

WEST WHITELAND TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 427

AN ORDINANCE ENACTED PURSUANT TO THE AUTHORITY OF  
ACT 209 OF 1990 AND ARTICLE V-A OF THE PENNSYLVANIA  
MUNICIPALITIES PLANNING CODE IMPOSING A  
TRANSPORTATION IMPACT FEE UPON NEW DEVELOPMENT IN  
WEST WHITELAND TOWNSHIP, CHESTER COUNTY,  
PENNSYLVANIA.

AND NOW, this 24 day of November, 2015, it is hereby ENACTED and ORDAINED by the Board of Supervisors of West Whiteland Township, Chester County, Pennsylvania as follows:

**Section 1.** The West Whiteland Township Code of Ordinances is amended by adding a new Chapter 295 "Transportation Impact Fee".

**§295-1. Title.** This Ordinance shall be known as the "West Whiteland Township Transportation Impact Fee Ordinance".

**§295-2. Purpose.** The purpose of this Ordinance is to establish a Transportation 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.

**§295-3. General Findings and Conditions.** The Board of Supervisors hereby makes the following findings:

A. Findings of Fact.

- (1) West Whiteland Township, Chester County (the "Township") has experienced considerable growth in recent years; and
- (2) It is anticipated that such development will continue, creating a substantial impact upon the transportation facilities within certain districts of the Township; and
- (3) The Board of Supervisors is required to keep all roads open, and usable for the safe and convenient travel by the public; and
- (4) Fulfillment of the above duty by the Board of Supervisors will entail a substantial cost directly attributable to the impact of new development, and
- (5) The Board of Supervisors is empowered by law to impose all or a portion of said cost upon new development; and

- (6) 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 capacity standards, which public facilities shall be identified in a capital improvement program, considering the projected growth and development in the transportation district; and
- (7) 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 major transportation capacity improvements in the designated transportation 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.

B. Conditions and Standards.

- (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, December 19, 1990, P.L. 1343, No. 209, and any and all amendments thereto (hereinafter the "Act"), and consist of:
  - (a) The recitals set forth above;
  - (b) The analysis, advice and recommendations of the Transportation Impact Fee 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 Improvements 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, disbursement and accounting impact fees shall be administered by the Township Manager, subject to review, oversight and control by the Board of Supervisors.
- (3) Such exemptions as the Board of Supervisors shall choose to enact shall be as set forth in §295-11 of this Ordinance.

- (4) The amount of the per-peak-hour-trip transportation impact fee shall be set forth in Exhibit A of this Ordinance.
- (5) The time, method and procedure for payment of impact fees shall be as set forth in §295-15 and §295-16 of this Ordinance.
- (6) The procedure for credits against or refunds of impact fees shall be as set forth in §295-17 of this Ordinance.
- (7) The procedure for refunds of impact fees shall be as set forth in §295-18 of this Ordinance.

**§295-4. Definitions.** The terms and definitions set forth in §502-A of the Act are hereby adopted and incorporated in this Ordinance by reference.

**§295-5. Enactment and Imposition.** There is hereby enacted an impact fee to be imposed upon new development for the purpose of off-site transportation capital improvements authorized by the Act and as described in the Transportation Capital Improvement Plan adopted by the Board of Supervisors. Said impact fee shall apply to all new land developments and subdivisions within the transportation service area identified herein, and payment of such fee shall be a condition of final plan approval of for all such land development or subdivision plans and shall be payable prior to the issuance of any building permit pursuant to such plan.

**§295-6. 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 for improvements within the transportation service area 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 designated service area, and including such proportionate amount of the Roadway Sufficiency Analysis as is allowed under the provisions of the Act.

**§295-7. 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. Township Resolution No. 2014-19 designating the geographical area(s) of the Township as the transportation district constituting the Transportation Service Area.
- B. Land Use Assumptions Report as adopted by Township Resolution No. 2015-30.
- C. Roadway Sufficiency Analysis as adopted by Township Resolution No. 2015-49.
- D. The Transportation Capital Improvements Plan as adopted by Township Resolution No. 2015-50.

**§295-8. Special Traffic Studies.** As outlined in §505-A(h) of the Act, developments generating 1,000 or more new peak hour trips, net of pass-by trips, as defined by the most current Trip Generation Manual published by the Institute of Transportation Engineers, during the peak-hour period designated in this ordinance, must complete a traffic analysis, reviewed and approved by the Township to determine if additional impact fees are required. 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.

**§295-9. Applicability of Impact Fee.** This Ordinance shall be uniformly applicable to all development that occurs within the Transportation Service Area.

**§295-10. Imposition of Impact Fee.** No building permit shall be issued for a development in the designated transportation area, as herein defined, unless the applicant therefore has paid the "impact fee" imposed by and calculated pursuant to this Ordinance.

