



# IMPACT FEES

## Frequently Asked Questions

April 2013

The information provided herein has been adapted from Chapter 395 of the Texas Local Government Code and serves as a guide to answering general questions about Impact Fees in the City of McKinney. For more detailed information about the general application of Impact Fees please refer to Chapter 395 of the Texas Local Government Code which can be accessed through the Texas Legislative Council online at <http://tlo2.tlc.state.tx.us/statutes/>

## **What are Impact Fees?**

- Impact Fees are authorized under Chapter 395 of the Texas Local Government Code.
- Texas Local Government Code defines impact fees as “a charge or assessment imposed by a political subdivision 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.”
- As it relates to Impact Fees, “new development” shall mean the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural, alteration, relocation, or enlargement of any structure; or any use or expansion of the use of land; any of which increases the number of service units.
- Impact Fees do not include:
  - Dedication of land for public parks or payment in lieu of the dedication to serve park needs;
  - Dedication of rights-of-way or easements or construction or dedication of on-site or off-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the new development;
  - Lot or acreage fees to be placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water mains, sewer mains or lines; or
  - Other pro rata fees for reimbursement of water or sewer mains or lines extended by the political subdivision.

## **Who is authorized to enact or impose Impact Fees?**

- Political subdivisions may enact or impose impact fees only by complying with Chapter 395 of the Local Government Code.
- Impact fees may not be enacted or imposed in the extraterritorial jurisdiction (ETJ) for roadway facilities.
- Political subdivisions may enact or impose impact fees within their corporate boundaries or extraterritorial jurisdiction (ETJ) for utility facilities.

## **What are Roadway Impact Fees?**

- A Roadway Impact Fee is a charge imposed against new development to pay for the off-site construction or expansion of roadway facilities that are necessitated by and benefit the new development. These roadway facilities may be adjacent to the new development or within the same service area as the new development.

- Roadway Impact Fees are assessed in proportion to the anticipated traffic generated on roadway facilities by the new development in the service area. In other words, impact fees are assessed as a proportion of the development's impact on the system.
- As it relates to Impact Fees, "roadway facilities" shall mean 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. The term includes the political subdivision's share of costs for roadways and associated improvements designated on the federal or Texas highway system, including local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way.

### **What are Utility Impact Fees?**

- A Utility Impact Fee is a charge 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.
- Utility impact fees help pay the cost of building or expanding facilities in order to provide the adequate service that a new development requires.

### **Who pays Impact Fees?**

- Any developer who is seeking a building permit for a new development (residential or commercial) that will generate additional use of roadway and/or utility resources will be responsible for paying Roadway Impact Fees.
- As it pertains to Impact Fees, "developer" shall mean any person, company, agency, or entity that is undertaking a project. This includes non-profit entities, churches, and individuals subdividing land for family members as well as those whose primary business is developing land or constructing homes or businesses for profit.
- Political subdivisions and other governmental entities must pay impact fees imposed under Chapter 395 of the Local Government Code; however, school districts are not required to pay impact fees imposed under Chapter 395 of the Local Government Code unless the Board of Trustees of the school district consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees.

### **When must Impact Fees be paid?**

- For residential and non-residential developments, a building permit will not be issued until any and all impact fees have been paid.

### **What is a “Service Area” for Roadway Impact Fees?**

- A service area, or roadway benefit area, refers to the area within the corporate boundaries of the political subdivision that will be served by the capital improvements specified in the Roadway Improvements Plan.
- For roadway facilities, a service area is limited to an area within the corporate boundaries of the political subdivision and shall not exceed six miles.
- For the facilitation of Roadway Impact Fees, the City of McKinney is divided into 13 service areas.
- Roadway Impact Fees collected in a Service Area may only be expended in that service area.

### **What is a “Service Area” for Utility Impact Fees?**

- A service area, or water benefit area, refers to the area within the corporate boundaries or extraterritorial jurisdiction of the political subdivision that will be served by the capital improvements specified in the Capital Improvements Plan.
- For storm water, drainage, and flood control facilities, the service area may include all or part of the land within the political subdivision or its extraterritorial jurisdiction, but shall not exceed the area actually served by the storm water, drainage, and flood control facilities designated in the Capital Improvements Plan and shall not extend across watershed boundaries.
- For the facilitation of Utility Impact Fees, the City of McKinney identifies its corporate boundaries and extraterritorial jurisdiction as one service area.

### **What is the general process for updating Impact Fees?**

- Chapter 395 of the Texas Local Government Code mandates that impact fees be reviewed and updated at least every 5 years.
- The update of impact fees for Roadway and Utility facilities are determined using Land Use Assumptions and the Capital Improvements Plan.
- As mandated by State Law, the updating of impact fees involves three components:
  1. Land Use Assumptions
  2. Capital Improvement Planning
  3. Fee Setting/Adopting the Ordinance
    - With the final phase of the process, the majority of policy discussion will occur as the City Council considers actual fee amounts to charge, the phase-in of any fee increases, and how credits are calculated.

### **What are Land Use Assumptions?**

- Land Use Assumptions are required under Chapter 395 of the Local Government Code and project growth over a 10-year period. They project population growth by using the number of housing units and non-residential growth by using building square footage and then spatially allocating this growth to designated service areas.
- These projections are used in the Capital Improvements Plan to determine the necessary expansions needed to accommodate the increased impacts on infrastructure resulting from new development.
- Land Use Assumptions are adopted by the City Council following a public hearing.

### **What is a Capital Improvements Plan?**

- A Capital Improvements Plan is required under Chapter 395 of the Local Government Code and must identify the capital improvements or facility expansions for which impact fees may be assessed.
- A capital improvement is defined as water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; storm water, drainage, and flood control facilities; and roadway facilities with a life expectancy of three or more years.
- The Capital Improvements Plan for Roadway Impact Fees (known as the Roadway Improvements Plan) identifies and estimates the cost of all roadway improvements projected for each Service Area for a ten-year period.
- The Capital Improvements Plan for Utility Impact Fees identifies and estimates the cost of all water and wastewater infrastructure improvements projected for a ten-year period.
- The CIP for Roadway Impact Fees is developed by transportation planning professionals. The CIP for Utility Impact Fees is developed by engineering professionals.
- The Capital Improvements Plans are adopted by the City Council following a public hearing.

### **What is a “Service Unit”?**

- A service unit is a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development.
- A service unit is calculated in accordance with generally accepted engineering and/or planning standards and is based on historical data and trends applicable to the political subdivision in which the individual unit of development is located during the previous ten years.

- For roadway impact fees, the basic service unit is a vehicle mile of travel during the afternoon peak hour.
- For utility impact fees, the basic service unit is a ¾-inch water meter typically used for a single family detached dwelling.

**What are Impact Fee Credits?**

- Any construction of, contributions to, or dedications of off-site roadway facilities agreed to or required by a political subdivision as a condition of development approval shall be credited against roadway facilities impact fees otherwise due from the development.
- Any construction or dedication of a water or wastewater facility that includes lines which are greater than twelve inches (12”) in diameter and similar lines which serve solely the new development and which are on the Impact Fee Capital Improvements Plan shall be credited against utility impact fees otherwise due from the development.