acquiring private property needed to construct the identified improvements should be included in each project estimate. The estimated cost can be based on recent land purchases in the municipality recorded with the county, recent municipal land acquisition costs for other projects, or feedback obtained from local real estate companies. The right-of-way cost for an improvement identified at a study location should take into account the respective zoning district. Land values may vary between residential and non-residential zoned areas.

Utilities

These costs include the relocation of electric poles, telephone poles, or underground utilities such as water, sewer, and gas. The municipality can consult its respective utility providers on estimated costs for relocations.

Construction

Construction costs should include items such as roadway paving materials, drainage facilities, pavement markings, traffic control signs, traffic signals, and culverts or bridges that may be needed within the improved area. Quantity prices used for the estimates can be obtained from online resources that contain construction bid history, such as PennDOT ECMS or www.bidhistory.com. Quantity prices should assume prevailing wage. Improvement costs for municipal roads should account for municipal design standards and other applicable generally accepted engineering standards. Section 504-A(f) of the MPC requires that any improvements to state or federal highways funded in part by impact fees receive the approval of PennDOT and, if necessary, the U.S. Department of Transportation. Therefore, improvements to state roadways should account for PennDOT design criteria and requirements. The construction cost estimates should also include the preparation of construction bid documents, contract bidding, and construction inspection.

Contingency

The overall improvement cost estimate should include a 10 percent contingency. This is the maximum contingency factor allowed by the MPC.

After the completion of the estimates, the costs for improvements that are not eligible to be funded with impact fees and those that are reimbursable with impact fees must be allocated for each study location. Needed improvements identified in the existing and projected pre-development conditions are not eligible to be funded with impact fees. These improvements must be funded by other sources such as the municipal general fund, the TIP, or other county, state, and federal funding sources. Improvements identified in the projected post-development condition are eligible to be funded with impact fees. Improvements to municipal and county-owned

Improvements to municipal roads are eligible for 100 percent funding by impact fees. Improvements to state roads are only eligible for 50 percent impact fee funding.

roads are eligible for 100 percent funding by impact fees. Improvements to state roads are only eligible for a maximum of 50 percent impact fee funding. The remainder of the project cost must come from other funding sources similar to the aforementioned for existing and projected pre-development conditions. After the determination of funding sources is completed for each study location, the total improvement costs should be tabulated for both those that are not eligible and for those eligible to be funded with impact fees.

Section 503-A(d)(5) of the MPC permits a municipality to reimburse itself with impact fees for a percentage of the total cost of developing the Roadway Sufficiency Analysis equal to the percent of the total improvement costs from all conditions eligible to be funded with impact fees. For example, if the improvement costs that are eligible to be funded with impact fees are 40 percent of the total project costs for all conditions, then the municipality can reimburse itself with impact fees for 40 percent of the cost to complete the Roadway Sufficiency Analysis. The MPC does not permit a municipality to reimburse itself for any costs associated with the preparation of the Land Use Assumptions Report, Capital Improvements Plan, or ordinance.

Improvement Implementation Schedule

The Capital Improvements Plan must include a timetable or schedule for constructing each road improvement contained in the plan. It is recommended that the schedule estimate when the engineering, right-of-way acquisition, and construction phases will be completed for each study location. The schedule should identify the calendar year in which each phase will be completed. Construction at a respective study location must be bid, awarded, and begin within three years of the year designated in the Capital Improvements Plan. Otherwise, the costs for the improvements not started as estimated in the Capital Improvements Plan that are to be funded with impact fees must be refunded proportionately to those parties that have paid impact fees, unless the CIP is modified to extend the schedule of the project. Therefore, a schedule for each study location should be designated that gives the municipality the greatest flexibility for implementation. Most munici-

The MPC permits a municipality to reimburse itself with impact fees for a percentage of the total cost of developing the Roadway Sufficiency Analysis.

palities select the last year of the projection period as the construction year in order to give them the maximum amount of time for implementation.

Calculation of the Transportation Impact Fee

The Capital Improvements Plan includes the calculation of the impact fee per peak hour trip per TSA to be adopted as part of the ordinance. The impact fee is calculated by dividing the total cost of improvements eligible to be funded by impact fees within a given TSA (including the proportionate share of the Roadway Sufficiency Analysis development cost to be refunded to the municipality) by the total number of vehicular trips that will be generated by new developments from the projected post-development condition in that same TSA. The following is a sample calculation:

$7,000,000	**(costs to be funded with impact fees)**
4,000	**(total P.M. peak trips generated by new development in the TSA)**
= $1,750	**(cost per P.M. peak hour trip generated)**

Capital Improvements Plan Report

After the development of preliminary project cost estimates and the implementation schedule, identification of funding sources, and calculation of the impact fee, the Capital Improvements Plan report can be developed reflecting the results of these elements. The report should clearly explain the methodologies used in obtaining the results and identify compliance with the appropriate sections of the MPC, as necessary. The report should include figures showing the final TSA(s), project cost estimates, and the Capital Improvements Plan that identifies costs eligible to be funded with the impact fee and project schedules.

Capital Improvements Plan Approval by Governing Body

After the completion of the draft Capital Improvements Plan Report, the TIFAC must hold a public hearing to review the results and make a recommendation to the governing body for its approval. The public hearing must be advertised in a newspaper of general circulation in the municipality for two consecutive weeks. The first published advertisement cannot be more than 30 days prior to the hearing and the second advertisement cannot be less than seven days prior to the hearing. The draft Capital Improvements Plan report must be placed on public display at the municipal offices for at least 10 business days prior to the public hearing. At the public hearing, the TIFAC must provide a recommendation of approval to the governing body with any modifications based on committee and public input, if necessary.

The report must be approved by resolution of the governing body after a public hearing is conducted at a normally scheduled public meeting. The public hearing must be advertised in a newspaper of general circulation in the municipality for two consecutive weeks. The first published advertisement cannot be more than 30 days prior to the hearing and the second advertisement cannot be less than seven days prior to the hearing. A sample resolution and advertisements are included in Appendix E of this handbook. The resolutions and advertisements should be finalized by the municipal solicitor.

Future Revisions to the Capital Improvements Plan

The Capital Improvements Plan should be reviewed periodically for necessary changes. After the adoption of the transportation impact fee ordinance, the municipality may make revisions to the Capital Improvements Plan under certain conditions. The MPC authorizes the municipality to request the TIFAC to review the Capital Improvements Plan no more than once a year and recommend changes based only on the following conditions:

- New subsequent development that has occurred.
- Completion of projects included in the Capital Improvements Plan.
- Unavoidable construction delays beyond the responsibility or control of the municipality.
- Significant changes to the land use assumptions.
- Changes in the cost estimates in the plan.
- Significant changes in the projected revenues of the sources identified in the plan, such as state funds.

A municipality should update the Capital Improvements Plan and impact fee adopted by ordinance at least every two years—but not more than once a year—to account for increases in construction and land acquisition costs. The MPC requires that construction cost estimates be updated by applying the construction cost index published in *American City and County Magazine* or *Engineering News-Record*. Land acquisition costs should be adjusted using information from resources such as recent land purchases in the municipality recorded with the county, recent municipal land acquisition costs for other projects, or feedback obtained from local real estate companies. This type of update does not require revisions to the Land Use Assumptions Report or Roadway Sufficiency Analysis. An update based on significant changes to the land use assumptions does require updates to the Land Use Assumptions Report, Roadway Sufficiency Analysis, and Capital Improvements Plan. Schedules contained in the Capital Improvements Plan may be updated to account for unavoidable construction delays or significant changes in projected revenues, such as availability of state and federal funds or impact fee revenue not being generated as quickly as originally projected by the municipality.

Updates to any of the study documents or the ordinance should follow the same procedures utilized by the TIFAC and the governing body for the original studies and ordinance. Any land development proposals submitted prior to the adoption of an updated impact fee ordinance by the municipality are subject to the previous fee.

At a minimum, a municipality should update the Capital Improvements Plan and impact fee adopted by ordinance every two years to account for increases in construction and land acquisition costs.

Transportation Impact Fee Ordinance

After the approval of the Capital Improvements Plan, the municipality can adopt the ordinance establishing the impact fee on a per peak hour trip basis. The ordinance should be developed by the municipal solicitor—or an attorney familiar with drafting such ordinances—to ensure compliance with all regulations contained in the MPC. If a model ordinance is used, the solicitor's development of the ordinance typically costs less than $5,000.

Model Impact Fee Ordinance

Appendix F contains a model transportation impact fee ordinance that may be used by municipalities as a template for their own ordinance. Appendix F also contains instructions for using the model ordinance as a template by municipalities. Many sections of the model ordinance contain standard language for regulations found in the MPC. However, several sections of the model ordinance need to be modified by the municipality to suit its own preferences for administering its impact fee program, such as the application of exemptions and credits from impact fees and calculation of the per peak hour trip impact fee for a service area. Municipal officials should not adopt the ordinance without first following the procedures outlined in the MPC and consulting with the municipal solicitor or consulting attorney and impact fee advisory committee.

Adoption of the Impact Fee Ordinance by the Governing Body

The impact fee ordinance should be developed in consultation with the TIFAC. However, the MPC does not require any action or public hearings to be held by the TIFAC. For adoption of the ordinance by the governing body, the ordinance must be placed on public display 10 days prior to its adoption. As the MPC is written, this is the only notification that is required for transportation impact fee ordinances. Others have interpreted that the adoption of the impact fee ordinance must follow the same procedures as for the adoption of a subdivision and land development ordinance under Section 504 of the MPC. If this interpretation is correct, the municipality would have to hold an additional public hearing and submit the ordinance to the planning commission for review, the same as a subdivision and land development ordinance. In the absence of any case law addressing this issue, the municipality should seek the advice of its solicitor to determine the appropriate procedure.

Administration of Transportation Impact Fees

Accounting of Impact Fees

In municipalities with one TSA, all impact fees can be deposited into one account. The account must be interest-bearing and used only for the deposit and expenditure of impact fees. When a municipality establishes two or more TSAs, the appropriate TSA must be linked to any impact fees that have been paid to the municipality. The most efficient way to do this is to set up separate accounts for each TSA. When working with multiple TSAs, the administrator of the accounts must ensure that all incoming fees are credited to the correct TSA and that any funds paid out toward improvements identified in the Capital Improvements Plan are applied to the correct TSA.

The municipality must complete an annual report summarizing each impact fee account. The annual report should include the total funds collected, the source of the funds collected, the amount of interest accrued on the funds and the amount of funds expended on specific transportation improvements. These results must be included and published as part of the annual audit required of municipalities. A copy of report should also be provided to the TIFAC.

Assessment of Impact Fees to New Development

As part of the Capital Improvements Plan, the municipality will have established the per trip impact fee necessary to fund the identified improvements. To assess the impact fee, the municipality must first determine how many new trips will be generated by the development. The most recent version of the Institute of Transportation Engineers (ITE) Trip Generation should be used to determine the overall number of trips to be generated by the new development. For a retail development in which pass-by and/or internal capture trips are likely to occur, standard engineering procedures should be used to reduce the overall trip generation. Impact fees cannot be assessed for pass-by and internal capture trips.

The municipality may require that a non-residential developer conduct a special study for determination of the impact fee. However, the impact fee ordinance must state the conditions or deviations that must exist (e.g., retail space of more than X square feet or a floor area ratio (FAR) greater than Y) for a special study to be required. If there are no such special conditions or deviations, no special study

When a municipality establishes two or more TSAs, the appropriate TSA must be linked to any impact fees that have been paid to the municipality. The most efficient way to do this is to set up separate accounts for each TSA.

can be required. This study must be submitted prior to assessment of the impact fee. The municipality may then increase or decrease the impact fee assessed to the applicant as a result of the study.

If an applicant wishes, they may have a traffic study prepared at their own expense by their own qualified traffic/transportation engineer to determine an alternative impact fee. Another option is to utilize the municipality's engineer, and have the applicant reimburse the municipality for the expense. If the applicant chooses to prepare a special study before the completion of his/her own site, other similar locations can be used. Existing data may already be available for similar sites and can be utilized for the study. Close coordination should be maintained with the municipality in deciding which alternative locations should be used. The alternative trip generation study should be conducted using procedures established by ITE, based on data from a minimum of three sites. An appeal and special study can also be conducted on the actual site, once the use is constructed and fully occupied. If the project site is used, it is recommended that data be collected for a minimum of two or three days, at least three months after full occupation of the site. The date after full occupation of the site may vary depending on the type of use. Assuming that the special study was conducted based on accepted procedures and accurate data collection, the municipality must accept the revised trip generation and impact fee and refund any resulting overage of fees already paid.

Developers applying for redevelopment, expansion, or change-in-use of a land use that was in existence prior to the adoption of the ordinance are entitled to a credit for vehicular trips that are generated by the existing use. For example, if an existing 20,000-square-foot general office use wishes to expand by an additional 10,000 square feet, the applicant is only assessed an impact fee for the additional square feet. For change-in-use, the applicant is only required to pay an impact fee based on the difference between the trips generated by the existing and proposed uses. Traffic counts should be completed at the existing use to determine its trip generation. If the use is vacated prior to counts being completed, ITE Trip Generation standards should be used to determine the number of trips.

Once the number of new trips attributable to the new development has been established, the number of new trips is multiplied by the appropriate per trip impact fee (identified in the Capital Improvements Plan and ordinance) to calculate the total impact fee owed by the applicant.

Imposition of Additional Impact Fees

A municipality may impose an additional impact fee on a new development that will generate 1,000 or more new peak hour trips during the peak hour designated in the ordinance. The impact fee ordinance can require the applicant to perform a traffic impact study that analyzes impacts to roadways outside the TSA but within the boundaries of the municipality. Any highways, roads, or streets outside the TSA that will accommodate 10 percent or more of the development traffic and 100 or more new peak hour trips can be required for

Impact fees cannot be assessed for pass-by and internal capture trips.

inclusion in the study. The ordinance can require the applicant to mitigate the traffic impacts of the development on such locations to maintain the pre-development conditions.

Payment of Impact Fees

The municipality must establish the procedures and acceptable method(s) of payment that will be used for impact fees. Payment of the fee is not due until building permits are issued, and the municipality cannot require that the applicant provide proof of financial security for the payment of impact fees. However, if an applicant opts to fund improvements identified in the Capital Improvements Plan, the municipality may allow for the applicant to deposit sufficient funds with the municipality to cover the cost of construction.

Exemption from Impact Fees

The governing body of the municipality may, at its discretion, exempt an applicant from payment of the impact fee for any of the following reasons:

1. The municipality may credit up to 100 percent of the impact fee for housing identified as affordable housing to low- and moderate-income persons. Affordability is based on the federal Department of Housing and Urban Development (HUD) guidelines and median household income data from the appropriate metropolitan statistical areas (MSA).
2. The impact fee may be exempted if a development will have a "de minimis," or negligible, impact. If the municipality decides to exempt fees based on de minimis impacts, it must establish criteria for when a development is classified as de minimis (e.g., all minor subdivisions, all subdivisions of less than five lots, etc.) The criteria must be applied to all applicants and cannot be applied on a case-by-case basis.
3. The municipality may credit up to 100 percent of the impact fee for a development that is believed to have an "overriding public interest." The MPC does not define "overriding public interest." If a municipality chooses to use this provision, it must define how such a development will be classified, either by listing applicable types of projects/land uses or by developing criteria that can be used to qualify developments for this exemption within its ordinance.

