

**ORDINANCE NO. 432**

**AN ORDINANCE AMENDING THE EAST NORRITON TOWNSHIP VEHICLES AND TRAFFIC CODE CHAPTER 196, BY ADDING NEW SECTIONS AS SET FORTH IN THE BODY OF THIS ORDINANCE TO COMPLY WITH ACT 209 AMENDING THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE.**

**WHEREAS**, Act 209 of 1990 amended the Pennsylvania Municipalities Planning Code to authorize Townships of the Second Class to establish an impact fee for transportation capital improvements and established a procedure for the adoption of such an Ordinance; and

**WHEREAS**, the Board of Supervisors of East Norriton Township find it is in the interest of public health, safety and welfare to adopt an impact fee for transportation capital improvements in accordance with the provisions of Section 503-A of the Pennsylvania Municipalities Planning Code; and

**WHEREAS**, the Board of Supervisors created a Traffic Advisory Committee, consisting of 10 members, for the purpose of preparing an impact fee ordinance; and

**WHEREAS**, the Traffic Advisory Committee has prepared a Transportation Capital Improvement Plan, and has voted unanimously to recommend that the Board of Supervisors adopt the plan; and

**WHEREAS**, the amount of the “impact fee” to be imposed shall be determined by the cost of the additional transportation improvements needed to meet such minimum safety and capacity standards, which public facilities are identified in the capital improvement program; and

**WHEREAS**, the Township hereby finds and declares that an “impact fee” imposed upon residential and non-residential development in order to assist in the financing of specified transportation capacity improvements in the designated service area, the demand for which is uniquely created by such development, is in the best interest of the Township and its residents, is equitable, and does not impose an unfair burden on such development.

The East Norriton Township Code, Chapter 175 is hereby amended as follows:

Article V shall be amended to add the following:

**SECTION 175-17.2 Traffic Impact Fee.**

**A. Purpose**

The purpose of this Ordinance is to establish an Impact Fee Program to ensure that the transportation system is available and adequate to support new growth and development. To advance this objective, there is hereby created an impact fee payable to the Township prior to building permit issuances.

**B. General Findings and Conditions.** The Board of Supervisors hereby finds and declares that:

1. The conditions and standards for the determination and imposition of the impact fee set forth herein are those set forth in Act 209 of 1990, and any and all amendments thereto (hereinafter the "Act"), and consist of:
  - (a) The recitals set forth above;
  - (b) The analysis, advice and recommendation of the Traffic Advisory Committee;
  - (c) The Land Use Assumptions as adopted by the Board of Supervisors;
  - (d) The Roadway Sufficiency Analysis as adopted by the Board of Supervisors;
  - (e) The Transportation Capital Improvement Plan, as adopted by the Board of Supervisors; and
  - (f) Such other conditions and standards as the Board of Supervisors may by resolution identify from time to time as being relevant and material to the imposition of an impact fee and consistent with the provisions of the Act and any amendments thereto.
  
2. The collection, distribution and accounting of impact fees shall be administered by the office of the Township Manager or Secretary/Treasure, subject to review, oversight and control by the Board of Supervisors.

3. The time, method and procedure for payment of impact fees shall be as set forth in this Ordinance.
  4. The procedure for credits against or refunds of impact fees shall be as set forth in this Ordinance.
- C. Definitions.** The terms and definitions set forth in Section 502-A of the Act are hereby adopted and incorporated in this Ordinance by reference.
- D. Imposition.** There is hereby enacted an impact fee to be imposed upon new development for the purpose of off-site public transportation capital improvements authorized by the Act and as described in the Program adopted by the Board of Supervisors. The impact fee shall apply to all new developments or subdivisions within the transportation service area identified herein and shall be a condition precedent to final approval of a development or a subdivision plan or issuance of a building permit.
- E. Uses.** Impact fees collected pursuant to this Ordinance shall be expanded for cost incurred for improvements attributable to new development and designated in the Transportation Capital Improvement Plan adopted by the Board of Supervisors in Resolution No. 1959 for improvements within the transportation service area. Additionally, such fees may be used for the acquisition of land and rights-of-way, engineering, legal, planning costs, and all other cost, including debt service related to road improvements within the designated service area, and including such proportionate amount of the Roadway Sufficiency Analysis as is allowed under the provisions of the Act.
- F. Documents Adopted by the Board of Supervisors.** The following documents, previously adopted by the Board of Supervisors, are hereby incorporated by reference in this Ordinance:
1. Land Use Assumptions as adopted by Township Resolution.
  2. Roadway Sufficiency Analysis as adopted by Township Resolution.
  3. The Transportation Capital Improvement Plan as adopted by Township Resolution.
  4. The Impact fee Schedule as adopted by Township Resolution.
  5. Designation of Transportation Service Area as the entire Township consisting of 6.11 Square Miles

**G. Special Traffic Studies.** Where intended to assist in determining the appropriate amount of traffic impact fees, the Township may require the preparation of special transportation studies to determine the traffic generation or circulation patterns in new non-residential developments only; provided, however, that no studies may be required where the proposed development will not require a deviation from the land use assumptions used to create the Plan.

