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# FREQUENTLY ASKED QUESTIONS

Get answers to the most frequently asked questions regarding street impact fees and the City of Austin's Street Impact Fee Study.

## **Q: What are Street Impact Fees?**

A Street Impact Fee is a charge assessed on new development to pay for the construction or expansion of roadway system facilities that are necessitated by and benefit that new development. These fees would help fund transportation improvements that will be needed as development occurs in Austin.

Chapter 395 of the Texas Local Government Code defines an impact fee as a "charge or assessment imposed...against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development."

## **Q: Why is Austin looking into Street Impact Fees?**

Austin is evaluating the Street Impact Fee as an additional tool to help cover the cost of expanding its street infrastructure in response to new growth. A Street Impact Fee Program would provide a means for the City to require new development to pay toward street infrastructure improvements in a manner that is proportional to the development's impact.

## **Q: What are Street Impact Fee funds used for?**

Street Impact Fees would be used to recover the costs associated with the expansion of the transportation network necessary to serve demands generated by new development. The funds can be used for planning, surveying, engineering, land acquisition and construction. Impact fees may not be used to remedy existing transportation deficiencies.

## **Q: What are Street Impact Fees NOT used for?**

Street Impact Fees may not be used to repair or maintain existing facilities, upgrade or replace existing capital improvements to serve existing development, or pay for administrative or operating costs to impose the fees.

## **Q: Who would pay Street Impact Fees?**

Any "applicant" who is seeking a building permit for a new development (residential or commercial) that will generate additional use of roadway will be responsible for paying a Street Impact Fee. Applicant means any person, company, agency, or entity that is undertaking a development project. Public schools are exempt from Street Impact Fees.

## **Q: Would redevelopment pay a fee?**

Since Street Impact Fees are traffic-dependent, a redevelopment project that generates more traffic than the existing development would be subject to a Street Impact Fee. However, that fee would be based only on the traffic generated in excess of what was being generated by the previous development. If the new development generates an equal or lesser amount of traffic when compared to the previous development, it would not be subject to a fee.

The following questions were received from participants who attended Street Impact Fee Study presentations between the months of April and June of 2017.

**URBAN LAND INSTITUTE - AUSTIN (ULI) EVENT - APRIL 26, 2017**

**Q: Will fees be waived should a project qualify for a density bonus or other mechanisms to bring affordable Median Family Income (MFI)-based housing to market?**

This will be considered in the policy development phase of the Street Impact Fee study.

**Q: Will the Street Impact Fee replace the rough proportionality determination procedures and costs currently being used?**

The Street Impact Fee will modify the rough proportionality determination procedure, but will not replace it. How the procedure will change will be considered in the policy development phase of the Street Impact Fee study and ultimately decided by City Council.

**Q: How will the \$720 million from the 2016 Mobility Bond and Street Impact Fees be coordinated to address impacts from growth?**

In Service Areas where there are bond projects adding capacity, Street Impact Fees can be used to pay down the bond debt from those projects more quickly. Impact Fee revenue could also be used to fund projects that leverage the 2016 Mobility Bond by enhancing or extending projects beyond the scope achievable with bond funds.

**Q: Will the Service Areas and impact fees be informed by the CodeNEXT maps that are adopted by the Council in 2018?**

The size of the Service Areas are governed by Chapter 395 of the Local Government Code. Through the study, the draft Service Areas are being developed considering different land use contexts and trip characteristics, as well as highway and topographical boundaries. CodeNEXT will be considered during the policy development phase of the Street Impact Fee study, as impact fees can be a city-shaping tool for cities to direct growth.

**Q: How will these tools be used for projects in the City's extraterritorial jurisdiction (ETJ) that are subject to Title 30 and county review?**

Street Impact Fees can't be collected in the City's ETJ per Chapter 395 of the Local Government Code.

**Q. Were the growth assumptions put forth by the CodeNEXT technical team (Fregonese) imbedded or incorporated into the study that the Street Impact Fee technical team (Kimley-Horn) conducted?**

In general, there are three main approaches to growth projections, particularly for residential units:

1. A "needs assessment" approach like the Strategic Housing Blueprint, which identifies a growth target that can accommodate a specific number of units
2. Demographic forecasting, which describes expected population changes and shifts in population characteristics (like family size, migration rates, etc.), not changes to land use and the built environment
3. Capacity analysis like the analysis done by Fregonese for CodeNEXT, which considers opportunities and constraints (physical, financial, and regulatory) for development in terms of dwelling units and building size

Our approach blends the second and third (Fregonese/CodeNEXT) processes. Although we did not use the data from CodeNEXT, the process was similar. We used the demographic forecast conducted by the city demographer in conjunction with Austin Water for their impact fee study and compared it to a capacity analysis developed based on a variety of land use typologies, adjusting both assumptions as needed throughout the city.



**Q. An applicant would need to either construct roadway improvements that are roughly proportional to the impact they produce on traffic within a 2-mile radius, or they can pay a fee that would cover the approximate need within a 2-mile radius?**

Generally speaking, that is correct. The applicant can construct roadway improvements that are roughly proportional to the impact they produce on traffic based on procedures outlined in the traffic study or they can pay a fee that would cover the need. The fee would be used in the Service Area the project resides in. Service Areas are limited to 6 miles. The construction of projects by a development can cross Service Areas.