The municipality can clearly identify in the impact fee ordinance under which conditions a development will be exempt from being assessed an impact fee. However, some municipalities prefer not to define the conditions for exemptions and determine qualification on a case-by-case basis at their discretion. If a municipality chooses to handle exemptions in this manner, it should be mindful of precedents that could be set for future requests for exemptions from other applicants with a similar development situation. Exemptions given at the discretion of the governing body should be closely coordinated and reviewed by the municipal solicitor and other professionals, as needed.

Payment of the fee is not due until building permits are issued and the municipality cannot require that the applicant provide proof of financial security for the payment of impact fees.

Impact Fee Credits

The applicant is entitled to a credit for a portion of their impact fee, as required under Section 505-A(f) of the MPC, under any of the following conditions:

1. If the applicant has dedicated land to the municipality for future right-of-way, the applicant is entitled to a credit in the amount of the full market value of the dedicated land.
2. Widening and/or realignment of any offsite road at the applicant's expense.
3. Construction of any improvements included in the Capital Improvements Plan performed at the applicant's expense, up to the cost specified in the Capital Improvements Plan, including the value of any construction and any contingency costs.

The municipality should specify in its ordinance which classes of Capital Improvements Plan improvements are eligible for credit. A more conservative approach says that the credit can only be granted for "post-development" Capital Improvements Plan improvements in the amount of improvement costs that can be funded with impact fees. The applicant cannot get credit for an improvement that needs to be done regardless of new development. A more liberal approach allows credit for any improvement identified in the Capital Improvements Plan.

Use of Impact Fee for Projects Not in the Capital Improvements Program

A municipality may use fees that have been collected as impact fees for projects not in the Capital Improvements Plan assuming all of the following conditions have been met:

1. The applicant must consent, in writing, to use of the collected impact fees or impact fee credit granted for improvements not included in the Capital Improvements Plan.
2. The goal of the alternative improvements is to reduce traffic congestion or remove vehicle trips from the roadway network.
3. The municipality must amend the Capital Improvements Plan and provide replacement of the redirected impact fee funds. The funds must come from sources other than additional impact fees or developer contributions, and must be made up within three years of the completion of the alternative improvements which were funded by the impact fees or impact fee credits.

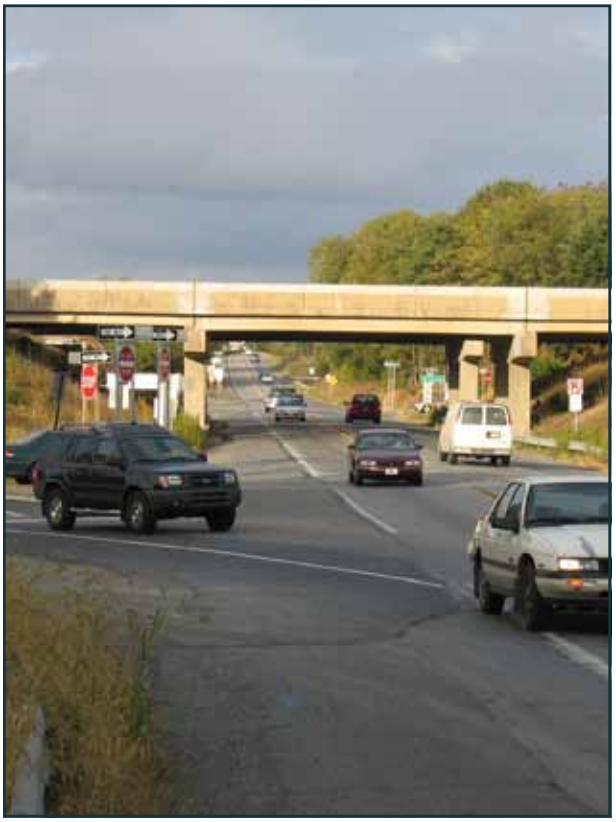
It is not recommended that a municipality use impact fees for projects not in the Capital Improvements Plan, because the fees have to be replaced with the municipality's general fund within three years. The municipality should first seek funding from other sources.

It is not recommended that a municipality use impact fees for projects not in the Capital Improvements Plan, because the fees have to be replaced with the municipality's general fund within three years.

Impact Fee Refunds

A municipality must refund fees previously paid by an applicant, along with any accrued interest, under any of the following circumstances:

1. If a municipality terminates a TSA or completes all Capital Improvements Plan projects in a TSA and there are still funds on deposit in the applicable TSA account, the municipality shall allow for funds to be refunded to the applicants on a proportional share basis. The municipality must notify the applicants in writing, by certified mail, that they are eligible for a refund. If any of the funds remain unclaimed after one year, the municipality may transfer the funds to any other account in the municipality, with no further obligation to refund the impact fees to the applicant.



2. If the municipality fails to complete construction of an improvement within three years of the construction date specified in the Capital Improvements Plan, an applicant may request, in writing, that the municipality refund that portion of the paid fee that is attributable to the unconstructed project, plus any accrued interest.
3. If, upon completion of a project, the actual expenditures were less than 95 percent of the cost estimated in the Capital Improvements Plan, the municipality shall refund the pro rata share of the difference between the estimated and actual costs to any applicants whose fees were allocated toward the particular project, plus any accrued interest.
4. If construction for a project for which impact fees have been paid has not commenced by the expiration of the building permits within the time limits established by the appropriate building code, or if the issued building permit is altered and the alteration results in a decrease in the impact fee, the applicant is entitled to a fee refund.

It is very rare that any of these conditions will be met and a municipality will be required to return funds. The project schedule may be adjusted to a later date depending on the availability of funding or hardships beyond the municipality's control. It is also rare that project costs are significantly less than estimated for the Capital Improvements Plan.

Implementation of the Capital Improvements Plan

Use of Impact Fees

The implementation of the improvements identified in the CIP that can be funded with transportation impact fees can take two forms. One is the implementation of improvements to municipal-owned roads. The cost to construct these improvements can be fully funded with impact fees. Therefore, the municipality is in complete control of project implementation.

The second is the implementation of improvements to state-owned roads. The MPC restricts the impact fee funding to a maximum of 50 percent of the total project cost. Therefore, the municipality must seek funding from other sources, or it must fund the other 50 percent from its general fund. The following are potential sources for obtaining the matching funds.

Federal, State, and County Funding Resources

The TIP is the most common source utilized to provide the other 50 percent of the project cost. A municipality may receive a high priority status for funding from its respective PennDOT District, county, and MPO/RPO when it can provide matching funds by funding all preconstruction activities, such as engineering, right-of-way acquisition, and utility relocations, in exchange for state and federal transportation funds being provided for construction. These planning partners establish the priorities for the TIP. These types of projects are often referred to as "local match" projects and can receive higher priority, because they can move through the PennDOT approval process much more quickly than projects to be 100 percent funded by state and federal sources. Local match projects consisting of impact fee funds can further elevate the project's priority status, because a portion of the 50 percent impact fee share can typically go toward construction.

Funding may be available from the municipality's MPO/RPO or county planning department. These planning partners provide opportunities for funding through their own annual budget separate from the TIP. Some of these planning organizations will create grant programs or special funding streams available to local governments within its jurisdiction for the implementation of the comprehensive plan or long-range transportation plan. Often the planning organization requires that the municipal plans be consistent with their long-range plans to be eligible for funding. Funding can be made available for engineering

Projects that can match special program funding with impact fees will likely be viewed more favorably than other projects that have no other funding commitments.

or construction funds depending on the program. These funds could be used as the 50 percent match to impact fees. Projects that can match special program funding with impact fees will likely be viewed more favorably than other projects that have no other funding commitments.

The following are recommendations for fostering relationships with planning partners, such as the MPO/RPO, county planning department, and PennDOT District, in order to increase the chances of obtaining additional funding:

- Provide planning partners with copies of the Land Use Assumptions Report, Roadway Sufficiency Analysis, and Capital Improvements Plan developed for the adoption of the impact fee ordinance.
- Meet periodically with the PennDOT District and MPO/RPO to discuss the status of the implementation of the Capital Improvements Plan and the availability of funding in the future from various programs.
- Monitor schedules and deadlines for updates to the TIP and applications for funding through special programs and join other regional and local jurisdictions to discuss with the respective PennDOT District and MPO/RPO the feasibility of dedicated funds in the TIP for impact fee projects.
- Additional funding may be available from the state and federal governments through appropriations bills or capital budgets. The municipality should provide its state and federal legislators with a copy of the Capital Improvements Plan and identify the highest priorities.

Other Funding Sources

One of the limitations that exists within the framework provided by the MPC relates to the manner and the time at which the payment of impact fees are made to the municipality. The MPC requires that impact fees be paid at the issuance of building permits. Non-residential developments typically pay the impact fee for the entire development with the issuance of the first building permit, because in most cases the entire development is constructed at the same time. There are some instances when outparcels for shopping centers or office developments are built in phases, but there is usually not a long lag time between building permits and payment of fees.

Approved residential developments are often built in phases with longer lag times, or even in some cases built on a lot-by-lot basis. Therefore, the collection of impact fees for residential developments can often take several years with very small increments of payment. For example, the total impact fee to be paid for a large residential development may be $500,000, but it may take the municipality 10 years to collect all of the funds. This construction scenario for residential developments can make it difficult to accumulate large sums of impact fee revenue to start the implementation of projects in the first few years of the Capital Improvements Plan schedule. Often, most of the construction must be pushed into the later years of the Capital Improvements Plan schedule.

A way of offsetting this revenue collection limitation is to use low interest loans for the amount needed to complete a project. The obvious question under such a scenario is, “How does the municipality fund the debt service associated with a loan program?” Section 503-A(d) of the MPC permits the municipality to fund all project costs of transportation improvements contained in the Capital Improve-

ments Plan, including debt service. Therefore, the municipality can fund the construction of an improvement with a low interest loan, or other funding options such as bonds, tax revenue, and liquid fuels money, and pay off the loan with impact fees collected during the life of the loan, including interest. Debt service should not be included in the project cost estimates used to determine the initial impact fee calculated for the ordinance. Revisions to the Capital Improvements Plan and the adopted fee should include any debt service that has been incurred for the project implementation prior to the update.

An example of a low interest loan program that can be utilized by municipalities for the construction of road improvements contained in the Capital Improvements Plan is the Pennsylvania Infrastructure Bank (PIB). The PIB provides a means to fund projects, in whole or in part, to accelerate a construction schedule. Eligible projects for the PIB include those that are typically found in a Capital Improvements Plan for impact fees, including road construction for additional turn lanes or through lanes, traffic signals and bridges, drainage facilities, signs, guide rail, lighting and protective structures needed in conjunction with these projects. The maximum term for a PIB loan is 10 years. Payments are structured as equal payments to be made annually, biannually, quarterly or monthly. As a matter of policy, PennDOT has a fixed interest rate for PIB loans at one-half the prime lending rate as published by the Federal Reserve at the time of the loan application. The municipal services representative from the municipality's PennDOT District office can be contacted for more information on the terms of a PIB loan.

If funding cannot be obtained from outside sources, a municipality may also use its general fund or annual liquid fuels allocation from PennDOT. Municipalities are permitted to use liquid fuels funds for the construction or reconstruction of public roads or bridges for which the municipality is legally responsible. The permitted use of funds includes the acquisition of right-of-way associated with the construction of road improvements. The municipality should consult the municipal services representative from its PennDOT district office on the permitted uses of liquid fuels funds and procedures for approval required by PennDOT.

For non-residential developments, the land development applicant and municipality may be eligible for special funds from state or federal agencies for infrastructure improvements, including roadways. Pennsylvania DCED has several funding programs available for infrastructure improvements associated with land development projects that will promote economic development. For example, the Tax Increment Financing (TIF) Guarantee

Eligible projects for the PIB include those that are typically found in a Capital Improvements Plan for impact fees, including road construction for additional turn lanes or through lanes, traffic signals and bridges, drainage facilities, signs, guide rail, lighting and protective structures needed in conjunction with these projects.

Program is available for projects that generate economic growth and development for brownfields or other sites that are planned for development. An eligible project receives priority consideration if it is located in an area with a particular need for economic development, or if it is identified for priority investment in a local or regional economic development plan or strategy that is consistent with the county comprehensive plan.

Further information regarding funding sources can be found in Appendix G.

Pennsylvania DCED has several funding programs available for infrastructure improvements associated with land development projects that will promote economic development.

References and Resources

Pennsylvania Municipalities Planning Code. Act of 1968, P.L. 805, No. 247 as reenacted and amended.

Pennsylvania State Association of Township Supervisors. 1991. *Putting Impact Fees to Work in Your Township: A Compliance Manual for Township Officials.*

Pennsylvania State Transportation Advisory Committee. December 1998. *Transportation Partnerships and Impact Fees.*

Delaware Valley Regional Planning Commission. April 1999. *Transportation Impact Fees: Panacea or Problem?*

Appendix A: Pennsylvania Municipalities with Impact Fees

Pennsylvania Municipalities with Transportation Impact Fees

(as of November 2007)