Any such studies required by the Township shall be submitted prior to the imposition of the impact fee and shall be considered in the determination of the fee.

**H. Applicability of Impact Fee.** This Ordinance shall be uniformly applicable to all development that occurs within a designated service area.

**I. Imposition of Impact Fee.** No building permit shall be issued for a development in a designated service area, as herein defined, unless the applicant therefore has paid the “impact fee” imposed by and calculated pursuant to this Ordinance.

**J. Calculation of Impact Fees.**

- (1) The impact fee for transportation capital improvements shall be based upon the total cost of the road improvements included in the adopted Transportation Capital Improvement Plan within the transportation service area attributable to and necessitated by new development within the service area as defined, divided by the number of anticipated peak-hour trips generated by all new development within the service area as defined, 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 Engineer, 4<sup>th</sup> or subsequent editions, which is hereby adopted by the Township, to equal a per-trip cost for transportation improvement within the service area.
- (2) The specific impact fee for a specific new development or subdivision within the service area or 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 as determined in the Transportation Capital Improvement Plan by the estimated number of peak-hour trips to be generated by the new development or subdivision using generally accepted traffic engineering standards.

- (3) The Board of Supervisors may authorize or require the preparation of a special transportation study in order to determine traffic generation or circulation for a new non-residential development to assist in the determination of the amount of the transportation fee for such development or subdivision as required in Section 175-17.1, Transportation Impact Study..

**K. Establishment of Transportation Service Areas.** The Transportation Service Areas shall be all of East Norriton Township.

Additional transportation district areas or combinations of transportation district subareas may be designated by the Board of Supervisors from time to time consistent with the procedure set forth in this Ordinance and in consideration of the following factors:

- (1) The Comprehensive Plan;
- (2) Any standards for adequate public facilities incorporated in the 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 Board of Supervisors may deem relevant.

**L. Calculation of Peak Hour Trip Fee For Transportation Service Area.**

The amount of the per peak hour trip fee for the Transportation Service Area shall be \$947.00 until and unless revised or amended in accordance with the provisions hereof and the Act, calculated in accordance with Section 504-A(e)(1)(iv)(c) and 505-A(a)(1) of the Act. This fee was calculated as follows:

total cost of road improvements included in the adopted Transportation Capital Improvement Plan attributable to and necessitated by new development within the Transportation Service Area including 50% of the estimated cost of improvements to highways, roads and streets qualifying as a State highway or portion of the rural highway system as provided in Section 102 of the State Highway Law and also the assumption was made that 75% of funding for County owned roads would come from other sources

\$1,944,844.00

Pro-rated share of costs of Roadway Sufficiency Analysis Report pursuant to Section 502-A(d) (5) of the Act (20% x \$35,000 = \$7,000)

7,000.00

\$1,951,844.00

\$1,951,844.00 divided by 2062 total per peak hour trips = \$947.00 per peak hour trip.

**M. Projects not contained in the Transportation Capital Improvement Plan.** Any other provisions of this Ordinance to the contrary notwithstanding, in accordance with the provisions of the Act, the Township may expend Transportation Impact Fees paid by an applicant on 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 applicants expense if all of the following criteria are met:

- (1) The applicant has provided written consent to use of its collected impact fees or provisions of such credit against the applicant's impact fees for 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 network.

- (c) The Township amends its Transportation Capital Improvement Plan components required by Section 504-A(e)(1)(vi) of the Act to provide replacement of the collected impact fees transferred to transportation projects outside the Transportation Capital Improvement Plan from sources other than impact fees or developers contributions within three (3) years of completion of the alternate 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 Township shall make an accounting annually for any funds account containing impact fee proceeds and earned interest. Such accounting shall include, but not 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 the Township. A copy of the report shall also be provided to the Transportation Impact Fee Advisory Committee.

**N. Non-binding Impact Fee Estimate.** Prior to making an application for a building permit, an applicant may request an non-binding impact fee estimate from the Township, which shall be based upon the maximum development potential of the site pursuant to existing zoning regulations, unless the applicant specifies a lesser use of development.

**O. Administration of Impact Fee.**

- (1) **Collection of Impact Fee.** Impact fees due pursuant to this Ordinance shall be collected by the Township in the manner or manners prescribed herein prior to the issuance of a building permit.
- (2) **Establishment of Fund.** Upon receipt of impact fees, the Township Manager or Finance Director 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 the Township 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.
- (3) **Establishment and Maintenance of Accounts.** The Township Manager or Finance Director shall establish appropriate trust fund accounts and shall maintain records whereby impact fees collected can be segregated for each Transportation district service area.

(4) Maintenance of Records. The Township Manager or Finance Director 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 Plan for the particular Transportation Service Area.

**P. Method of Payment.** Payment of the transportation capital improvements impact fee shall be made in cash, certified check or bank check by the person seeking to build or develop

**Q. Credit.** Any applicant who shall perform, at his own expense and with the consent and agreement of the Board of Supervisors, off-site improvements, as herein defined, shall be eligible for a credit from the impact fee otherwise due in the amount of the actual cost of such off-site improvements as defined below. Such credit shall not exceed the amount of the impact fee.