**§295-11. Exemption.** The Board of Supervisors, within its discretion, may grant a credit of up to 100% of the applicable impact fees for growth and development which is proposed and undertaken by a developer who is a municipality, public school district, public authority or other governmental entity, and such development is for a governmental purpose and in the public interest. In order to claim the credit provided by this Section, the developer must make a request for the credit upon application for preliminary subdivision or land development approval or a building, zoning, conditional use or occupancy permit if no subdivision or land development approval is required. The developer shall have the burden of establishing that its proposed development serves an overriding public interest.

**§295-12. 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 the given 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 consistent with the adopted Land Use Assumptions and calculated in accordance with *Trip Generation* published by the Institute of Transportation Engineers (current edition) 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 transportation 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 area, as determined by Exhibit A and incorporated herein by reference, by the estimated number of 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 non-residential

developments to assist in the determination of the amount of the transportation fee for such development or subdivision.

**§295-13. Establishment of Transportation Service Area.** The transportation service area is established as the geographical area of the Township indicated in Exhibit B.

**§295-14. Non-binding Impact Fee Estimate.** 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. The applicant will reimburse the township for the cost of preparing the estimate.

**§295-15. Administration of Impact Fees.**

- A. 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.
- B. Establishment of Fund – Upon receipt of impact fees, the Township Manager shall be responsible for the separate and proper accounting of such fees. All such fees shall be deposited in an interest-bearing account 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 shall establish appropriate interest-bearing accounts and shall maintain records. The Manager shall review and report on these accounts and records annually to ensure their accuracy.
- D. Maintenance of Records – The Township Manager 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 Improvement Plan for the particular transportation district sub-area.

**§295-16. 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.

**§295-17. 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 including, but not limited to, engineering, legal and planning costs as approved by the Board of Supervisors. 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 applicable impact fee. 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 value of any road improvement construction which is contained in the Transportation Capital Improvements Plan and which was performed at the applicant's expense.
- 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 the Township and accepted by the Township for future right-of-way, realignment or widening or existing roadways except for land dedicated for on-site improvements. The fair market value of any land dedicated to and accepted by the Township other than land dedicated for on-site improvements shall be determined as of the date of the submission of the subdivision and land development application to the Township, whichever is earlier.

**§295-18. Refunds.** Impact fees collected pursuant to this ordinance shall be refunded, together with interest earned thereon, to the payer of the fees under the following circumstances:

- A. In the event the Township completes or terminates the Capital Improvements Plan and there remain undisbursed funds, the respective payers shall be entitled to a share of the fund balance in the same proportion as the payer's impact fee payment plus interest earned.
- 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 payers, 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 payer making written request thereof 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 payer. 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 payer, 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.
- E. With respect to refunds arising out of subparagraphs (a) or (b) hereof, the Township shall provide written notice by certified mail to each person who previously paid the fees which 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 payer of the transportation impact fees to the Township. In the event that any of the funds remain unclaimed following one year after the notice, the Township shall be authorized to transfer any funds so remaining to the general account of the Township, and the payer's entitlement to said refund shall lapse. It is the responsibility of the payer to provide the Township with the current address of his place of business.
- F. Except as expressly provided herein, the applicant shall not be eligible for any other refund including any refund based upon post-construction trip generation studies.

**§295-19. Effect of Transportation Impact Fee on Zoning and Subdivision 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 regulations of the Township, which shall be operative and remain in full force and effect without limitation with respect to all such development.

**§295-20. Transportation 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 subdivided herein.

**§295-21. 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.

**§295-22. Repealer.** All ordinances, code sections or parts thereof in conflict herewith shall be repealed to the extent of such conflict.

**§295-23. 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.

**§295-24. Effective Date.** This Ordinance shall take effect five days after its passage.

**§295-25. Retroactive Application.**

- A. Notwithstanding §295-24 hereof, impact fees may be imposed on those projects involving developments and subdivisions 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 One Thousand (\$1,000.00) Dollars or the actual calculated fee, whichever is less.

ENACTED and ORDAINED this 24 day of November, 2015.

**WEST WHITELAND TOWNSHIP  
BOARD OF SUPERVISORS**

  
\_\_\_\_\_  
Steven Soles, Chairman

  
\_\_\_\_\_  
George Turner, Vice Chairman

  
\_\_\_\_\_  
Joseph Denham, Member

ATTEST:

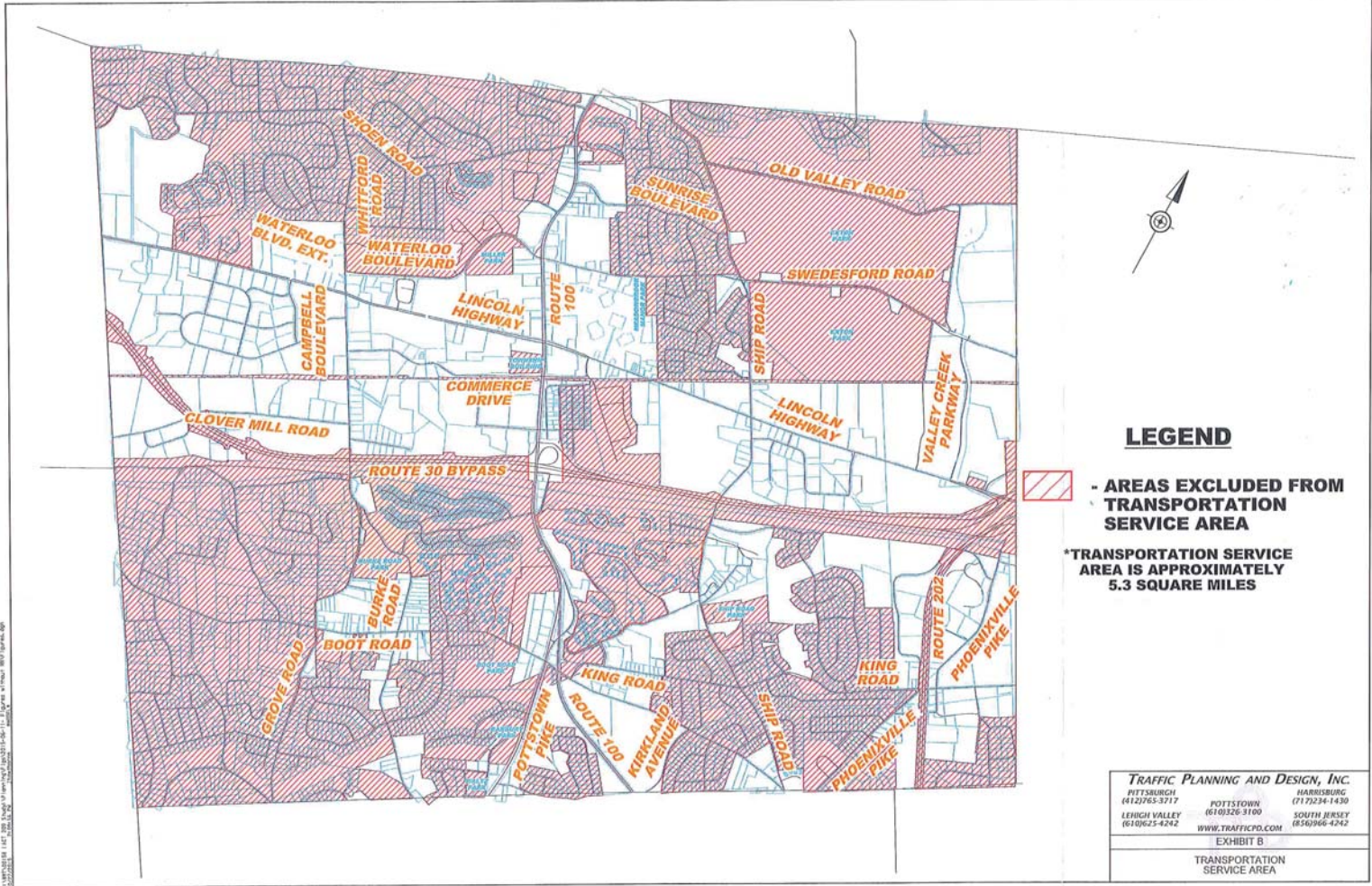
  
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Mimi Gleason, Secretary



**TRANSPORTATION IMPACT FEE ORDINANCE**

**Exhibit A: West Whiteland Township Impact Fee Calculation**

<b>Capital Improvement Costs Attributable to New Development within West Whiteland Township</b>	<b>\$5,092,950.00</b>
<b>Portion of Roadway Sufficiency Analysis Preparation</b>	<b><u>+ \$2,761.23</u></b>
<b>Total Cost</b>	<b>\$5,095,711.23</b>
<b>Evening Peak Hour Trips Generated by New Development within West Whiteland Township</b>	<b>4,178 trips</b>
<b>Impact Fee per Evening Peak Trip</b>	<b>\$1,219.65 per trip</b>



**LEGEND**

- AREAS EXCLUDED FROM TRANSPORTATION SERVICE AREA
- \*TRANSPORTATION SERVICE AREA IS APPROXIMATELY 5.3 SQUARE MILES

<b>TRAFFIC PLANNING AND DESIGN, INC.</b>		
PITTSBURGH 412/765-3717	POTTSTOWN 610/326-3100	HARRISBURG 717/234-1430
LEHIGH VALLEY 610/625-4242	WWW.TRAFFICPD.COM	SOUTH JERSEY 856/966-4242
EXHIBIT B		
TRANSPORTATION SERVICE AREA		

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