

**EAST HANOVER TOWNSHIP
DAUPHIN COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2009-05

CHAPTER 125 TRANSPORTATION IMPACT FEE

§ 125-1 Title

This chapter shall be known as the “East Hanover Township Transportation Impact Fee Ordinance”.

§125-2 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 East Hanover Township at the time of building permit issuance (See Section 505-A(e) of the Municipalities Planning Code or “MPC”),

§125-3 General Findings and Conditions

The Board of Supervisors 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 MPC the Act, 53 § 100501-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 Board of Supervisors;
 4. The Roadway Sufficiency Analysis as adopted by the Board of Supervisors;
 5. The Transportation Capital Improvements Plan, as adopted by the Board of Supervisors
 6. 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 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 Secretary/Treasurer, subject to review, oversight and control by the Board of Supervisors.
- C. The amount of the per-peak hour-trip transportation impact fees shall be as set forth in §125-12 of this chapter.
- D. The time, method and procedure for payment of transportation impact fees shall be as set forth in §125-19 of this chapter.
- E. The procedures for credits against transportation impact fees shall be as set forth in §125-20 of the chapter.
- F. The procedures for refunds of transportation impact fees shall be as set forth in §125-21 of this chapter.
- G. Such exemptions as the Board of Supervisors shall choose to enact be set forth in §125-11 of this chapter.

§125-4 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 there were attached.

§125-5 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 Board of Supervisors. 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.

§125-6 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.

§125-7 Documents Adopted by the Board of Supervisors

The following documents, previously adopted by the Board of Supervisors, 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. 2008-15.
- C. Roadway Sufficiency Analysis as adopted by Resolution 2009-09
- D. Transportation Capital Improvements Plan as adopted by Resolution 2009-09A
- E. Transportation Service Areas Map as prepared by McMahon Associates, attached as Figure 1 to the Transportation Capital Improvements Plan, and incorporated by reference in full herein, as if attached hereto.

§125-8 Special Traffic Studies

Where a new nonresidential development is proposed which deviates from the land use assumptions 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 East Hanover 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.

§125-9 Uniform applicability of transportation impact fee.

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

§125-10 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.

§125-11 Exemptions

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 subdivisions which are determined by the Board of Supervisors 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.)

§125-12 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 East Hanover Township, 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 a 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 Board of Supervisors 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.

§125-13 Establishment of transportation service area

- A. Transportation Service Areas are established as shown on the Transportation Service Area Map prepared by McMahan Associates attached as Figure 1 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 Board of Supervisors from time to time, consistent with the procedure set forth in this Chapter and in consideration of the following factors:
 - 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 Board of Supervisors 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.

§125-14 Calculation of per-peak-hour-trip for transportation service area. The amount of per-peak-hour-trip fee for East Hanover Township shall be \$1,951.00, 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. Figure 1 service area. Total costs of road improvements in Figure 1 Transportation Service Area 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 \$9,869,000.00.

§125-15 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 East Hanover Township. 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.

§125-16 Projects not contained in the Transportation Capital Improvement Plan Any other provisions of this chapter to the contrary notwithstanding, in accordance with the provisions of Act, East Hanover 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 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. East Hanover 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. East Hanover 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, And 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 East Hanover. A copy of the report shall also be provided to the Transportation Impact Fee Advisory Committee.

§125-17 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 East Hanover 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.

§125-18 Administration of transportation impact fees.

- A. Collection of transportation impact fees due pursuant to this chapter shall be collected by East Hanover 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, East Hanover 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 East Hanover 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 Secretary/Treasurer 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 Secretary/Treasurer 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.

§125-19 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 Secretary/Treasurer and shall be administered by East Hanover in accordance with provisions §125-18 hereof.

§125-20 Credit.

Any applicant who shall perform, at its own expense and the consent and agreement of the Board of Supervisors, 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 Board of Supervisors 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 East Hanover and Pennsylvania Department of Transportation standards and design criteria, as applicable, and such other terms and conditions as deemed necessary by the Board of Supervisors. The Board of Supervisors 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 Board of Supervisors 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 fees imposed on other building permits for development on the same site and in the same ownership. Any such applicant shall be required to supply financial security sufficient, in the judgment of East Hanover, 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 East Hanover and accepted by East Hanover for future right-of-way, realignment or widening of existing roadways. The fair market value of any land dedicated to and accepted by East Hanover shall be determined as of the date of the submission of the subdivision or land development application to East Hanover.

§125-21 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 East Hanover 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. East Hanover 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 East Hanover. In the event that any of the funds remain unclaimed following one year after the notice, East Hanover shall be authorized to transfer any funds so remaining to any other fund in East Hanover without any further obligation to refund said funds. It shall be the responsibility of the payor to provide East Hanover at all times with a current address for such notice.
- B. In the event East Hanover 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, East Hanover shall refund the portion of the transportation impact fee paid by any payor making written request therefore 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 than 95% of the budgeted costs for such project, East Hanover 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 therefore, 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.

§125-22 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 East Hanover, which shall be operative and remain in full force and effect without limitation with respect to such development.

§125-23 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 East Hanover on the development of land or the issuance of building permits. Nothing herein contained shall be deemed to alter or affect the East Hanover 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 East Hanover ordinances, regulations or policies, for other public facilities in addition to the transportation impact fee as provided herein.

§125-24 Liberal Construction

It is hereby found and declared to be the intention of East Hanover 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.

§125-25 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.

§125-26 When effective.

This chapter shall take effect five days after adoption by the Board of Supervisors.

Enacted this ____ day of _____, 2009.

BOARD OF SUPERVISORS OF
EAST HANOVER TOWNSHIP

By _____
Keith Espenshade, Chairman

Attest:

Secretary