

**EAST PIKELAND TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 178

**AN ORDINANCE AMENDING CHAPTER 12 OF THE EAST PIKELAND TOWNSHIP
CODE OF ORDINANCES BY ESTABLISHING AND IMPOSING TRANSPORTATION
IMPACT FEES UPON NEW DEVELOPMENT WITHIN DESIGNATED
TRANSPORTATION SERVICE AREAS, AND PROVIDING PROCEDURES AND
STANDARDS ANCILLARY THERETO.**

WHEREAS, East Pikeland Township, Chester County, Pennsylvania, has experienced considerable growth in the form of residential, commercial and industrial development in recent years; and

WHEREAS, it is anticipated that such development will continue into the future, and that such future development will create a substantial impact upon the transportation facilities within East Pikeland Township; and

WHEREAS, the Board of Supervisors of East Pikeland Township is required to keep all roads open, in repair and usable for the safe and convenient travel by the public, and the fulfillment of such duty will entail substantial costs directly attributable to the impact of such future development; and

WHEREAS, Article V-A of the Pennsylvania Municipalities Planning Code, *as added by Act No. 1999-209, as amended, 53 P.S. §10501-A et seq.*, commonly known as Act 209 and hereinafter referred to as the “Act”, establishes a comprehensive legislative scheme for the imposition of all or a portion of said costs upon such future development by way and in the nature of an impact fee; and

WHEREAS, the amount of such impact fee shall be determined by the cost of the additional transportation improvements needed to meet minimum safety and capacity standards, which improvements shall be identified in a transportation capital improvements plan, considering the projected growth and development in designated transportation service areas; and

WHEREAS, the Board of Supervisors of East Pikeland 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 major transportation capacity improvements in designated transportation service areas, 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; and

WHEREAS, the Board of Supervisors of East Pikeland Township originally gave notice of the intention of the Township to enact a transportation impact fee ordinance by publishing a statement of such intention twice in *The Phoenix*, a newspaper of general circulation in the township, the first publication being on July 5, 2005, and the second publication being on July 12, 2005.

WHEREAS, the Board of Supervisors of East Pikeland Township adopted Ordinance 109 dated July 19, 2005, which established a transportation impact fee.

WHEREAS, the Board of Supervisors of East Pikeland Township adopted a per-trip transportation impact fee of \$2,964.44 on July 19, 2005.

WHEREAS, the Board of Supervisors of East Pikeland Township adopted an updated per-trip transportation impact fee of \$3,447.00 on January 5, 2009.

WHEREAS, the Board of Supervisors of East Pikeland Township desires to amend Ordinance 109 in its entirety.

NOW, THEREFORE, the Board of Supervisors of East Pikeland Township, Chester County, Pennsylvania, hereby **ENACTS** and **ORDAINS** as follows:

SECTION 1. Title. This Ordinance shall be known as the “East Pikeland Township Impact Fee Ordinance.”

SECTION 2. Purpose. The purpose of this Ordinance is to update the 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 at the time of building permit issuance.

SECTION 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 impact fee set forth herein are those set forth in the Act, and any and all amendments hereto, and consist of:
 - (1) The recitals set forth above;
 - (2) The analysis, advice and recommendations of the Transportation Impact Fee Advisory Committee;
 - (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; and
 - (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 an impact fee and consistent with the provisions of the Act and any amendments thereto.
- (b) The collection, disbursement and accounting of impact fees shall be administered by the office of the Township Manager or Secretary-Treasurer, subject to review, oversight and control by the Board of Supervisors.
 - (c) The time, method and procedure for payment of impact fees shall be as set forth in Section 12 of this Ordinance.
 - (d) The procedure for credits against or refunds of impact fees shall be set forth in Sections 17 and 18 of this Ordinance.
 - (e) Such exemptions, as the Board of Supervisors shall choose to enact, shall be set forth in Section 11 of this Ordinance.

SECTION 4. Definitions. The terms and definitions set forth in Section 502-A of the Act are hereby adopted and incorporated in this Ordinance by reference.

SECTION 5. 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 described in the Program adopted by the Board of Supervisors. Said impact fee shall apply to all new developments and subdivisions within each of the transportation service areas identified herein and shall be a condition precedent to final approval of a development or a subdivision plan or issuance of a building permit.

SECTION 6. Uses. Impact fees collected pursuant to this Ordinance shall be expended for costs incurred for improvements attributable to new development and designated in the Transportation Capital Improvements Plan adopted by the Board of Supervisors in Resolution No. 2016-24 for improvements within each of the transportation service areas in which 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 designated service area, and including such proportionate amount of the Roadway Sufficiency Analysis as is allowed under the provisions of the Act.

SECTION 7. 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:

- (a) Recommendations of the Transportation Impact Fee Advisory Committee set forth in and/or accompanying the documents identified in Paragraphs (b) through (f) below:
- (b) Land Use Assumptions as adopted by Township Resolution.
- (c) Roadway Sufficiency Analysis as adopted by Township Resolution.
- (d) The Transportation Capital Improvements Plan as adopted by Township Resolution.
- (e) The Impact Fee Schedule as established by Township Resolution.
- (f) Transportation Service Area Map.

SECTION 8. 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 resulting in increased density, intensity or trip generation by a particular development.