**Q. Fees-in-lieu collected through rough proportionality would be allocated to the service area(s) in which they are located and would thus be used for capital improvement plans in that/those service areas on an annual basis?**

Street Impact Fees would be collected at building permit. As soon as fees are collected, they can be allocated to a project. Semi-annual reports are published and presented to the Impact Fee Advisory Committee twice a year to illustrate how much money is collected and where it is being spent. Fees collected have to be spent in the Service Area within 10 years.

**Q. In the event there is a surplus left over, does that money stay in that box for that service area or does it get transferred elsewhere and if so do you know where?**

Fees collected must be spent within 10 years within the Service Area collected. If not spent in 10 years, the fees collected must be refunded to the building permit applicant. The study is updated at least every five years. During the update, the existing balance is examined to ensure it is spent before the time limit expires.

**Q. What happens when you're at the intersection of Zones and you have a Traffic Impact Analysis (TIA) in a particular instance that is suggesting that a development needs to make improvements that cross service areas. How is that calculated into how much they might owe with respect to the fees?**

When a policy is adopted, if there's a development that is required to pay the fee or make an improvement that's outside of the service area, it would be credited. They would be allowed to do that and it would be credited against their fee. So their fee would go down if they're making an improvement outside of their service area.

## **REAL ESTATE COUNCIL OF AUSTIN (RECA) POLICY COMMITTEE MEETING - MAY 3, 2017**

**Q: What if you don't have a/to plat? Explain how impact fees are assessed and paid.**

State law requires a one-year grace period for previously platted properties. A property that does not have to plat would likely receive a one-year grace period as well. After that period of time, the development would be subject to a fee. This will be considered further in the policy development phase of the Street Impact Fee study.

Impact fees are assessed at plat, so the plat date determines what maximum fee schedule you're assessed at. The fee is paid at building permit at the rate Council has set up to the assessed amount.

**Q: How does a fee assessed at plat change to reflect zoning changes (intensity of land use)?**

Impact fees aren't assessed based on zoning changes. The fee is based on the building permit alone.

**Q: How is this different from rough proportionality?**

Impact fees are fees. Rough proportionality is a justification for a set of improvements required by code. Impact fees assessed would not violate the rough proportionality test for a development.



**Q: Could a Service Area have a zero impact fee based on not having any capital projects (related to certain areas with development constraints, such as over the aquifer)?**

Yes. The cost for the projects contained in the Roadway Capacity Plan for each Service Area is the denominator in the equation to calculate the impact fee. If the denominator is zero, meaning there are no capacity projects in the service area, the fee could be \$0.

**Q: Can standalone sidewalk/bicycle projects be included in the fee?**

No. Projects that add only bicycle or pedestrian capacity would violate Chapter 395 of the Texas Local Government Code.

**Q: Is the Street Impact Fee calculated through at Traffic Impact Analysis?**

No. The fee, once set and adopted by City Council, will be based on the type and intensity of the development as recorded in the building permit. If a Traffic Impact Analysis identifies system-related improvements required of the development, which also appear in the Roadway Capacity Plan, the development would receive a credit for the impact fee otherwise due.

**Q: Do we have to use the Institute of Transportation Engineers (ITE) trip generation rates?**

The study will be based on using ITE trip generation rates to determine service units, which for Street Impact Fees are vehicle-miles. There will likely be an option to substitute service units through other means. This will be considered in the policy development phase of the Street Impact Fee study.

**Q: How is the Street Impact Fee study being coordinated with the Austin Strategic Mobility Plan and CodeNEXT?**

The Roadway Capacity Plan, developed as part of the Street Impact Fee study, will be reflected in the Austin Strategic Mobility Plan and associated roadway table. The rewrite of the land development code, CodeNEXT, will reference the roadway table for code requirements related to right-of-way.

**Q: Is the assessment of a Street Impact Fee administrative?**

Yes. Once adopted by Council, administration of the Street Impact Fee program will likely require a full-time staff member. The staff member cannot be funded through impact fee revenue.

**Q: Is the SIF appealable? What is the appeal process?**

The appeal process will be in the ordinance. It may be similar to the following:  
The appellant must file a written notice of appeal with the City Manager within thirty (30) days following the decision appealed from. The City Manager or his designee ("Manager") may resolve the appeal, if the appellant agrees with the Manager's decision, or refer the matter to the City Council for decision with the Manager's recommendation, if the appellant requests City Council review after receiving the Manager's decision. If City Council review is requested after the appellant has received the Manager's decision, the City Secretary shall schedule a public hearing at which the appellant may present testimony and evidence before the City Council. The City Council shall act on the appeal within 60 days of receipt of the notice of appeal by the City.