- (1) If the applicant makes such improvements, he must enter into an agreement with the Board of Supervisors prior to the issuance of any building permit. The agreement must establish the estimated cost of the improvement, which shall be 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, the schedule for initiation and completion of the improvement, a requirement that the improvement be completed to Township and Pennsylvania Department of Transportation standards and design criteria and such other terms and conditions as deemed necessary by the Board of Supervisors. The Board of Supervisors must review the improvement plan, verify cost and time schedules, determine if the improvement is an eligible improvement, and determine the amount of the applicable credit for such improvement to be applied to the otherwise applicable impact fee prior to issuance of any building permit. In no event shall the Board of Supervisors provide a credit which is greater than the applicable impact fee. If, however, the amount of the credit is calculated to be greater than the amount of the impact fee due, the applicant may use such excess credit toward the impact fees imposed on other building permits for development on the same site and in the same ownership.
- (2) Provided any such applicant shall be required to supply financial security sufficient, in the judgment of the Township, to cover the cost of any such improvement installed by the applicant for which credit is sought.
- (3) An applicant shall be entitled as a credit against impact fees an amount equal to the fair market value of land dedicated by the applicant and accepted by the Township for future right-of-way, realignment or widening of existing roadways.

**R. Refunds.** Impact fees collected pursuant to this Ordinance shall be refunded, together with interest earned thereon, to the payor of the fees under the following circumstances:

- (1) In the event the Township completes or terminates the capital improvements plan and there remain undisbursed funds, the respective payors shall be entitled to a share of the fund balance in the same proportion as the payor's impact fee payment plus interest earned bears to the total impact fees collected plus interest.
- (2) In the event any specific road improvement project is completed at a cost to the Township less than 95 percent of the budgeted cost of the road project, the Township shall refund an amount equal to the excess budgeted cost over actual cost to the payors, pro rata, plus accumulated interest.
- (3) In the event the Township fails to commence construction within three years of the scheduled construction date of the project as set forth in the Transportation Capital Improvements Plan, the Township shall refund the portion of the fee paid by a payor making written request there for which is attributable to said project, with accumulated interest, provided no refund shall be paid with respect to any project actually begun prior to the receipt of such refund request.
- (4) In the event the development for which impact fees were paid has not commenced prior to the expiration of the building permit issued thereof, the 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 indicated impact fee, the difference between the amount indicated and the amount actually paid shall be refunded. The payor, at his option, may roll over the impact fees attributable to an expired building permit to cover fees incurred by a renewal of said expired permit.

With respect to refunds arising out of subparagraphs (a) or (b) hereof, any funds unclaimed within one year after notice as required by law shall be transferred to the general account of the Township, and the payor's entitlement to said refund shall lapse. It is the responsibility of the payor to provide the Township with the current address of his place of business.

- S. Effect of Impact Fee on Zoning and Subdivision/Land Development Regulations.** This Ordinance shall not affect, in any manner, the permissible use of property, density of development, previously adopted design and improvement standards and requirements or any other aspect of the development of land or provision of public improvements which remain subject to applicable zoning, and subdivision/land development regulations of the Township, which shall be operative and remain in full force and effect without limitation with respect to all such development.
- T. Impact Fee as Additional and Supplemental Requirement.** The impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the Township on the development of land or the issuance of building permits. Nothing herein contained shall be deemed to alter or affect the Township's 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 Ordinance; provided, however, that a property owner may be required to pay, pursuant to Township ordinances, regulations or policies, for other public facilities in addition to the impact fee for transportation improvements as provided herein.
- U. Liberal Construction.** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare and convenience.

## SECTION II

**Repealer.** All Ordinances, Code sections or parts thereof in conflict herewith shall be repealed to the extent of such conflict.

## SECTION III

**Severability.** Should any sentence, section, clause, part or provision of the Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole, or any part hereof, other than the part declared to be invalid.

## SECTION IV

**Effective Date.** This Ordinance shall take effect immediately upon its passage and shall be retroactive to January 18, 2000, the date on which the Impact Fee Advisory Committee was formed pursuant to resolution 1893.

**SECTION V**

**Retroactive Application.** Notwithstanding, anything to the contrary contained herein, impact fees may be imposed on those projects involving developments, subdivisions and PRD's for which an applicant has been filed on or after February 1, 2000, the first publication of notice of the Township's intent to adopt this Ordinance.

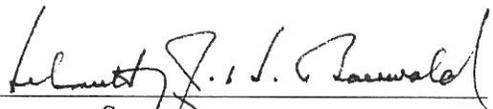
**ENACTED AND ORDAINED THIS** 22<sup>nd</sup> day of May, 2001, by the Board of Supervisors of East Norriton Township.



EAST NORRITON TOWNSHIP  
BOARD OF SUPERVISORS

BY:   
Chairman

ATTEST:

BY:   
Secretary