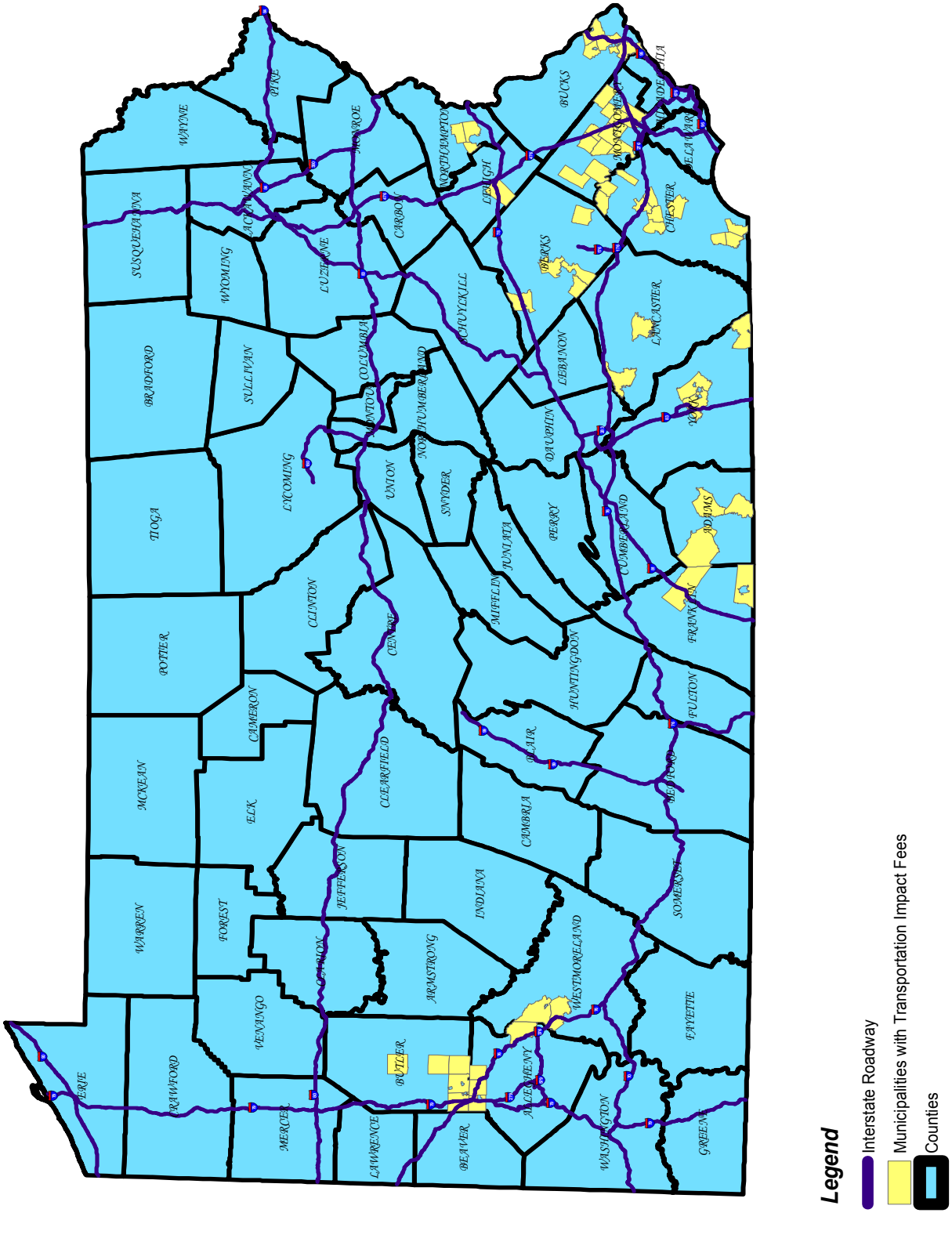
County	Municipality	Fee ($per peak hour new trip)
Adams	Straban Township (1)	$1,249
	Straban Township (2)	$1,129
	Straban Township (3)	$2,090
	Franklin Township (NW)	$2,853
	Franklin Township (S)	$2,535
	Franklin Township (SE)	$2,876
	Mount Joy Township (N)	$3,846
	Mount Joy Township (C)	$3,732
	Mount Joy Township (S)	$3,763
Allegheny	Marshall Township (W)	$1,671
	Marshall Township (E)	$1,461
	Pine Township	$948
	Plum Borough	Adoption In Progress
	Richland Township (N)	$1,240
	Richland Township (S)	$1,250
Berks	Amity Township (N)	$2,094
	Amity Township (S)	$2,076
	Bern Township	$725
	South Heidelberg Township	$1,918
	Spring Township	$1,366
	Upper Tulpehocken Township	$369
Bucks	Bensalem Township	$1,233
	Lower Makefield Township(1)	$1,117
	Lower Makefield Township (2)	$1,531
	Middletown Township	$249
	Newtown Township (1)	$560
	Newtown Township (1)	$726

County	Municipality	Fee ($per peak hour new trip)
Butler	Adams Township (W)	$586
	Adams Township (E)	$533
	Center Township	$1,100
	Cranberry Township (E)	$1,188
	Cranberry Township (W)	$1,186
	Middlesex Township (N)	$1,279
	Middlesex Township (M)	$1,323
	Middlesex Township (S)	$1,313
	Penn Township	Adoption In Progress
Chester	East Brandywine Township	$3,507.64
	East Coventry Township (N)	$2,159.67
	East Coventry Township (S)	$210.83
	East Goshen Township	$393
	East Pikeland Township	Adoption In progress
	Franklin Township	Adoption In Progress
	New London	Adoption In progress
	North Coventry Township	$2,556
	Penn Township	Adoption In progress
	Upper Uwchlan Township	$1,625
	Uwchlan Township	$776
	West Bradford Township (W)	$1,667
	West Brandywine (N)	$2,611.13
	West Brandywine (S)	$959.55
Franklin	Greene Township (1)	$2,065
	Greene Township (2)	$1,503
	Greene Township (3)	$1,778
	Greene Township (4)	$2,531
	Greene Township (5)	$1,008
	Greene Township (6)	$1,809
	Greene Township (7)	$1,086
	Washington Township	$2,714

County	Municipality	Fee ($per peak hour new trip)
Lancaster	Manheim Township (A)	$1,075.73
	Manheim Township (B)	$1,130.51
	Manheim Township (C)	$321.34
	Manheim Township (D)	$1,959.28
	Mount Joy Township	$1,491
Lehigh	Upper Macungie Township (1)	$177
	Upper Macungie Township (2)	$59
	Upper Macungie Township (4)	$57
	Whitehall Township	$811.81
Montgomery	East Norriton Township	$947
	Horsham Township (E)	$480
	Horsham Township (W)	$826
	Limerick Township (N)	$1,690
	Limerick Township (S)	$494
	Lower Gwynedd Township	$2,285
	Lower Providence Township (E)	$1,994
	Lower Providence Township (W)	$668
	Lower Salford Township	$1,035
	New Hanover Township (1)	$1,090
	New Hanover Township (2)	$1,616
	Plymouth Township (1)	$1,204.64
	Plymouth Township (2)	$2,312.62
	Skippack Township	$1,955.00
	Towamencin Township	$2,198
	Whitpain Township	$1,860
	Whitemarsh Township (N)	$2,825
	Whitemarsh Township (S)	$2,529
	Worcester Township (N)	$2,256
	Worcester Township (S)	$2,728

County	Municipality	Fee ($per peak hour new trip)
Northampton	Bethlehem Township	$717
	Lower Nazareth Township	$684
	Hanover Township	$325
Washington	Peters Township	Adoption in progress
Westmoreland	Municipality of Murrysville	$1,195
	Penn Township	$1,100
York	York Township (1)	$914
	York Township (2)	$1,069
	Peach Bottom Township	$887
	Windsor Township	Adoption In progress

Pennsylvania Muncipalities with Transportation Impact Fees



Appendix B: Transportation Impact Fee Advisory Committee

Checklist for Establishing Transportation Impact Fees

Establish Traffic Impact Fee Advisory Committee (TIFAC)

- ☐ Governing body approves a resolution appointing the TIFAC, establishing interim impact fee, and defining general study area
- ☐ First advertisement of Notice of Intent to adopt a transportation impact fee ordinance
- ☐ Second advertisement of Notice of Intent to adopt a transportation impact fee ordinance

Complete Land Use Assumptions Report

- ☐ 30-day review period for county planning, adjacent municipalities, and the school district
- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Land Use Assumptions Report
- ☐ Governing body approves Land Use Assumptions Report by resolution

Complete Roadway Sufficiency Analysis

- ☐ TIFAC provides governing body with recommendation for action on Roadway Sufficiency Analysis
- ☐ Governing body approves Roadway Sufficiency Analysis by resolution

Complete Capital Improvements Plan

- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ Capital Improvements Plan on public display for at least 10 business days prior to public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Capital Improvements Plan
- ☐ Governing body approves Capital Improvements Plan by resolution

Adopt Transportation Impact Fee Ordinance

- ☐ Impact fee ordinance must be on public display 10 business days prior to scheduled adoption by the governing body
- ☐ Governing body adopts the transportation impact fee ordinance

Note: The procedural steps contained in this checklist are those provided by Sections 504 and 505 of the MPC. The municipality should consult its solicitor or general counsel to determine whether any additional steps are needed for the adoption of its ordinance based on the normal procedures typically used by the municipality for advertisement of public hearings and adoption of ordinances.

INSERT MUNICIPAL NAME

INSERT COUNTY NAME

RESOLUTION No. ___ (IMPACT FEE ADVISORY COMMITTEE)

OF THE ***INSERT NAME OF GOVERNING BODY*** OF THE ***INSERT MUNICIPAL NAME***, ***INSERT COUNTY NAME***, PENNSYLVANIA, ESTABLISHING AN IMPACT FEE ADVISORY COMMITTEE AND AUTHORIZING THE PREPARATION AND PUBLIC ADVERTISEMENT OF THE ***INSERT MUNICIPAL NAME*** NOTICE OF INTENTION TO ADOPT AN IMPACT FEE ORDINANCE PURSUANT TO ACT 209 OF 1990.

WHEREAS, the *Insert Municipal Name* desires to provide appropriate levels of transportation levels of service to its citizens so as to adequately protect their health, safety and welfare; and

WHEREAS, *Insert Municipal Name* to experience rapid growth in both residential and commercial areas; and

WHEREAS, the *Insert Municipal Name* estimates it will not be able to undertake appropriate transportation capital improvements unless more funds are generated for that purpose; and

WHEREAS, Act of 209 of 1990 empowers municipalities to provide for transportation capital improvements through the imposition of impact fees upon new development following enactment of an appropriate impact fee ordinance adopted pursuant to the provisions of Act 209 of 1990; and

WHEREAS, the *Insert Municipal Name* desires to establish an impact fee advisory committee for the purposes of developing a transportation impact fee ordinance under the terms of Section 504-A (b)(1) of Act 209 of 1990;

NOW, THEREFORE, the *Insert Name of Governing Body* does hereby resolve as follows:

1. *Insert Municipal Name Advisory Committee* is hereby created and shall consist of the following *Insert Number of Committee Members* and *Insert Number of Committee Alternates*:

Members:	*List Committee Members*
Alternates:	*List Alternate Committee Members*

2. All of the above named members are residents of the *Insert Municipal Name* or conduct business within the *Insert Municipal Name* and are not employees or officials of the *Insert Municipal Name*.

3. Not less than 40% of the above mentioned members are representatives of the real estate, commercial and residential development and building industries.

4. All of the members shall serve without compensation.

5. The *Insert Municipal Name* Advisory Committee shall serve in an advisory capacity and shall develop land use assumptions, conduct roadway sufficiency analysis studies, and make recommendations as to the development of road improvements, capital improvements and impact fees with in the geographic area as follows: *Describe Geographic Area*

6. The *Insert Name of Governing Body* shall have the right to replace any member of the Advisory Committee upon notice for failure to complete the tasks assigned, for failure to attend three (3) consecutive regularly scheduled meetings, or conduct that damages the credibility of the committee specifically or *Insert Municipal Name* in general.

7. The *Insert Municipal Name* staff is hereby authorized to prepare and publicly advertise the Notice of Intention to Adopt an Impact Fee Ordinance. This Notice shall be published twice in a newspaper of general circulation in *Insert Municipal Name*, with the first publication to occur as soon as possible after the passage of this Resolution, and the second to occur not less than one nor more than three weeks thereafter.

8. The *Insert Name of Governing Body* shall assess an interim impact fee of $1,000 per P.M. peak hour vehicular trip generated by new development proposed in *Insert Municipal Name* with the initial application made during the 18-month retroactive period or prior to adoption of the transportation impact fee ordinance.

DULY RESOLVED, this __ day of *Insert Month and Year*, by the *Insert Name of Governing Body*, *Insert County Name*, Pennsylvania, in lawful session duly assembled.

Attest:

Insert Municipal Name

Insert County Name, Pennsylvania

_____

Insert Name of Municipal Secretary

By _____

Insert Governing Body Chairperson

Disclaimer:

Please note that this resolution is meant to serve only as a guideline in structuring your resolution. Municipal officials should not enact this resolution without first following the procedures outlined in the Municipalities Planning Code and consulting with the municipal solicitor.

INSERT NAME OF MUNICIPALITY

PUBLIC NOTICE

(NOTICE OF INTENT TO ADOPT ORDINANCE)

Insert Name of Governing Body is announcing its notice of intention to adopt an ordinance providing for the assessment of transportation impact fees. This notice is provided to meet the requirements of Section 505-A(c)(1) of the Pennsylvania Municipalities Planning Code. *Insert Name of Municipality* has passed a resolution creating an impact fee advisory committee and intends to develop and adopt an ordinance creating a transportation service area providing for impact fees to be assed to fund transportation and capital improvements within the following geographic area: *Describe Geographic Area from Resolution Appointing the Impact Fee Advisory Committee.* The *Insert Name of Governing Body* shall assess an interim impact fee of $1,000 per P.M. peak hour vehicular trip generated by new development proposed in *Insert Name of Municipality* with the initial application made during the 18-month retroactive period or prior to adoption of the transportation impact fee ordinance.

INSERT NAME OF GOVERNING BODY

Insert Name Of Municipal Secretary

Disclaimer:

Please note that this advertisement is meant to serve only as a guideline in structuring your advertisement. Municipal officials should not publish this advertisement without first following the procedures outlined in the Municipalities Planning Code and consulting with the municipal solicitor.

After adoption of the resolution appointing the TIFAC and identifying the general study area, the municipality must publish its intent to establish an impact fee. The notice of intent must be published twice in one newspaper of general circulation. The first publication should be as soon as possible after the adoption of the resolution. The second notice must be published one to three weeks after the first publication.

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Appendix C: Land Use Assumptions Report Model Public Notices and Resolution

Checklist for Establishing Transportation Impact Fees

Establish Traffic Impact Fee Advisory Committee (TIFAC)

- ☐ Governing body approves a resolution appointing the TIFAC, establishing interim impact fee, and defining general study area
- ☐ First advertisement of Notice of Intent to adopt a transportation impact fee ordinance
- ☐ Second advertisement of Notice of Intent to adopt a transportation impact fee ordinance

Complete Land Use Assumptions Report

- ☐ 30-day review period for county planning, adjacent municipalities, and the school district
- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Land Use Assumptions Report
- ☐ Governing body approves Land Use Assumptions Report by resolution

Complete Roadway Sufficiency Analysis

- ☐ TIFAC provides governing body with recommendation for action on Roadway Sufficiency Analysis
- ☐ Governing body approves Roadway Sufficiency Analysis by resolution

Complete Capital Improvements Plan

- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ Capital Improvements Plan on public display for at least 10 business days prior to public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Capital Improvements Plan
- ☐ Governing body approves Capital Improvements Plan by resolution

Adopt Transportation Impact Fee Ordinance

- ☐ Impact fee ordinance must be on public display 10 business days prior to scheduled adoption by the governing body
- ☐ Governing body adopts the transportation impact fee ordinance

Note: The procedural steps contained in this checklist are those provided by Sections 504 and 505 of the MPC. The municipality should consult its solicitor or general counsel to determine whether any additional steps are needed for the adoption of its ordinance based on the normal procedures typically used by the municipality for advertisement of public hearings and adoption of ordinances.

INSERT NAME OF MUNICIPALITY

NOTICE OF PUBLIC HEARING OF THE IMPACT FEE ADVISORY COMMITTEE

(LAND USE ASSUMPTIONS REPORT)

Please take notice that the Impact Fee Advisory Committee of *Insert Municipal Name* shall hold a public hearing in accordance with the Pennsylvania Municipalities Planning Code Act of 1968, P.L. 805, No. 247, as amended (53 P.A. 10101 est seq.). The purpose of the hearing shall be to gather public comment concerning the proposed Land Use Assumptions Report for the implementation of impact fees or transportation improvements. The hearing will be held on Insert Day of Week, Day of Month, Year at approximately *Insert Time* at the *Insert Location of Meeting and Address.*

Please take further notice that copies of the proposed Land Use Assumptions Report shall be available for public inspection and may be examined without charge or obtained for a charge no greater than the cost thereof from the *Insert Municipal Name Secretary* at the municipal building.

If you are a person that requires accommodations to participate, please contact the *Insert Municipal Name* at *Insert Municipal Address and Phone Number.*

The public is invited to attend and to offer comments.