**Q: What is the difference between Street Impact Fees and the Traffic Mitigation Ordinance? How are sidewalks addressed by each policy?**

Street Impact Fees are one-time fees based on the demand a development places on the roadway system. The recent code amendment related to traffic mitigation establishes requirements in the land development code for a development to mitigate its impact on the system, whether or not a development is required to conduct a Traffic Impact Analysis (TIA). Any improvements required by the code as mitigation that are also included in the Roadway Capacity Plan for SIF would be credited to the development's impact fees otherwise due. Sidewalks are one type of improvement that can be required as mitigation as defined in the recent code amendment. Sidewalks will be included in the Roadway Capacity Plan where they are part of the standard cross-section for a street.

**Q: Will the Transportation Criteria Manual (TCM) be updated to reflect new capacity tables? Will cross-sections be updated?**

The TCM is under review and will be updated to coincide with CodeNEXT. The TCM will include updated cross-sections and typical average daily and peak hour traffic volume ranges for each. The updated TCM will outline how capacity will be calculated for types of roadways.

**CITY OF AUSTIN MOBILITY COMMITTEE QUESTIONS - JUNE 21, 2017**

The following questions were posed during the June 21, 2017, Mobility Committee meeting briefing. Staff responses to the committee members' questions are provided below.

**Q. Do Service Areas inform the calculation of the impact fee?**

Yes. Each Service Area has a specific maximum impact fee calculated based on the cost of the projects in the Roadway Capacity Plan and the Land Use Assumptions.

**Q. Can the Street Impact Fee you collect in a Service Area only be spent on projects in that Service Area?**

Yes. The City can only use collected street impact fees on projects in the Roadway Capacity Plan that are within that Service Area.

**Q. If a development is building in one Service Area, but the Traffic Impact Analysis shows improvements in another Service Area, can they be required to complete those improvements?**

Yes. A developer can be required to complete improvements outside the Service Area. If the required improvement is a system improvement (not a site-related improvement), the developer would receive credit on their impact fees within their Service Area. However, if the City chooses to collect the impact fees and not require the improvement, the City could not use the money on improvements outside the Service Area. The details of the credit process will be outlined during Phase 3 - Fee Setting (Ordinance).

**Q. Can a Service Area be based on the six-mile area surrounding a proposed development?**

No. Adjustable boundaries would not be allowed under the required elements of Chapter 395 of the Texas Local Government Code, which defines Service Area as an area within the corporate boundaries that must have defined land use assumptions, a roadway capacity plan, and a maximum fee associated with it.

**Q. Do the Impact Fees make a distinction between office and medical office?**

Yes. The collected impact fee calculation is broken into specific categories similar to a traffic impact analysis. The impact fee for a medical office building versus an office building will be higher because more trips are generated, per Institute of Transportation Engineers (ITE) trip generation rates. For the purposes of the study, the calculation for the maximum impact fee is based on broader, "rolled-up" categories (residential, basic, service, and retail).

**Q. What is included in the Roadway Capacity Plan?**

The Roadway Capacity Plan is a list of street segments and intersection improvements that add additional capacity. The street segments are made up of new streets, widening of existing streets, or access management projects. The intersection projects include signalization, addition of turn lanes, or other intersection improvements. Capacity projects from past bond programs are being considered for inclusion in the Roadway Capacity Plan because debt service is an applicable use of the Street Impact Fee.



**Q. How does State Law address stand-alone bicycle, pedestrian and transit projects?**

Bicycle facilities, transit facilities, and pedestrian facilities are not explicitly mentioned in Chapter 395 of the Local Government Code. The term roadway facilities, per Chapter 395 of the Texas Local Government Code, means arterial or collector streets, or roads that have been designated on an officially adopted roadway plan of the political subdivision, together with all necessary appurtenances, which can include all modes per adopted plans and regulations. Facility expansions are defined as the expansion of the capacity of an existing roadway facility in order that the existing facility may serve new development.

**Q. How do Street Impact Fees and the current TIA process (pro rata) work together?**

The current process will be re-evaluated in Phase 3 - Ordinance. It is anticipated the two policies would complement each other. The impact fee would offer predictability for traffic-related mitigation, while the TIA, when triggered, would determine the most beneficial system improvements to be constructed. The TIA would also address other issues not specific to Street Impact Fees, such as safety, site-related improvements, transportation demand management, and multi-modal elements.

**Q. How do you use the Street Impact Fee funds collected?**

The impacts fees can be used to develop and/or construct any project identified in the Roadway Capacity Plan within the Service Area collected.

**Q. Can I see an example of a Roadway Capacity Plan?**

Three Roadway Capacity Plan examples from other Texas cities are listed below:

*Flower Mound* - Map on Page 11 of .pdf  
<http://www.flower-mound.com/DocumentCenter/Home/View/261>

*Fort Worth* - Maps on Page 32-50 of .pdf  
[http://fortworthtexas.gov/uploadedFiles/Transportation\\_Impact\\_Fees/2013\\_Transportation\\_Impact\\_Fee\\_Study\\_-\\_Reduced\\_10-23-12.pdf](http://fortworthtexas.gov/uploadedFiles/Transportation_Impact_Fees/2013_Transportation_Impact_Fee_Study_-_Reduced_10-23-12.pdf)

*Frisco* - Maps on Page 14-17 of .pdf  
<http://www.friscotexas.gov/DocumentCenter/View/6124>