A special transportation study, if required, shall be prepared by a qualified traffic or transportation engineer in accordance with generally accepted transportation planning and engineering standards.

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.

SECTION 9. Applicability of Impact Fees. This Ordinance shall be uniformly applicable to all development that occurs within a designated Transportation Service Area.

SECTION 10. Imposition of Impact Fee. No building permit shall be issued for a development in a designated Transportation Service Area, as herein defined, unless the applicant therefore has paid the “impact fee” imposed by and calculated pursuant to this Ordinance.

SECTION 11. Exemptions. RESERVED

SECTION 12. Calculation of Impact Fees.

- (a) The impact fee for transportation capital improvements shall be based upon the total costs of the road improvements included in the adopted Transportation Capital Improvements Plan within a given transportation service area attributable to and necessitated by new development within the service areas 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 Engineers, 9th or subsequent editions, which is hereby adopted by the Township, to equal a per-trip cost for transportation improvements within the service area.

- (b) 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 areas as determined in subsection (a) above, by the estimated number of peak hour trips to be generated by the new development or subdivision using generally accepted traffic engineering standards.
- (c) 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.

SECTION 13. Establishment of Transportation Service Areas. Transportation service areas are established as shown on the “Transportation Service Area Map” (attached hereto as Figure 4 in Exhibit A and incorporated herein by reference).

Additional transportation service areas or combinations of transportation service areas 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:

- (a) The Comprehensive Plan;
- (b) Any standards for adequate public facilities incorporated in the Program;
- (c) The projected build-out and timing of development areas;
- (d) The need for cost of unprogrammed transportation improvements necessary to support projected development; and
- (e) Such other factors as the Board of Supervisors may deem relevant.

Fees collected from development in each of the transportation service areas will be used exclusively to fund transportation improvement projects scheduled for that district.

SECTION 14. Non-binding Impact Fee Estimate. Prior to making an application for a building permit, an applicant may request a 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.

SECTION 15. Administration of Impact Fee.

- (a) Collection of Impact Fee. Impact fees due pursuant to this Ordinance shall be collected by the Township in the manner or manner prescribed herein prior to the

issuance of a building permit.

- (b) Establishment of Fund. Upon receipt of impact fees, the Township Manager or Secretary-Treasurer shall be responsible for the separate and proper accounting of such fees. All such fees shall be deposited in interest-bearing accounts designated solely for impact fees, clearly identifying the transportation service area from which the fee was received, 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.
- (c) Establishment and Maintenance of Accounts. The Township Manager or Secretary-Treasurer shall establish appropriate trust fund accounts and shall maintain records whereby impact fees collected can be segregated for each transportation service area.
- (d) Maintenance of Records. The Township Manager or 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 Program for the particular transportation service area.

SECTION 16. Method of Payment. Payment of the transportation capital improvements impact fee shall be made by the traffic generator prior to the issuance of a building permit by the Township to the traffic generator for development on the applicable site.

SECTION 17. Credit. Any applicant who shall perform, at his own expense and with the consent and agreement of the Board of Supervisors, offsite improvements, as herein defined, shall be eligible for a credit from the impact fee otherwise due in the amount of the actual cost for such off-site improvements as approved by the Township Engineer. Such credit shall not exceed the amount of the impact fee.

- (a) 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, 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 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 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 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.

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.

- (b) 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. The fair market value shall be determined as of the date of submission of the land development or subdivision application with the Township.
- (c) 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. The amount of the credit shall be the amount allocated in the capital improvement program, including contingency factors.

SECTION 18. 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:

- (a) In the event that Township completes or terminates the capital improvements plan and there remains 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. The Township shall provide notice to the payor of the availability of the funds by certified mail.
- (b) 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.
- (c) 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 any payor making written request therefore 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.
- (d) In the event the development for which impact fees were paid has not commenced prior to the expiration of the building permit issued therefore, 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.

SECTION 19. Effect of Impact Fee on Zoning, PRD and Subdivision. 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, subdivision and PRD regulations of the Township, which shall be operative and remain in full force and effect without limitation with respect to all such development.

SECTION 20. 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.

SECTION 21. 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 22. Repealer. All ordinances, code sections or parts thereof in conflict herewith shall be repealed to the extent of such conflict.

SECTION 23. Severability. Should any sentence, section, clause, part or provision of this 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 thereof, other than the part declared to be invalid.

SECTION 24. Effective Date. This Ordinance shall take effect immediately upon its passage.

SECTION 25. Retroactive Application.

- (a) Notwithstanding Section 24 hereof, impact fees may be imposed upon preliminary or tentative applications for land development, subdivision and PRD for which an application has been filed on or after the first publication of notice of the Township's intent to adopt this Ordinance; provided, however, that such retroactivity does not exceed 18 months after the adoption of the resolution that created the advisory committee in connection herewith.
- (b) In retroactive applications, the per-trip fee may not exceed previously established impact fee of \$3,447.00.

ENACTED and **ORDAINED** this _____ day of _____, 2016

**BOARD OF SUPERVISORS OF
EAST PIKELAND TOWNSHIP**

Ronald M. Graham, Chairman

Russell L. Strauss, Vice-Chairman

J. Benson Campbell, Member

ATTEST:

Kimberly Moretti, Township Manager