IMPACT FEE ADVISORY COMMITTEE OF *INSERT MUNICIPAL NAME*

Insert Name of Impact Fee Committee Chairperson

Disclaimer:

Please note that this advertisement is meant to serve only as a guideline in structuring your advertisement. Municipal officials should not publish this advertisement without first following the procedures outlined in the Municipalities Planning Code and consulting with the municipal solicitor.

The public hearing must be advertised in a newspaper of general circulation in the municipality for two consecutive weeks. The first published advertisement cannot be more than 30 days prior to the hearing and the second advertisement cannot be less than seven days prior to the hearing.

INSERT MUNICIPAL NAME

INSERT COUNTY NAME

RESOLUTION No. ___ (LAND USE ASSUMPTIONS REPORT)

OF THE *INSERT NAME OF GOVERNING BODY* OF THE *INSERT MUNICIPAL NAME*, *INSERT COUNTY NAME*, PENNSYLVANIA, APPROVING THE LAND USE ASSUMTIONS REPORT SUBMITTED TO THE *INSERT MUNICIPAL NAME* ADVISORY COMMITTEE.

WHEREAS, the *Insert Municipal Name* passed *Insert Resolution Number* Creating the Advisory Committee pursuant to Act 209 of 1990; and

WHEREAS, the Advisory Committee has submitted a Land Use Assumptions Report to the *Insert Name of Governing Body* for the implementation of impact fees for capital improvements; and

WHEREAS, the *Insert Name of Governing Body* desires to take action on the Land Use Assumptions Report.

NOW, THEREFORE, the *Insert Name of Governing Body* does hereby resolve as follows:

1. The Land Use Assumptions Report dated *Insert Date*, by *Insert Name of Firm That Prepared the Land Use Assumptions Report* as modified by *Insert Name of Firm That Prepared the Land Use Assumptions Report*, and prepared for the *Insert Municipal Name Advisory Committee* is hereby approved.

2. This Resolution is enacted in order to comply with the requirements of the Pennsylvania Municipalities Planning Code, and in particular Section 504-A(c)(1) of the Code.

DULY RESOLVED, this __ day of *Insert Month and Year*, by the *Insert Name of Governing Body*, *Insert County Name*, Pennsylvania, in lawful session duly assembled.

Attest:

Insert Municipal Name

***Insert County Name*, Pennsylvania**

_____

Insert Name of Municipal Secretary

By _____

Insert Governing Body Chairperson

Disclaimer:

Please note that this resolution is meant to serve only as a guideline in structuring your resolution. Municipal officials should not adopt this resolution without first following the procedures outlined in the Municipalities Planning Code and consulting with the municipal solicitor and impact fee advisory committee.

Appendix D: Roadway Sufficiency Analysis Model Public Notices and Resolution

Checklist for Establishing Transportation Impact Fees

Establish Traffic Impact Fee Advisory Committee (TIFAC)

- ☐ Governing body approves a resolution appointing the TIFAC, establishing interim impact fee, and defining general study area
- ☐ First advertisement of Notice of Intent to adopt a transportation impact fee ordinance
- ☐ Second advertisement of Notice of Intent to adopt a transportation impact fee ordinance

Complete Land Use Assumptions Report

- ☐ 30-day review period for county planning, adjacent municipalities, and the school district
- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Land Use Assumptions Report
- ☐ Governing body approves Land Use Assumptions Report by resolution

Complete Roadway Sufficiency Analysis

- ☐ TIFAC provides governing body with recommendation for action on Roadway Sufficiency Analysis
- ☐ Governing body approves Roadway Sufficiency Analysis by resolution

Complete Capital Improvements Plan

- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ Capital Improvements Plan on public display for at least 10 business days prior to public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Capital Improvements Plan
- ☐ Governing body approves Capital Improvements Plan by resolution

Adopt Transportation Impact Fee Ordinance

- ☐ Impact fee ordinance must be on public display 10 business days prior to scheduled adoption by the governing body
- ☐ Governing body adopts the transportation impact fee ordinance

Note: The procedural steps contained in this checklist are those provided by Sections 504 and 505 of the MPC. The municipality should consult its solicitor or general counsel to determine whether any additional steps are needed for the adoption of its ordinance based on the normal procedures typically used by the municipality for advertisement of public hearings and adoption of ordinances.

INSERT NAME OF MUNICIPALITY

MEETING NOTICE

(ROADWAY SUFFICIENCY ANALYSIS)

Insert Municipal Name Impact Fee Advisory Committee will meet on *Insert Day of Week, Day of Month, Year* at approximately *Insert Time*, at the *Insert Location of Meeting and Address* for the purpose of reviewing the Roadway Sufficiency Analysis Study and other items related to the *Insert Municipal Name* impact fee program. The *Insert Municipal Name* governing body and planning commission may also attend.

If you are a person that requires accommodations to participate, please contact the *Insert Municipal Name* at *Insert Municipal Address and Phone Number*.

The public is invited to attend and to offer comments.

IMPACT FEE ADVISORY COMMITTEE OF *INSERT MUNICIPAL NAME*

Insert Name of Impact Fee Committee Chairperson

Disclaimer:

The municipality is not required to hold a public hearing for the Roadway Sufficiency Analysis. If the municipality wishes to make the impact fee advisory committee meetings open to the public, this advertisement is meant to serve only as a guideline in structuring your advertisement. Municipal officials should not publish this advertisement without first following the procedures outlined in the Municipalities Planning Code and consulting with the municipal solicitor.

INSERT MUNICIPAL NAME

INSERT COUNTY NAME

RESOLUTION No. ___ (ROADWAY SUFFICIENCY ANALYSIS)

OF THE *INSERT NAME OF GOVERNING BODY* OF THE *INSERT MUNICIPAL NAME*, *INSERT COUNTY NAME*, PENNSYLVANIA, APPROVING THE ROADWAY SUFFICIENCY ANALYSIS REPORT SUBMITTED TO THE *INSERT MUNICIPAL NAME* ADVISORY COMMITTEE.

WHEREAS, the *Insert Municipal Name* passed *Insert Resolution Number* Creating the Advisory Committee pursuant to Act 209 of 1990; and

WHEREAS, the Advisory Committee has submitted a Roadway Sufficiency Analysis Report to the *Insert Name of Governing Body* for the implementation of impact fees for capital improvements; and

WHEREAS, the *Insert Name of Governing Body* desires to take action on the Roadway Sufficiency Analysis Report.

NOW, THEREFORE, the *Insert Name of Governing Body* does hereby resolve as follows:

1. The Roadway Sufficiency Analysis Report dated *Insert Date*, by *Insert Name of Firm That Prepared the Roadway Sufficiency Analysis Report* as modified by *Insert Name of Firm That Prepared the Roadway Sufficiency Analysis Report*, and prepared for the *Insert Municipal Name* Advisory Committee is hereby approved.

2. This Resolution is enacted in order to comply with the requirements of the Pennsylvania Municipalities Planning Code, and in particular Section 504-A(d)(1) and (2) of the Code.

DULY RESOLVED, this __ day of *Insert Month and Year*, by the *Insert Name of Governing Body, Insert County Name*, Pennsylvania, in lawful session duly assembled.

Attest:

Insert Municipal Name

***Insert County Name*, Pennsylvania**

_____

Insert Name of Municipal Secretary

By _____

Insert Governing Body Chairperson

Disclaimer:

Please note that this resolution is meant to serve only as a guideline in structuring your resolution. Municipal officials should not adopt this resolution without first following the procedures outlined in the Municipalities Planning Code and consulting with the municipal solicitor and impact fee advisory committee.

Appendix E: Capital Improvements Plan Model Public Notices and Resolution

Checklist for Establishing Transportation Impact Fees

Establish Traffic Impact Fee Advisory Committee (TIFAC)

- ☐ Governing body approves a resolution appointing the TIFAC, establishing interim impact fee, and defining general study area
- ☐ First advertisement of Notice of Intent to adopt a transportation impact fee ordinance
- ☐ Second advertisement of Notice of Intent to adopt a transportation impact fee ordinance

Complete Land Use Assumptions Report

- ☐ 30-day review period for county planning, adjacent municipalities, and the school district
- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Land Use Assumptions Report
- ☐ Governing body approves Land Use Assumptions Report by resolution

Complete Roadway Sufficiency Analysis

- ☐ TIFAC provides governing body with recommendation for action on Roadway Sufficiency Analysis
- ☐ Governing body approves Roadway Sufficiency Analysis by resolution

Complete Capital Improvements Plan

- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ Capital Improvements Plan on public display for at least 10 business days prior to public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Capital Improvements Plan
- ☐ Governing body approves Capital Improvements Plan by resolution

Adopt Transportation Impact Fee Ordinance

- ☐ Impact fee ordinance must be on public display 10 business days prior to scheduled adoption by the governing body
- ☐ Governing body adopts the transportation impact fee ordinance

Note: The procedural steps contained in this checklist are those provided by Sections 504 and 505 of the MPC. The municipality should consult its solicitor or general counsel to determine whether any additional steps are needed for the adoption of its ordinance based on the normal procedures typically used by the municipality for advertisement of public hearings and adoption of ordinances.

INSERT NAME OF MUNICIPALITY

NOTICE OF PUBLIC HEARING OF THE IMPACT FEE ADVISORY COMMITTEE

(CAPITAL IMPROVEMENTS PLAN)

Please take notice that the Impact Fee Advisory Committee of *Insert Municipal Name* shall hold a public hearing in accordance with the Pennsylvania Municipalities Planning Code Act of 1968, P.L. 805, No. 247, as amended (53 P.A. 10101 est seq.). The purpose of the hearing shall be to gather public comment concerning the proposed Capital Improvements Plan for the implementation of impact fees for transportation improvements. The hearing will be held on *Insert Day of Week, Day of Month, Year* at approximately *Insert Time* at the *Insert Location of Meeting and Address.*

Please take further notice that copies of the proposed Capital Improvements Plan shall be available for public inspection at least ten working days prior to the public hearing and may be examined without charge or obtained for a charge no greater than the cost thereof from the *Insert Municipal Name* Secretary at the municipal building.

If you are a person that requires accommodations to participate, please contact the *Insert Municipal Name* at *Insert Municipal Address and Phone Number*.

The public is invited to attend and to offer comments.

IMPACT FEE ADVISORY COMMITTEE OF *INSERT MUNICIPAL NAME*

Insert Name of Impact Fee Committee Chairperson

Disclaimer:

Please note that this advertisement is meant to serve only as a guideline in structuring your advertisement. Municipal officials should not publish this advertisement without first following the procedures outlined in the Municipalities Planning Code and consulting with the municipal solicitor.

The public hearing must be advertised in a newspaper of general circulation in the municipality for two consecutive weeks. The first published advertisement cannot be more than 30 days prior to the hearing and the second advertisement cannot be less than seven days prior to the hearing. The draft Capital Improvements Plan Report must be placed on public display at the municipal offices for at least 10 business days prior to the public hearing.

INSERT MUNICIPAL NAME

INSERT COUNTY NAME

RESOLUTION No. ___ (CAPITAL IMPROVEMENTS PLAN)

OF THE *INSERT NAME OF GOVERNING BODY* OF THE *INSERT MUNICIPAL NAME*, *INSERT COUNTY NAME*, PENNSYLVANIA, APPROVING THE CAPITAL IMPROVEMENTS PLAN SUBMITTED TO THE *INSERT MUNICIPAL NAME* ADVISORY COMMITTEE.

WHEREAS, the *Insert Municipal Name* passed *Insert Resolution Number* Creating the Advisory Committee pursuant to Act 209 of 1990; and

WHEREAS, the Advisory Committee has submitted a Capital Improvements Plan to the *Insert Name of Governing Body* for the implementation of impact fees for capital improvements; and

WHEREAS, the *Insert Name of Governing Body* desires to take action on the Capital Improvements Plan.

NOW, THEREFORE, the *Insert Name of Governing Body* does hereby resolve as follows:

1. The Capital Improvements Plan dated *Insert Date,* by *Insert Name of Firm That Prepared the Capital Improvements Plan* as modified by *Insert Name of Firm That Prepared the Capital Improvements Plan*, and prepared for the *Insert Municipal Name Advisory Committee* is hereby approved.

2. This Resolution is enacted in order to comply with the requirements of the Pennsylvania Municipalities Planning Code, and in particular Section 504-A(e)(1), (2). and (3) of the Code.

DULY RESOLVED, this __ day of *Insert Month and Year*, by the *Insert Name of Governing Body*, *Insert County Name*, Pennsylvania, in lawful session duly assembled.

Attest:

Insert Municipal Name

***Insert County Name*, Pennsylvania**

_____

Insert Name of Municipal Secretary

By _____

Insert Governing Body Chairperson

Disclaimer:

Please note that this resolution is meant to serve only as a guideline in structuring your resolution. Municipal officials should not adopt this resolution without first following the procedures outlined in the Municipalities Planning Code and consulting with the municipal solicitor and impact fee advisory committee.

Appendix F: Model Impact Fee Ordinance

Checklist for Establishing Transportation Impact Fees

Establish Traffic Impact Fee Advisory Committee (TIFAC)

- ☐ Governing body approves a resolution appointing the TIFAC, establishing interim impact fee, and defining general study area
- ☐ First advertisement of Notice of Intent to adopt a transportation impact fee ordinance
- ☐ Second advertisement of Notice of Intent to adopt a transportation impact fee ordinance

Complete Land Use Assumptions Report

- ☐ 30-day review period for county planning, adjacent municipalities, and the school district
- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Land Use Assumptions Report
- ☐ Governing body approves Land Use Assumptions Report by resolution

Complete Roadway Sufficiency Analysis

- ☐ TIFAC provides governing body with recommendation for action on Roadway Sufficiency Analysis
- ☐ Governing body approves Roadway Sufficiency Analysis by resolution

Complete Capital Improvements Plan

- ☐ First advertisement of TIFAC public hearing
- ☐ Second advertisement of TIFAC public hearing
- ☐ Capital Improvements Plan on public display for at least 10 business days prior to public hearing
- ☐ TIFAC holds public hearing
- ☐ TIFAC provides governing body with recommendation for action on Capital Improvements Plan
- ☐ Governing body approves Capital Improvements Plan by resolution

Adopt Transportation Impact Fee Ordinance

- ☐ Impact fee ordinance must be on public display 10 business days prior to scheduled adoption by the governing body
- ☐ Governing body adopts the transportation impact fee ordinance

Note: The procedural steps contained in this checklist are those provided by Sections 504 and 505 of the MPC. The municipality should consult its solicitor or general counsel to determine whether any additional steps are needed for the adoption of its ordinance based on the normal procedures typically used by the municipality for advertisement of public hearings and adoption of ordinances.

TRANSPORTATION IMPACT FEE MODEL ORDINANCE

Disclaimer:

Please note that this model ordinance is meant to serve only as a guideline in structuring your municipal ordinance. Municipal officials should not adopt the ordinance without first following the procedures outlined in the Municipalities Planning Code and consulting with the municipal solicitor and impact fee advisory committee.

After the appropriate procedures have been followed as indicated above, the ordinance can be customized. The blue and red text indicates the minimum areas requiring customization. Please note:

1. The appropriate chapter or ordinance number references need to be added to each section of the ordinance. Blanks are provided in each section heading to enable this procedure. Section numbers also have to be inserted into Sections 3.C through 3.G.
2. In accordance with the Municipalities Planning Code, there are a number of supporting documents that need to be adopted separately by resolution. Citations for these adoptions need to be incorporated into Section 7 of the model ordinance.
3. Section 11 of the model ordinance provides for exemptions to transportation impact fees that may be optionally provided for by the municipality.
4. Appropriate references to the transportation service area map must be incorporated into section 13 of the model ordinance.
5. There are two identified approaches for documenting the fees in Section 14. The municipality should evaluate the two options and insert the necessary information into this section. The appropriate *Engineering News-Record* Cost Index month and year and geographic reference need to be inserted into the ordinance if Approach 2 is selected.
6. There is a section reference in the body of section 19 that needs to be inserted with the appropriate ordinance or chapter number.
7. There are text boxes in Sections 11, 13, and 20 that need to be reviewed by the municipality and addressed within the ordinance language. The text boxes may be removed from the final document once the issues have been addressed.
8. The draft ordinance should be thoroughly reviewed by the impact fee advisory committee, municipal solicitor, and governing body before consideration for adoption.

INSERT MUNICIPAL NAME, INSERT COUNTY NAME:

Chapter ___: TRANSPORTATION IMPACT FEE

§ ___-1. Title.

This chapter shall be known as the "*Insert Municipal Name* Transportation Impact Fee Ordinance."

§ ___-2. Purpose.

The purpose of this chapter is to establish a transportation impact fee to ensure that the transportation system is available and adequate to support new growth and development. To advance this objective, there is hereby created a transportation impact fee payable to *Insert Municipal Name* at the time of building permit issuance (See Section 505-A(e) of the MPC).

§ ___-3. General findings and conditions.

The *Insert Name of Governing Body* hereby finds and declares that:

A. The conditions and standards for the determination and imposition of the transportation impact fee set forth herein are those set forth in Act 209 of 1990, Article V-A, Municipal Capital Improvement, of the Pennsylvania The Act, 53 P.S. § 10501-A et seq., and any and all amendments thereto (hereinafter the "Act"), and consists of:

1. The recitals set forth above;

2. The analysis, advice and recommendations of the Transportation Impact Fee Advisory Commission;

3. The Land Use Assumptions Report as adopted by the *Insert Name of Governing Body*;

4. The Roadway Sufficiency Analysis as adopted by the *Insert Name of Governing Body*;

5. The Transportation Capital Improvements Plan, as adopted by the *Insert Name of Governing Body*; and

6. Such other conditions and standards as the *Insert Name of Governing Body* may by resolution identify from time to time as being relevant and material to the imposition of a transportation impact fee and consistent with the provisions of the Act and any amendments thereto.

B. The collection, disbursement and accounting of transportation impact fees shall be administered by the office of the Insert Title of Responsible Municipal Official, subject to review, oversight and control by the *Insert Name of Governing Body*.

C. The amount of the per-peak-hour-trip transportation impact fees shall be as set forth in § ___-12 of this chapter.

D. The time, method and procedure for payment of transportation impact fees shall be as set forth in § ___-19 of this chapter.

E. The procedures for credits against transportation impact fees shall be as set forth in § ___-20 of the chapter.

F. The procedures for refunds of transportation impact fees shall be as set forth in § ___-21 of this chapter.

G. Such exemptions as the Board of Commissioners shall choose to enact be set forth in § ___-11 of this chapter.

§ ___-4. Definitions.

The terms and definitions set forth in § 502-A of the Act are hereby adopted and incorporated by reference in full in this chapter, as if they were attached hereto.

§ ___-5. Enactment and imposition of transportation impact fees.

There are hereby enacted transportation impact fees to be imposed upon new development, as defined in the Act, for the purpose of off-site public transportation capital improvements authorized by the Act and as described by the Transportation Capital Improvements Plan adopted by the *Insert Name of Governing Body*. Said transportation impact fees shall apply to all new subdivisions and land developments within the transportation service areas established pursuant hereto, and the imposition and payment shall be a condition precedent to final approval of a subdivision or land development plan and issuance of a building permit.

§ ___-6. Uses.

Transportation impact fees collected pursuant to this chapter shall be expended for costs incurred for improvements attributable to new development and designated in the Transportation Capital Improvements Plan for improvements within the transportation service areas in which the new development will be located. Additionally, such fees may be used for the acquisition of land and rights-of-way, engineering, legal and planning costs and all other costs, including debt service related to road improvements within the transportation service area, and including such proportionate amount of the Roadway Sufficiency Analysis as is allowed under the provisions of the Act.

§ ___-7. Documents adopted by the *Insert Name of Governing Body*.

The following documents, previously adopted by the *Insert Name of Governing Body*, are hereby incorporated by reference in full in the ordinance, as if attached hereto:

A. Recommendations of the Transportation Impact Fee Advisory Committee, including those set forth in the documents identified below.

B. Land Use Assumptions Report as adopted by Resolution No. _____.

C. Roadway Sufficiency Analysis as adopted by Resolution No. _____.

D. Transportation Capital Improvements Plan as adopted by Resolution No. _____.

E. Transportation Service Areas Map as prepared by Insert Consultant or Committee Name, attached as Exhibit __ to the Transportation Capital Improvements Plan, and incorporated by reference in full herein, as if attached hereto.

§ ___-8. Special traffic studies.

Where a new nonresidential development is proposed which deviates from the land use as-

sumptions resulting in increased density, intensity or trip generation, the developer shall be required to prepare a special transportation study in order to assist the township in determining traffic generation or circulation and to serve as the basis for the determination of the amount of the transportation impact fee for such development or subdivision. Such transportation studies shall conform to the requirements of the *Insert Municipal Name* Subdivision and Land Development Ordinance. Any such studies shall be submitted prior to the imposition of the impact fee and shall be considered in the determination of said fee.

§ ___-9. Uniform applicability of transportation impact fee.

This chapter shall be uniformly applicable to all developments that occur within the defined transportation service areas.

§ ___-10. Imposition and payment of transportation impact fee as condition to issuance of building permit.

No building permit shall be issued for development in the transportation service areas hereto unless the applicant therefore has paid the transportation impact fees imposed by and calculated pursuant to this chapter.

§ ___-11 Exemptions.

NOTE: This section of the model ordinance is optional and left to the discretion of the governing body. If included in the actual ordinance, the municipality should evaluate how any exemptions are to be determined, whether at the discretion of the governing body or calculated mathematically.

The following new development or subdivision shall be exempt from the imposition of the impact fee adopted pursuant to this chapter:

A. All new development or subdivisions which constitute affordable housing to low- and moderate-income persons as defined in Act 209 (53 P.S. § 10501-A et seq.) shall be entitled to a credit of up to one hundred percent (100%) against the impact fee otherwise assessable against said development.

B. All new development or subdivision which are determined by the *Insert Name of Governing Body* to serve an overriding public interest shall be entitled to a credit of up to one hundred percent (100%) against the otherwise applicable impact fee.

C. De minimus applications (If such a policy is adopted, the definition of de minimus shall be contained in the ordinance.)

§ ___-12. Method of calculation of transportation impact fees.

A. The transportation impact fees for transportation capital improvements shall be based upon the total costs of the road improvements included in the adopted Transportation Capital Improvements Plan within the transportation service areas, which are attributable to and necessitated by the new development within the transportation service areas as calculated in accordance with the Act and herewith, divided by the number of anticipated peak-hour trips generated by all new development consistent with a) the adopted Land Use Assumptions Report and b) calculated in accordance with the Trip Generation Manual published by the Institute of Transportation Engineers, sixth or subsequent editions, as amended, which is hereby adopted by *Insert Municipal Name*, to equal a per-trip cost for transportation Improvements within the transportation service areas.

B. The specific transportation impact fee for a specific new subdivision or land development within a transportation service area for road improvements shall be determined as of the date of preliminary subdivision or land development approval by multiplying the per-trip cost established for the transportation service area by the estimated number of PM peak-hour trips to be generated by the new subdivision or land development using the Trip Generation Manual published by the Institute of Transportation Engineers, sixth or subsequent editions, as amended.

C. The *Insert Name of Governing Body* may authorize or require the preparation of a special transportation study in order to determine the traffic generation or circulation for a new non-residential development to assist in the determination of the amount of the transportation fee for such subdivision or land development.

§ ___-13. Establishment of transportation service area.

A. Insert Transportation Service Area Names or Numbers are established as shown on the Transportation Service Area Map prepared by Insert Consultant or Committee Name, attached as Exhibit __ to the Transportation Capital Improvements Plan, and incorporated by reference in full herein. Additional transportation service areas or subareas or combinations of transportation service areas or subareas may be designated by the *Insert Name of Governing Body* from time to time, consistent with the procedure set forth in this chapter and in consideration of the following factors.

NOTE: The municipality may want to define "adequate public facilities" in the Transportation Capital Improvement Plan.

1. The Comprehensive Plan;

2. Any standards for adequate public facilities incorporated in the Transportation Capital Improvement Plan;

3. The projected build-out and timing of development areas;

4. The need for and cost of unprogrammed transportation improvements necessary to support projected development; and

5. Such other factors as the *Insert Name of Governing Body* may deem relevant.

B. Fees collected from development in each transportation service area or subarea will be used exclusively to fund transportation improvement projects scheduled for that area or subarea.

§ ___-14. Calculation of per-peak-hour-trip fee for the transportation service area.

APPROACH 1:

The amount of per-peak-hour-trip fee for *Insert Transportation Service Area* Names or Numbers shall be Insert Respective Fees, respectively, unless revised or amended in accordance with the provisions hereof and the Act, calculated in accordance with § 503A(e)(1)(iv)(C) and 505-A(a)(1) of the Act and § 11 hereof, as follows:

A. *Insert First Transportation Service Area Name or Number.* Total costs of road improvements in Transportation Service Area *Insert Name or Number (put in italics)* included in the adopted Transportation Capital Improvements Plan attributable to and necessitated by new

development within the Transportation Service Area, including 50% of the estimated costs of improvements to highways, roads and streets qualifying as a state highway or portion of the rural highway system as provided in § 102 of the State Highway Law.

(1) Total costs attributable to Transportation Service Area *Insert Name or Number: Insert Amount.*

B. *Insert Second Transportation Service Area Name or Number*. Total costs of road improvements in Service Area *Insert Name or Number* included in the adopted Transportation Capital Improvements Plan attributable to and necessitated by new development within the Transportation Service Area, including 50% of the estimated costs of improvements to highways, roads and streets qualifying as a state highway or portion of the rural highway system as provided in § 102 of the State Highway Law.

(1) Total costs attributable to Transportation Service Area *Insert Name or Number: Insert Amount.*

Continue This Section Until All Transportation Service Areas Are Addressed.

APPROACH 2:

The per peak hour trip cost for each transportation service area shall be as set forth in *Insert Appropriate Ordinance Reference, Fees.* (if codified separately as a listing of applicable municipal fees)

The impact fee set forth in § ___-14 shall be adjusted annually in accordance with the Engineering News Record (ENR) cost index for the construction cost in the *Insert Appropriate Geographic Reference area*. For purposes of the adjustment the base index shall be *Insert Desired Month and Year* at time of ordinance preparation.

§ ___-15. Large subdivision and land developments.

There is hereby imposed an additional transportation impact fee upon new developments which generate 1,000 or more new peak-hour trips, net of pass-by trips as defined by the Trip Generation Manual published by the Institute of Transportation Engineers, sixth or subsequent editions, during the peak-hour period designated in this chapter. The applicant for such a development shall perform traffic analysis of development traffic impact on highways, roads or streets outside the transportation service area in which the development site is located but within the boundaries of *Insert Municipal Name*. Any such highways, roads or streets or parts thereof outside the transportation service area which will accommodate 10% or more of development traffic and 100 or more new peak hour trips shall be studied, and the applicant shall mitigate the traffic impacts of the development on such highways, roads and streets to maintain the predevelopment conditions after completion of the development.

§ ___-16. Projects not contained in the Transportation Capital Improvements Plan.

Any other provisions of this chapter to the contrary notwithstanding, in accordance with the provisions of Act, *Insert Municipal Name* may expend transportation impact fees paid by an applicant on projects not contained in the Transportation Capital Improvement Plan or may provide credit against the transportation impact fees for the value of any construction projects

not contained in the Transportation Capital Improvement Plan or may provide credit against transportation impact fees for the value of any construction projects not contained in the Transportation Capital Improvement Plan which are performed at the applicant's expense if all of the following criteria are met:

A. The applicant has provided written consent to use of its transportation impact fees or the provision of such credit against the applicant's transportation impact fees for the specific transportation projects which are not included in the Transportation Capital Improvement Plan.

B. The alternative transportation projects, whether highway or multimodal, have as their purpose the reduction of traffic congestion or the removal of vehicle trips from the roadway work.

C. *Insert Municipal Name* amends its Transportation Capital Improvement Plan components required by Section 504-A(e)(1)(vi) of the Act to provide replacement of the collected transportation impact fees transferred to transportation projects outside the Transportation Capital Improvement Plan from sources other than transportation impact fees or developer contributions within three years of completion of the alternative projects to which the transferred fees were applied or for which credit was provided. All interest earned on such funds shall become funds of that account. *Insert Municipal Name* shall make an accounting annually for any fund account containing transportation impact fee proceeds and earned interest. Such accounting shall include, but not be limited to, the total funds collected, the source of 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 shall be included and published as part of the annual audit required by *Insert Municipal Name*. A copy of the report shall also be provided to the Transportation Impact Fee Advisory Committee.

§ ___-17. Nonbinding transportation impact fee estimate.

Prior to making an application for a building permit, an applicant may request a nonbinding transportation impact fee estimate from *Insert Municipal Name* which shall be based upon the maximum development potential of the site pursuant to existing zoning regulations, unless the applicant specifies use of the development.

§ ___-18. Administration of transportation impact fees.

A. Collection of transportation impact fees due pursuant to this chapter shall be collected by *Insert Municipal Name* in the manner or manners prescribed herein prior to the issuance of a building permit.

B. Establishment of the fund. Upon receipt of transportation impact fees, *Insert Municipal Name* shall be responsible for the separate and proper accounting of such fees. All such fees shall be deposited in interest-bearing accounts in a bank authorized to receive deposits of *Insert Municipal Name* funds. Interest earned by each account shall be credited to that account and shall be used solely for the purpose specified for funds of such account.

C. Establishment and maintenance of accounts. The *Insert Title of Responsible Municipal*

Official shall establish appropriate trust fund accounts and shall maintain records whereby transportation impact fees collected can be segregated for each transportation service area.

D. Maintenance of records. The *Insert Title of Responsible Municipal Official* shall maintain and keep adequate financial records for each such account which shall show the source and disbursement of all revenues, which shall account for all monies received and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the Transportation Capital Improvements Plan for the particular transportation service area.

§ ___-19. Time, method and procedure for payment.

The transportation impact fee for a specific subdivision or land development shall be paid prior to the issuance of the building permit for the development. The transportation impact fee shall be paid to the municipality in cash, bank cashier's check, certified check or electronic fund transfer approved by the *Insert Title of Responsible Municipal Official* and shall be administered by *Insert Municipal Name* in accordance with the provisions of § ___-18 hereof.

§ ___-20. Credit.

Any applicant who shall perform, at its own expense and the consent and agreement of the *Insert Name of Governing Body*, off-site improvement, as herein defined, shall be eligible for a credit from a transportation impact fee otherwise due. Such credit shall not exceed the amount of the transportation impact fee that would have been charged if a credit was not due.

A. An applicant shall be entitled as a credit against impact fees an amount equal to the value of any road improvement construction which is contained in the Transportation Capital Improvements Plan and which was performed at the applicant's expense.

B. If the applicant makes such improvements, he shall enter into an agreement with the *Insert Name of Governing Body* prior to the issuance of any building permit. The agreement shall establish the estimated cost of the improvement, the schedule for initiation and completion of the improvement, a requirement that the improvement be completed to *Insert Municipal Name* and Pennsylvania Department of Transportation standards and design criteria, as applicable, and such other terms and conditions as deemed necessary by the *Insert Name of Governing Body*. The *Insert Name of Governing Body* shall 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 transportation impact fee prior to issuance of any building permit. The amount of such credit for any capital improvement constructed shall be the amount allocated in the Transportation Capital Improvement Plan, including contingency factors, for such improvement. In no event shall the *Insert Name of Governing Body* provide a credit which is greater than the applicable transportation impact fee. If, however, the amount of the credit is calculated to be greater than the amount of the transportation impact fee due, the applicant may use such excess credit toward the transportation impact fees imposed on other building permits for development on the same site and in the same ownership. Any such applicant shall

NOTE: See page 37 of the handbook for a discussion on the issue of credits against an impact fee.

be required to supply financial security sufficient, in the judgment of *Insert Municipal Name*, to cover the cost of any improvement installed by the applicant for which credit is sought.

C. An applicant shall be entitled as a credit against transportation impact fees an amount equal to fair market value of land dedicated by the applicant to *Insert Municipal Name* and accepted by *Insert Municipal Name* for future right-of-way, realignment or widening of existing roadways. The fair market value of any land dedicated to and accepted by *Insert Municipal Name* shall be determined as of the date of the submission of the subdivision or land development application to *Insert Municipal Name*.

§ ___-21. Refunds.

Transportation impact fees collected pursuant to this chapter shall be refunded, together with interest earned thereon, to the payor of the transportation impact fees under the following circumstances:

A. In the event *Insert Municipal Name* terminates or completes the Transportation Capital Improvements Plan and there remains at the time of termination or completion undisbursed funds, the respective payors shall be entitled to a share of the fund balance in the same proportion as the payor's transportation impact fee payment plus interest earned bears to the total transportation impact fees collected plus interest. *Insert Municipal Name* shall provide written notice by certified mail to each person who previously paid the fees and remain undisbursed that such person's proportionate share of the fund balance is available for refund to such person. Such notice shall be provided to the last known address provided by the payor of the transportation impact fees to *Insert Municipal Name*. In the event that any of the funds remain unclaimed following one year after the notice, *Insert Municipal Name* shall be authorized to transfer any funds so remaining to any other fund in *Insert Municipal Name* without any further obligation to refund said funds. It shall be the responsibility of the payor to provide *Insert Municipal Name* at all times with a current address for such notice.

B. In the event *Insert Municipal Name* fails to commence construction (i.e., earthwork or other municipally defined action) within three years of the scheduled construction dates of the project as set forth in the Transportation Capital Improvement Plan, *Insert Municipal Name* shall refund the portion of the transportation impact fee paid by any payor making written request therefor which is attributable to said project, with accumulated interest; provided, nevertheless, that no refund shall be payable or paid with respect to any project actually commenced prior to the receipt of such refund request, and the failure of a payor to make such written request prior to the commencement of such project shall be deemed a waiver of any right to such refund.

C. In the event that, upon completion of any road improvements project, the actual expenditure for the project is less that 95% of the budgeted costs for such project, *Insert Municipal Name* shall refund the pro rata difference between the budgeted costs and the actual expenditures, including interest accumulated thereon from the date of payment, to the person or persons who paid the impact fees for such improvements.

D. In the event the development for which transportation impact fees were paid has not commenced prior to the expiration of the building permit issued therefor, the transportation

impact fees paid with accumulated interest shall be refunded to the payor. Further, if a building permit after issuance is altered in such a way as to reduce the amount of the transportation impact fee due, the difference between such amount and the amount actually paid shall be refunded. The payor, at its option, may roll over the transportation impact fees attributable to an expired building permit to cover fees incurred by a new permit.

§ ___-22. Effect of transportation impact fee on zoning, subdivision and land development and planned residential development regulations.

This chapter shall not affect, in any manner, the permissible use of property, density or development, previously adopted design and improvement standards and requirements or any other aspect of the subdivision or land development or provision of public improvements which remain subject to applicable zoning, subdivision and land development and planned residential development regulations of *Insert Municipal Name*, which shall be operative and remain in full force and effect without limitation with respect to such development.

§ ___-23. Transportation impact fee as additional and supplemental requirement.

The transportation impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by *Insert Municipal Name* on the development of land or the issuance of building permits. Nothing herein contained shall be deemed to alter or affect the *Insert Municipal Name* existing ordinances and regulations regarding on-site improvements. In no event shall a property owner be obligated to pay for transportation capital improvements in an amount in excess of the amount calculated pursuant to this chapter; provided, nevertheless, that a property owner may be required to pay, pursuant to *Insert Municipal Name* ordinances, regulations or policies, for other public facilities in addition to the transportation impact fee as provided herein.

§ ___-24. Liberal construction.

It is hereby found and declared to be the intention of *Insert Municipal Name* that the public health, safety and welfare be protected and furthered by the provisions of this chapter, and it shall be interpreted and construed liberally to effectively carry out its purposes and in such manner as to favor such public interest as opposed to any private interest.

§ ___-25. Appeals.

Any person required to pay an impact fee shall have the right to contest the land use assumptions, the development and implementation of the transportation capital improvement program, the imposition of impact fees, the periodic updating of the transportation capital improvement program, the refund of impact fees and all other matters relating to impact fees, including the constitutionality or validity of the impact fee ordinance by filing an appeal with the court of common pleas.

A master may be appointed by the court to hear testimony on the issues and return the record and a transcript of the testimony, together with a report and recommendations, or the court may appoint a master to hold a nonrecord hearing and to make recommendations and return the same to the court, in which case either party may demand a hearing de novo before the court.

Any cost incurred by parties in such an appeal shall be the separate responsibility of the parties.

§ ___-26. When effective.

This chapter shall take effect five days after adoption by the *Insert Name of Governing Body*.

INSERT NAME OF MUNICIPALITY

PUBLIC NOTICE

(TRANSPORTATION IMPACT FEE ORDINANCE)

Notice of proposed enactment of an ordinance providing for transportation impact fees in *Insert Municipal Name.*

During its regularly scheduled meeting on *Insert Day of Week, Day of Month, Year* at approximately *Insert Time* at the *Insert Location of Meeting and Address, Insert Name of Governing Body* intend on enacting an ordinance providing for transportation impact fees.

If you are a person that requires accommodations to participate, please contact the *Insert Municipal Name* at *Insert Municipal Address and Phone Number*.

The following is the proposed ordinance being considered:

Insert Draft Impact Fee Ordinance

A full copy of the ordinance with all the attached exhibits shall be available for public inspection during a public meeting of *Insert Municipal Name* to be held on *Insert Day of Week, Day of Month , Year* at approximately *Insert Time* at the *Insert Location of Meeting and Address*. In addition, copies of the proposed ordinance may be examined at the municipal offices during normal business hours, *Insert Normal Business Hours*.

Disclaimer:

Please note that this advertisement is meant to serve only as a guideline in structuring your advertisement. Municipal officials should not publish this advertisement without first following the procedures outlined in the Municipalities Planning Code and consulting with the municipal solicitor.

Appendix G: Transportation Impact Fee Project Funding Matrix

The following matrix provides potential funding sources for a municipal Capital Improvement Plan (CIP) associated with an adopted transportation impact fee. These funding sources may be used for CIP projects that are not eligible to be funded with impact fees, or they may be used for matching funds for CIP projects on state roads where only 50 percent of the project cost can be funded with impact fees. The matrix contains potential local, state, and federal funding sources for various project phases ranging from planning to construction. A municipality should contact its MPO/RPO for additional information on PennDOT funding sources. Additional information on Pennsylvania Department of Community and Economic Development (DCED) funding sources can be found at www.newpa.com.

Potential Funding Sources

for a CIP associated with an adopted Transportation Impact Fee

Project Types	Project Examples	Possible Funding Sources	
		PennDOT	Other Sources
Planning Phase			
Feasibility Studies		The following FHWA/ PennDOT transportation funds are available via Planning Partner Programs: • Statewide Planning & Research (SPR) Funds	DCED - Governor's Center for Local Government Services • Land Use Planning & Technical Assistance Program (LUPTAP) Funds Local Government • Tax Revenues • CDBG Funds
Special Studies (Transportation & Land Use)	• Land Use/Transportation Impact Studies • Studies for major transportation projects • Studies that support multi-municipal/corridor planning	The following FHWA/ PennDOT transportation funds are available via Planning Partner Programs: • Planning (PL) Funds • Statewide Planning & Research (SPR) Funds • Transportation Project/Land Use Coordination Initiative Funds	DCED - Governor's Center for Local Government Services • LUPTAP Funds Local Government • Tax Revenues • CDBG Funds

KEY:

CDBG: Community Development Block Grant Funds

CMAQ: Congestion Mitigation & Air Quality

LUPTAP: Land Use Planning & Technical Assistance Program Funds

DCED: Department of Community & Economic Development

PIB: Pennsylvania Infrastructure Bank Loans

Project Types	Project Examples	Possible Funding Sources	
		PennDOT	Other Sources
Project Development Phases: Preliminary Engineering through Construction			
Roadway/Bridge Projects	• Auxiliary Turn Lanes • Additional Thru Lanes • Bridge Construction (within project limits of capacity improvements) • Geometric Improvements (within project limits of capacity improvements) • Drainage Improvements (within project limits of capacity improvements)	The following FHWA/ PennDOT transportation funds are available via Planning Partner Programs: • Federal/State Highway Funds • Federal/State Bridge Funds • CMAQ • Special Federal Earmarks (SXF) • Appalachia Development (APD) • PennDOT Discretionary Funds • Economic Development Funds • Spike Funds	DCED – Center for Business Financing, Grants Division • Infrastructure Development Program (IDP) (transportation projects –road, bridges, utilities, etc.) Local Government • Liquid Fuels • Impact Fees • PIB Loans (through PennDOT) • CDBG Funds • Tax Revenues
Traffic Control	• New Traffic Signals • Traffic Signal Systems	The following FHWA/ PENNDOT transportation funds are available via Planning Partner Programs: • Federal/State Highway • CMAQ • Special Federal Earmarks (SXF) • Appalachia Development Funds (APD) • PennDOT Discretionary Funds • Economic Development Funds • Spike Funds	Local Government • CDBG Funds • Liquid Fuels • Impact Fees • Tax Revenue • PIB Loans (through PennDOT)

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Appendix H: Pennsylvania Municipalities Planning Code

Pennsylvania Municipalities Planning Code

Article V-A: Municipal Capital Improvement

** Compiler's Note: (a)(9) of Act 1996-58, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that housing, community assistance and other functions under Article V-A are transferred from the Department of Community Affairs to the Department of Community and Economic Development.*

(Art. added Dec. 19, 1990, P.L.1343, No.209)

Section 501-A. Purposes. To further the purposes of this act in an era of increasing development and of a corresponding demand for municipal capital improvements, to insure that the cost of needed capital improvements be applied to new developments in a manner that will allocate equitably the cost of those improvements among property owners and to respond to the increasing difficulty which municipalities are experiencing in developing revenue sources to fund new capital infrastructure from the public sector, the following powers are granted to all municipalities, other than counties, which municipalities have adopted either a municipal or county comprehensive plan, subdivision and land development ordinance and zoning ordinance.

Section 502-A. Definitions. The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Adjusted for family size," adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, than the base income eligibility level determined as provided in the definition of low- to moderate-income persons based upon a formula as established by the rule of the agency.

"Adjusted gross income," all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by rule of the department, adjusted for family size, less deductions under section 62 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. 62 et seq.).

"Affordable," with respect to the housing unit to be occupied by low- to moderate-income persons, monthly rents or monthly mortgage payments, including property taxes and insurance, that do not exceed 30% of that amount which represents 100% of the adjusted gross annual income for households within the metropolitan statistical area (MSA) or, if not within the MSA, within the county in which the housing unit is located, divided by 12.

"Agency," the Pennsylvania Housing Finance Agency as created pursuant to the act of December 3, 1959 (P.L.1688, No.621), known as the "Housing Finance Agency Law."

"Department," the Department of Community and Economic Development of the Commonwealth.

"Existing deficiencies," existing highways, roads or streets operating at a level of service below the preferred level of service designated by the municipality, as adopted in the transportation capital improvement plan.

"Highways, roads or streets," any highways, roads or streets identified on the legally adopted municipal street or highway plan or the official map which carry vehicular traffic, together with all necessary appurtenances, including bridges, rights-of-way and traffic control improvements. The term shall not include the interstate highway system.

"Impact fee," a charge or fee imposed by a municipality against new development in order to generate revenue for funding the costs of transportation capital improvements necessitated by and attributable to new development.

"Low- to moderate-income persons," one or more natural persons or a family, the total annual adjusted gross household income of which is less than 100% of the median annual adjusted gross income for households in this Commonwealth or is less than 100% of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within the MSA, within the county in which the household is located, whichever is greater.

"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.

"Offsite improvements," those public capital improvements which are not onsite improvements and that serve the needs of more than one development.

"Onsite 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, PRD regulations and zoning ordinance.

"Pass-through trip," a trip which has both an origin and a destination outside the service area.

"Road improvement," the construction, enlargement, expansion or improvement of public highways, roads or streets. It shall not include bicycle lanes, bus lanes, busways, pedestrian ways, rail lines or tollways.

"Traffic or transportation engineer or planner," any person who is a registered professional engineer in this Commonwealth or is otherwise qualified by education and experience to perform traffic or transportation planning analyses of the type required in this act and who deals with the planning, geometric design and traffic operations of highways, roads and streets, their

networks, terminals and abutting lands and relationships with other modes of transportation for the achievement of convenient, efficient and safe movement of goods and persons.

"Transportation capital improvements," those offsite road improvements that have a life expectancy of three or more years, not including costs for maintenance, operation or repair.

"Transportation service area," a geographically defined portion of the municipality not to exceed seven square miles of area which, pursuant to the comprehensive plan and applicable district zoning regulations, has an aggregation of sites with development potential creating the need for transportation improvements within such area to be funded by impact fees. No area may be included in more than one transportation service area.

Section 503-A. Grant of Power.

(a) The governing body of each municipality other than a county, in accordance with the conditions and procedures set forth in this act, may enact, amend and repeal impact fee ordinances and, thereafter, may establish, at the time of municipal approval of any new development or subdivision, the amount of an impact fee for any of the offsite public transportation capital improvements authorized by this act as a condition precedent to final plat approval under the municipality's subdivision and land development ordinance. Every ordinance adopted pursuant to this act shall include, but not be limited to, provisions for the following:

(1) The conditions and standards for the determination and imposition of impact fees consistent with the provisions of this act.

(2) The agency, body or office within the municipality which shall administer the collection, disbursement and accounting of impact fees.

(3) The time, method and procedure for the payment of impact fees.

(4) The procedure for issuance of any credit against or reimbursement of impact fees which an applicant may be entitled to receive consistent with the provisions of this act.

(5) Exemptions or credits which the municipality may choose to adopt. In this regard the municipality shall have the power to:

(i) Provide a credit of up to 100% of the applicable impact fees for all new development and growth which constitutes affordable housing to low- and moderate-income persons.

(ii) Provide a credit of up to 100% of the applicable impact fees for growth which are determined by the municipality to serve an overriding public interest.

(iii) Exempt de minimus applications from impact fee requirements. If such a policy is adopted, the definition of de minimus shall be contained in the ordinance.

(b) No municipality shall have the power to require as a condition for approval of a land development or subdivision application the construction, dedication or payment of any offsite improvements or capital expenditures of any nature whatsoever or impose any contribution in lieu thereof, exaction fee, or any connection, tapping or similar fee except as may be specifically authorized under this act.

(c) No municipality may levy an impact fee prior to the enactment of a municipal impact fee ordinance adopted in accordance with the procedures set forth in this act, except as may be specifically authorized by the provisions of this act. A transportation impact fee shall be imposed by a municipality within a service area or areas only where such fees have been determined and imposed pursuant to the standards, provisions and procedures set forth herein.

(d) Impact fees may be used for those costs incurred for improvements designated in the transportation capital improvement program which are attributable to new development, including the acquisition of land and rights-of-way; engineering, legal and planning costs; and all other costs which are directly related to road improvements within the service area or areas, including debt service. Impact fees shall not be imposed or used for costs associated with any of the following:

(1) Construction, acquisition or expansion of municipal facilities other than capital improvements identified in the transportation capital improvements plan required by this act.

(2) Repair, operation or maintenance of existing or new capital improvements.

(3) Upgrading, updating, expanding or replacing existing capital improvements to serve existing developments in order to meet stricter safety, efficiency, environmental or regulatory standards not attributable to new development.

(4) Upgrading, updating, expanding or replacing existing capital improvements to remedy deficiencies in service to existing development or fund deficiencies in existing municipal capital improvements resulting from a lack of adequate municipal funding over the years for maintenance or capital construction costs.

(5) Preparing and developing the land use assumptions, roadway sufficiency analysis and transportation capital improvement plan, except that impact fees may be used for no more than a proportionate amount of the cost of professional consultants incurred in preparing a roadway sufficiency analysis of infrastructure within a specified transportation service area, such allowable proportion to be calculated by dividing the total costs of all road improvements in the adopted transportation capital improvement program within the transportation service area attributable to projected future development within the service area, as defined in section 504-A(e)(1)(iii), by the total costs of all road improvements in the adopted transportation capital improvement program within the specific transportation service area, as defined in section 504-A.

(e) Nothing in this act shall be deemed to alter or affect a municipality's existing power to require an applicant for municipal approval of any new development or subdivision from paying for the installation of onsite improvements as provided for in a municipality's subdivision and land development ordinance as authorized by this act.

(f) No municipality may delay or deny any application for building permit, certificate-of-occupancy, development or any other approval or permit required for construction, land development, subdivision or occupancy for the reason that any project of an approved capital improvement program has not been completed.

(g) A municipality which has enacted an impact fee ordinance on or before June 1, 1990, may

for a period not to exceed one year from the effective date of this article, adopt an impact fee ordinance to conform with the standards and procedures set forth in this article. Where a fee previously imposed pursuant to an ordinance in effect on June 1, 1990, for transportation improvements authorized by this article is greater than the recalculated fee due under the newly adopted ordinance, the individual who paid the fee is entitled to a refund of the difference. If the recalculated fee is greater than the previously paid fee, there shall be no additional charge.

(h) The powers provided by this section may be exercised by two or more municipalities, other than counties, which have adopted a joint municipal comprehensive plan pursuant to Article XI through a joint authority, subject to the conditions and procedures set forth in this article.

Section 504-A. Transportation Capital Improvements Plan.

(a) A transportation capital improvements plan shall be prepared and adopted by the governing body of the municipality prior to the enactment of any impact fee ordinance. The municipality shall provide qualified professionals to assist the transportation impact fee advisory committee or the planning commission in the preparation of the transportation capital improvements plan and calculation of the impact fees to be imposed to implement the plan in accordance with the procedures, provisions and standards set forth in this act.

(b)(1) An impact fee advisory committee shall be created by resolution of a municipality intending to adopt a transportation impact fee ordinance. The resolution shall describe the geographical area or areas of the municipality for which the advisory committee shall develop the land use assumptions and conduct the roadway sufficiency analysis studies.

(2) The advisory committee shall consist of no fewer than 7 nor more than 15 members, all of whom shall serve without compensation. The governing body of the municipality shall appoint as members of the advisory committee persons who are either residents of the municipality or conduct business within the municipality and are not employees or officials of the municipality. Not less than 40% of the members of the advisory committee shall be representatives of the real estate, commercial and residential development, and building industries. The municipality may also appoint traffic or transportation engineers or planners to serve on the advisory committee provided the appointment is made after consultation with the advisory committee members. The traffic or transportation engineers or planners appointed to the advisory committee may not be employed by the municipality for the development of or consultation on the roadways sufficiency analysis which may lead to the adoption of the transportation capital improvements plan.

(3) The governing body of the municipality may elect to designate the municipal planning commission appointed pursuant to Article II as the impact fee advisory committee. If the existing planning commission does not include members representative of the real estate, commercial and residential development, and building industries at no less than 40% of the membership, the governing body of the municipality shall appoint the sufficient number of representatives of the aforementioned industries who reside in the municipality or conduct business within the municipality to serve as ad hoc voting members of the planning commission whenever such commission functions as the impact fee advisory committee.

(4) No impact fee ordinance may be invalidated as a result of any legal action challenging the composition of the advisory committee which is not brought within 90 days following the first public meeting of said advisory committee.

(5) The advisory committee shall serve in an advisory capacity and shall have the following duties:

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

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

(iii) To monitor and evaluate the implementation of a capital improvement program and the assessment of impact fees, and report annually to the municipality with respect to the same.

(iv) To advise the municipality of the need to revise or update the land use assumptions, capital improvement program or impact fees.

(c)(1) As a prerequisite to the development of the transportation capital improvements plan, the advisory committee shall develop land use assumptions for the determination of future growth and development within the designated area or areas as described by the municipal resolution and recommend its findings to the governing body. Prior to the issuance and presentation of a written report to the municipality on the recommendations for proposed land use assumptions upon which to base the development of the transportation capital improvements plan, the advisory committee shall conduct a public hearing, following the providing of proper notice in accordance with section 107, for the consideration of the land use assumption proposals. Following receipt of the advisory committee report, which shall include the findings of the public hearing, the governing body of the municipality shall by resolution approve, disapprove or modify the land use assumptions recommended by the advisory committee.

(2) The land use assumptions report shall:

(i) Describe the existing land uses within the designated area or areas and the highways, roads or streets incorporated therein.

(ii) To the extent possible, reflect projected changes in land uses, densities of residential development, intensities of nonresidential development and population growth rates which may affect the level of traffic within the designated area or areas over a period of at least the next five years. These projections shall be based on an analysis of population growth rates during the prior five-year period, current zoning regulations, approved subdivision and land developments, and the future land use plan contained in the adopted municipal comprehensive plan. It may also refer to all professionally produced studies and reports pertaining to the municipality regarding such items as demographics, parks and recreation, economic development and any other study deemed appropriate by the municipality.

(3) If the municipality is located in a county which has created a county planning agency, the advisory committee shall forward a copy of their proposed land use assumptions to the county planning agency for its comments at least 30 days prior to the public hearing. At the same time, the advisory committee shall also forward copies of the proposed assumptions to all contiguous municipalities and to the local school district for their review and comments.

(d) (1) Upon adoption of the land use assumptions by the municipality, the advisory committee shall prepare, or cause to be prepared, a roadway sufficiency analysis which shall establish the existing level of infrastructure sufficiency and preferred levels of service within any designated area or areas of the municipality as described by the resolution adopted pursuant to the creation of the advisory committee. The roadway sufficiency analysis shall be prepared for any highway, road or street within the designated area or areas on which the need for road improvements attributable to projected future new development is anticipated. The municipality shall commission a traffic or transportation engineer or planner to assist the advisory committee in the preparation of the roadway sufficiency analysis. Municipalities may jointly commission such engineer or planner to assist in the preparation of multiple municipality roadway sufficiency analyses. In preparing the roadway sufficiency analysis report, the engineer may consider and refer to previously produced professional studies and reports relevant to the production of the roadway sufficiency analysis as required by the section. It shall be deemed that the roads, streets and highways not on the roadway sufficiency analysis report are not impacted by future development. The roadway sufficiency analysis shall include the following components:

(i) The establishment of existing volumes of traffic and existing levels of service.

(ii) The identification of a preferred level of service established pursuant to the following:

(A) The level of service shall be one of the categories of road service as defined by the Transportation Research Board of the National Academy of Sciences or the Institute of Transportation Engineers. The municipality may choose to select a level of service on a transportation service area basis as the preferred level of service. The preferred levels of service shall be designated by the governing body of the municipality following determination of the existing level of service as established by the roadway sufficiency analysis. If the preferred level of service is designated as greater than the existing level of service, the municipality shall be required to identify road improvements needed to correct the existing deficiencies.

(B) Following adoption of the preferred level of service, such level of service may be waived for a particular road segment or intersection if the municipality finds that one or more of the following effectively precludes provision of road improvements necessary to meet the level of service: geometric design limitations, topographic limitations or the unavailability of necessary right-of-way.

(iii) The identification of existing deficiencies which need to be remedied to accommodate existing traffic at the preferred level of service.

(iv) The specification of the required road improvements needed to bring the existing level of service to the preferred level of service.

(v) A projection of anticipated traffic volumes, with a separate determination of pass-through trips, for a period of not less than five years from the date of the preparation of the roadway sufficiency analysis based upon the land use assumptions adopted under this section.

(vi) The identification of forecasted deficiencies which will be created by "pass-through" trips.

(2) The advisory committee shall provide the governing body with the findings of the roadway sufficiency analysis. Following receipt of the advisory committee report, the governing body shall by resolution approve, disapprove or modify the roadway sufficiency analysis recommended by the advisory committee.

(e) (1) Utilizing the information provided by the land use assumption and the roadway sufficiency analysis as the basis for determination of the need for road improvements to remedy existing deficiencies and accommodate future projected traffic volumes, the advisory committee shall identify those capital projects which the municipality should consider for adoption in its transportation capital improvements plan and shall recommend the delineation of the transportation service area or areas. The capital improvement plan shall be developed in accordance with generally accepted engineering and planning practices. The capital improvement program shall include projections of all designated road improvements in the capital improvement program. The total cost of the road improvements shall be based upon estimated costs, using standard traffic engineering standards, with a 10% maximum contingency which may be added to said estimate. These costs shall include improvements to correct existing deficiencies with identified anticipated sources of funding and timetables for implementation. The transportation capital improvements plan shall include the following components:

(i) A description of the existing highways, roads and streets within the transportation service area and the road improvements required to update, improve, expand or replace such highways, roads and streets in order to meet the preferred level of service and usage and stricter safety, efficiency, environmental or regulatory standards not attributable to new development.

(ii) A plan specifying the road improvements within the transportation service area attributable to forecasted pass-through traffic so as to maintain the preferred level of service after existing deficiencies identified by the roadway sufficiency analysis have been remedied.

(iii) A plan specifying the road improvements or portions thereof within the transportation service area attributable to the projected future development, consistent with the adopted land use assumptions, in order to maintain the preferred level of service after accommodation for pass-through traffic and after existing deficiencies identified in the roadway sufficiency analysis have been remedied.

(iv) The projected costs of the road improvements to be included in the transportation capital improvements plan, calculating separately for each project by the following categories:

(A) The costs or portion thereof associated with correcting existing deficiencies as specified in subparagraph (i).

(B) The costs or portions thereof attributable to providing road improvements to accommodate forecasted pass-through trips as specified in subparagraph (ii).

(C) The costs of providing necessary road improvements or portions thereof attributable to projected future development as specified in subparagraph (iii); provided that no more than 50% of the cost of the improvements to any highway, road or street which qualifies as a State Highway or portion of the rural State Highway System as provided in section 102 of the act of June 1, 1945 (P.L.1242, No. 428), known as the "State Highway Law" may be included.

(v) A projected timetable and proposed budget for constructing each road improvement contained in the plan.

(vi) The proposed source of funding for each capital improvement included in the road plan. This shall include anticipated revenue from the Federal Government, State government, municipality, impact fees and any other source. The estimated revenue for each capital improvement in the plan which is to be provided by impact fees shall be identified separately for each project.

(2) The source of funding required for projects to remedy existing deficiencies as set forth in paragraph (1)(i) and the road improvements attributable to forecasted pass-through traffic as set forth in paragraph (1)(ii) shall be exclusive of funds generated from the assessment of impact fees.

(3) Upon the completion of the transportation capital improvements plan and prior to its adoption by the governing body of the municipality and the enactment of a municipal impact fee ordinance, the advisory committee shall hold at least one public hearing for consideration of the plan. Notification of the public hearing shall comply with the requirement of section 107. The plan shall be available for public inspection at least ten working days prior to the date of the public hearing. After presentation of the recommendation by the advisory committee or its representatives at a public meeting of the governing body, the governing body may make such changes to the plan prior to its adoption as the governing body deems appropriate following review of the public comments made at the public hearing.

(4) The governing body may periodically, but no more frequently than annually, request the impact fee advisory committee to review the capital improvements plan and impact fee charges and make recommendations for revisions for subsequent consideration and adoption by the governing body based only on the following:

(i) New subsequent development which has occurred in the municipality.

(ii) Capital improvements contained in the capital improvements plan, the construction

of which has been completed.

(iii) Unavoidable delays beyond the responsibility or control of the municipality in the construction of capital improvements contained in the plan.

(iv) Significant changes in the land use assumptions.

(v) Changes in the estimated costs of the proposed transportation capital improvements, which may be recalculated by applying the construction cost index as published in the American City/County Magazine or the Engineering News Record.

(vi) Significant changes in the projected revenue from all sources listed needed for the construction of the transportation capital improvements.

(f) Any improvements to Federal-aid or State highways to be funded in part by impact fees shall require the approval of the Department of Transportation and, if necessary, the United States Department of Transportation. Nothing in this act shall be deemed to alter or diminish the powers, duties or jurisdiction of the Department of Transportation with respect to State highways or the rural State highway system.

(g) Two or more municipalities may, upon agreement, appoint a joint impact fee advisory committee which may develop roadway sufficiency analyses and transportation capital improvements plans for the participating municipalities. The members of the advisory committee must be either residents of or conduct business within one of the participating municipalities.

Section 505-A. Establishment and Administration of Impact Fees.

(a) (1) The impact fee for transportation capital improvements shall be based upon the total costs of the road improvements included in the adopted capital improvement plan within a given transportation service area attributable to and necessitated by new development within the service area as calculated pursuant to section 504-A(e)(1)(iv)(C), divided by the number of anticipated peak hour trips generated by all new development consistent with the adopted land use assumptions and calculated in accordance with the Trip Generation Manual published by the Institute of Transportation Engineers, fourth or subsequent edition as adopted by the municipality by ordinance or resolution to equal a per trip cost for transportation improvements within the service area.

(2) The specific impact fee for a specific new development or subdivision within the service area for road improvements shall be determined as of the date of preliminary land development or subdivision approval by multiplying the per trip cost established for the service area as determined in section 503-A(a) by the estimated number of peak-hour trips to be generated by the new development or subdivision using generally accepted traffic engineering standards.

(3) A municipality may authorize or require the preparation of a special transportation study in order to determine traffic generation or circulation for a new nonresidential development to assist in the determination of the amount of the transportation fee for such development or subdivision. The municipality shall set forth by ordinance the circumstances in which such a study should be authorized or required, provided however, that no special transpor-

tation study shall be required when there is no deviation from the land use assumptions resulting in increased density, intensity or trip generation by a particular development. A developer or municipality may, however, at any time, voluntarily prepare and submit a traffic study for a proposed development or may have such a study prepared at its expense after the development is completed to include actual trips generated by the development for use in any appeal as provided for under this act. The special transportation study shall be prepared by a qualified traffic or transportation engineer using procedures and methods established by the municipality based on generally accepted transportation planning and engineering standards. The study, where required by the municipality, shall be submitted prior to the imposition of an impact fee and shall be taken into consideration by the municipality in increasing or reducing the amount of the impact fee for the new development for the amount shown on the impact fee schedule adopted by the municipality.

(b) The governing body shall enact an impact ordinance setting forth a description of the boundaries and a fee schedule for each transportation service area. At least ten working days prior to the adoption of the ordinance at a public meeting, the ordinance shall be available for public inspection. The impact fee ordinance shall include, but not be limited to, those provisions set forth in section 503-A(a) and conform with the standards, provisions and procedures set forth in this act.

(c) (1) A municipality may give notice of its intention to adopt an impact fee ordinance by publishing a statement of such intention twice in one newspaper of general circulation in the municipality. The first publication shall not occur before the adoption of the resolution by which the municipality establishes its impact fee advisory committee. The second publication shall occur not less than one nor more than three weeks thereafter.

(2) A municipal impact fee ordinance adopted under and pursuant to this act may provide that the provisions of the ordinance may have retroactive application, for a period not to exceed 18 months after the adoption of the resolution creating an impact fee advisory committee pursuant to section 504-A (b)(1), to preliminary or tentative applications for land development, subdivision or PRD. with the municipality on or after the first publication of the municipality's intention to adopt an impact fee ordinance; provided, however, that the impact fee imposed on building permits for construction of new development approved pursuant to such applications filed during the period of pendancy shall not exceed $1,000 per anticipated peak hour trip as calculated in accordance with the generally accepted traffic engineering standards as set forth under the provisions of subsection (a)(1) or the subsequently adopted fee established by the ordinance, whichever is less.

(3) No action upon an application for land development, subdivision or PRD. shall be postponed, delayed or extended by the municipality because adoption of a municipal impact fee ordinance is being considered. Furthermore, the adoption of an impact fee ordinance more than 18 months after adoption of a resolution creating the impact fee advisory committee shall not be retroactive or applicable to plats submitted for preliminary or tentative approval prior to the legal publication of the proposed impact fee ordinance and any fees collected pursuant to this subsection shall be refunded to the payor of such fees; provided the adoption of the impact fee ordinance was not delayed due to the initiation of any litiga-

tion challenging the adoption of such ordinance.

(d) Any impact fees collected by a municipality pursuant to a municipal ordinance shall be deposited by the municipality into an interest-bearing fund account designated solely for impact fees, clearly identifying the transportation service area from which the fee was received. Funds collected in one transportation service area must be accounted for and expended within that transportation service area, and such funds shall only be expended for that portion of the transportation capital improvements identified as being funded by impact fees under the transportation capital improvements plan. Notwithstanding any other provisions of this act, municipalities may expend impact fees paid by an applicant on projects not contained in the adopted transportation capital improvement plan, or may provide credit against impact fees for the value of any construction projects not contained in the transportation capital improvement plan which are performed at the applicant's expense, if all of the following criteria are met:

(1) The applicant has provided written consent to use of its collected impact fees, or the provision of such credit against the applicant's impact fees, for specific transportation projects which are not included in the transportation capital improvement plan.

(2) The alternative transportation projects, whether highway or multimodal, have as their purpose the reduction of traffic congestion or the removal of vehicle trips from the roadway network.

(3) The municipality amends its transportation capital improvement plan components required by section 504-A(e)(1)(vi) to provide replacement of the collected impact fees transferred to transportation projects outside the approved transportation capital improvement 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 or for which credit was provided. All interest earned on such funds shall become funds of that account. The municipality shall provide that an accounting be made annually for any fund account containing impact fee proceeds and earned interest. Such accounting shall include, but not be limited to, the total funds collected, the source of 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 shall be included and published as part of the annual audit required of municipalities. A copy of the report shall also be provided to the advisory committee.

(e) All transportation impact fees imposed under the terms of this act shall be payable at the time of the issuance of building permits for the applicable new development or subdivision. The municipality may not require the applicant to provide a guarantee of financial security for the payment of any transportation impact fees, except the municipality may provide for the deposit with the municipality of financial security in an amount sufficient to cover the cost of the construction of any road improvement contained in the transportation capital improvement plan which is performed by the applicant.

(f) An applicant shall be 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 municipality 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 improvement program 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 and dedicated by the applicant shall be determined as of the date of the submission of the land development or subdivision application to the municipality.

(g) Impact fees previously collected by a municipality shall be refunded, together with earned accrued interest thereon, to the payor of such fees from the date of payment under any of the following circumstances:

(1) In the event that a municipality terminates or completes an adopted capital improvements plan for a transportation service area and there remains at the time of termination or completion undispersed funds in the accounts established for that purpose, the municipality shall provide written notice by certified mail to those persons who previously paid the fees which remain undispersed of the availability of said funds for refund of the person's proportionate share of the fund balance. The allocation of the refund shall be determined by generally accepted accounting practices. In the event that any of the funds remain unclaimed following one year after the notice, which notice shall be provided to the last known address provided by the payor of the fees to the municipality, the municipality shall be authorized to transfer any funds so remaining to any other fund in the municipality without any further obligation to refund said funds.

(2) If the municipality fails to commence construction of any transportation service area road improvements within three years of the scheduled construction date set forth in the transportation capital improvements plan, any person who paid any impact fees pursuant to that transportation capital improvements plan shall, upon written request to the municipality, receive a refund of that portion of the fee attributable to the contribution for the uncommenced road improvement, plus the interest accumulated thereon from the date of payment.

(3) If, upon completion of any road improvements project, the actual expenditures of the capital project are less than 95% of the costs properly allocable to the fee paid within the transportation service area in which the completed road improvement was adopted, the municipality shall refund the pro rata difference between the budgeted costs and the actual expenditures, including interest accumulated thereon from the date of payment, to the person or persons who paid the impact fees for such improvements.

(4) If the new development for which transportation impact fees were paid is not commenced prior to the expiration of building permits issued for the new development within the time limits established by applicable building codes within the municipality or if the building permit as issued for the new development is altered and the alteration results in a decrease in the amount of the impact fee due in accordance with the calculations set forth in subsection (a)(1).

(h) Where an impact fee ordinance has been adopted pursuant to the other provisions of this

act, the ordinance may impose an additional impact fee upon new developments which generate 1,000 or more new peak-hour trips, net of pass-by trips as defined by the current edition of the institute of transportation engineers trip generation manual, during the peak-hour period designated in the ordinance. In such case, the impact fee ordinance adopted under this act may require the applicant for such a development to perform a traffic analysis of development traffic impact on highways, roads or streets outside the transportation service area in which the development site is located but within the boundaries of the municipality or municipalities adopting a joint municipal impact fee ordinance or municipalities which are participating in a joint municipal authority authorized to impose impact fees by this article. Any such highways, roads or streets or parts thereof outside the transportation service area which will accommodate 10% or more of development traffic and 100 or more new peak-hour trips may be required to be studied, and the ordinance may require the applicant to mitigate the traffic impacts of the development on such highways, roads and streets to maintain the predevelopment conditions after completion of the development.

Section 506-A. Appeals.

(a) Any person required to pay an impact fee shall have the right to contest the land use assumptions, the development and implementation of the transportation capital improvement program, the imposition of impact fees, the periodic updating of the transportation capital improvement program, the refund of impact fees and all other matters relating to impact fees, including the constitutionality or validity of the impact fee ordinance by filing an appeal with the court of common pleas.

(b) A master may be appointed by the court to hear testimony on the issues and return the record and a transcript of the testimony, together with a report and recommendations, or the court may appoint a master to hold a nonrecord hearing and to make recommendations and return the same to the court, in which case either party may demand a hearing de novo before the court.

(c) Any cost incurred by parties in such an appeal shall be the separate responsibility of the parties.

Section 507-A. Prerequisites for Assessing Sewer and Water Tap-in Fees.

(a) No municipality may charge any tap-in connection or other similar fee as a condition of connection to a municipally owned sewer or water system unless such fee is calculated as provided in the applicable provisions of the act of May 2, 1945, (P.L.382, No.164), known as the "Municipality Authorities Act of 1945."

(b) Where a municipally owned water or sewer system is to be extended at the expense of the owner or owners of properties or where the municipality otherwise would construct the connection end or customer facilities services (other than water meter installation), the property owner or owners shall have the right to construct such extension or make such connection and install such customer facilities himself or themselves or through a subcontractor in accordance with the "Municipality Authorities Act of 1945."

(c) Where a property owner or owners construct or cause to be constructed any addition, ex-

pansion or extension to or of a sewer or water system of a municipality whereby such addition, expansion or extension provides future excess capacity to accommodate future development upon the lands of others, the municipality shall provide for the reimbursement to the property owner or owners in accordance with the provisions of the "Municipality Authorities Act of 1945."

Section 508-A. Joint Municipal Impact Fee Ordinance.

(a) For the purpose of permitting municipalities which cooperatively plan for their future to also provide for transportation capital improvements in a cooperative manner, the governing bodies of each municipality which has adopted a joint municipal comprehensive plan pursuant to Article XI, in accordance with the conditions and procedures set forth in this article, may cooperate with one or more municipalities to enact, amend and repeal joint transportation impact fee ordinances to accomplish the purposes of this act in accordance with this article.

(b) The procedures set forth in this article shall be applicable to the enactment of a joint municipal impact fee ordinance.

(c) Each municipality party to a joint municipal impact fee ordinance shall approve the advisory committee and shall adopt the land use assumptions, roadway sufficiency analysis, capital improvement plan, and ordinances and amendments thereto in accordance with the procedures in this article, and no such ordinance shall become effective until it has been properly adopted by all the participating municipalities.

Appendix I: Glossary

Adjusted for family size - An adjustment to the base income eligibility level in the definition of low- to moderate income persons that is lower for households with fewer than four people and higher for households with more than four people.

Adjusted gross income - All wages, assets, regular cash, or non-cash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by rule of the Department of Community and Economic Development, adjusted for family size, less deductions under section 62 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. 62 et seq.).

Affordable - With respect to the housing unit to be occupied by low- to moderate-income persons, monthly rents or monthly mortgage payments, including property taxes and insurance, that do not exceed 30 percent of the adjusted gross annual income for households within the metropolitan statistical area (MSA) or, if not within the MSA, within the county in which the housing unit is located, divided by 12.

Existing deficiencies - Existing highways, roads, or streets operating at a level of service below the preferred level of service designated by the municipality, as adopted in the transportation capital improvement plan.

Highways, roads, or streets - Any highways, roads, or streets identified on the legally adopted municipal street or highway plan or the official map which carry vehicular traffic, together with all necessary appurtenances, including bridges, rights-of-way, and traffic control improvements. The term shall not include the interstate highway system.

Impact fee - A charge or fee imposed by a municipality against new development in order to generate revenue for funding the costs of transportation capital improvements necessitated by and attributable to new development.

Internal capture trip – Trips within a multi-use development that are made on site and are not made on the adjacent major street system. Internal trips can be made by either walking or by vehicle entirely on pedestrian facilities or internal roadways of the site.

Level of Service (LOS) – A qualitative measure describing the operational conditions within a section of roadway or at an intersection that includes factors such as speed, travel time, ability to maneuver, traffic interruptions, delay and driver comfort. Level of service is described as a letter grade system (similar to a school grading system) where delay (in seconds) is equivalent to a certain letter grade from A through F. PennDOT generally considers a LOS C to be acceptable in areas classified by PennDOT as rural, and a LOS D to be acceptable in urban areas.

Low- to moderate-income persons - One or more persons or a family, the total annual adjusted gross household income of which is less than 100 percent of the median an-

nual adjusted gross income for households in Pennsylvania or is less than 100 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA), or, if not within the MSA, within the county in which the household is located, whichever is greater.

New development - Any commercial, industrial, 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.

Off-site improvements - Those public capital improvements which 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 municipal ordinance, including, but not limited to, the municipal building code, subdivision and land development ordinance, Planned Residential Development (PRD) regulations, and zoning ordinance.

Pass-by trip – Trips that are attracted to a site from existing traffic passing the site on the adjacent street or roadway that provides direct access to the site.

Pass-Through Traffic – Traffic originating from and destined to locations outside a transportation service area.

Right-of-way – An area of land, measured from the centerline of the cartway, that can be used by the public for travel and the location of utilities.

Road improvement - The construction, enlargement, expansion, or improvement of public highways, roads, or streets. It shall not include bicycle lanes, bus lanes, busways, pedestrian ways, rail lines, or tollways.

Traffic or transportation engineer or planner - Any person who is a registered professional engineer in Pennsylvania or is otherwise qualified by education and experience to perform traffic or transportation planning analyses of the type required by transportation impact fee studies and who deals with the planning, geometric design, and traffic operations of highways, roads and streets, their networks, terminals, and abutting lands and relationships with other modes of transportation for the achievement of convenient, efficient, and safe movement of goods and persons.

Transportation Service Area – A geographically defined portion of the municipality not to exceed seven square miles of area, which pursuant to the comprehensive plan and applicable zoning district regulations, has an aggregation of sites with development potential creating the need for transportation improvements within such area to be funded by impact fees. No area may be included in more than one transportation service area.

Trip – A one directional vehicular trip to or from a site.

Trip Generation – The total number of vehicular trips going to and from a particular land use on a specific site during a specific time period.

Appendix J: PennDOT District Municipal Services Supervisors

as of November 2007

District 1
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continued next page

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For current contact information, go to:
http://www.dot.state.pa.us/Internet/Bureaus/pdBMS.nsf/BMSHomePage?OpenFrameset

Acknowledgements

A guiding influence is attributed to the Steering Committee as they helped direct and develop the handbook, as well as ensured that Pennsylvania municipalities can use the handbook with ease to determine whether impact fees are appropriate for their community and implement ordinances. The committee was composed of individuals from around the state. Collectively, the PennDOT staff would like to extend a special thank you to:

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John Mizerak	Pennsylvania Department of Community and Economic Development
Kirk Stoner	Cumberland County Planning Commission
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For More Information

Visit the PennDOT web site:
www.dot.state.pa.us
search “impact fees”