IMPACT FEE MANUAL

SEPTEMBER 21, 2011

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INTRODUCTION

The purpose of this manual is to provide policy and procedure guidelines, primarily to city staff, to aid in applying the requirements of the Transportation Impact Fee Program (BCC 22.16).

This manual supplements the information provided in the Transportation Impact Fee Program report, as referenced in BCC 22.16.020.U. In addition, Transportation Department Standard Operating Procedures addressing impact fee topics should be consulted.

CHAPTER 1

APPLICABILITY

POLICY

Transportation impact fees are charged on developments to provide a portion of the funding for transportation infrastructure improvements, thereby partially mitigating the cumulative impacts of growth and development. Impact fees are charged on any construction or expansion of a building, structure, or use for which a permit, approval, or other authorization is required, if the development will generate at least one new p.m. peak hour vehicle trip.

According to BCC 22.16.020C, tenant improvement projects are subject to the Impact Fee Program when SEPA review is required and the project generates at least 11 new p.m. peak hour trips. Pursuant to WAC 197-11-800(3), the Land Use Division of the Development Services Department requires SEPA review when a tenant improvement results in a material change in use beyond that previously existing. If a tenant improvement results in a change in use from one Land Use Code Use Chart category to another, is greater than 4,000 square feet in area, and generates 30 or more new p.m. peak hour vehicle trips, it is considered a material change in use and subject to SEPA review. In addition, any tenant space that remains vacant for a period exceeding two years (from date of last use to date of permit application) is considered a new use and subject to SEPA review if it is not considered categorically exempt per BCC 22.02.032, or subject to extended timelines per BCC 22.02.034.C.

PROCEDURE

The Transportation Department provides a completed Notification of Transportation Impact Fee form by e-mail to the property owner, applicant, and project contact. The responsible party must acknowledge receipt of the notification and pay the fee prior to issuance of the permit or approval. See copy of the Notification of Transportation Impact Fee form on page 5.

For Single Family home applications, the Permit Technician provides a copy of the Notification of Transportation Impact Fee form to the applicant.

City of Bellevue
Development Services Department
Transportation Department

NOTIFICATION OF TRANSPORTATION IMPACT FEE

Applicant _____ Application Date _____

Site Address _____

Development Name _____

TO BE COMPLETED BY CITY OF BELLEVUE STAFF:

Notification Date _____ Tech/Reviewer Initials _____

Permit # _____

Your Impact Fee is $_____

_____ Residential Pre-calculated Fee
_____ Fee Calculation Shown Below

Land Use Type	
Unit	
No. of Units	
Rate per Unit	
Gross Fee	
Existing Use Credit (Demo)*	
Improvement Credit	
Net Impact Fee	
Total Fee	

*Demo calculation attached if applicable.

Appeals of the Transportation Impact Fee (Bellevue City Code 22.16):

1. Must be filed with the City Clerks office within fourteen (14) calendar days of the notification date above and must include:
   a. A brief statement indicating the basis for the Appeal; AND
   b. A brief statement identifying explicit exceptions/objections or specific errors in fact or conclusion; AND
   c. Requested relief being sought; AND
   d. Any other information relevant to the Appeal.

2. Shall be processed pursuant to Process II of the Bellevue City Code 20.35.250 et seq.

NOTE: If you have filed an appeal but wish to begin development, you must pay the full fee under protest (with a letter to that effect) before the permit can be issued. Payment will not affect the appeal but will allow you to proceed while waiting for the decision.

5/14/09

CHAPTER 2

FEE CALCULATION AND PAYMENTS

POLICY

A. Fee Calculation

The impact fees are calculated using the adopted transportation impact fee rate schedule as authorized by BCC 22.16.080 and as documented in the Transportation Impact Fee Program report. If an application does not fit into one of the categories in the rate schedule, Transportation Department review staff determines the project trip generation and calculates the fee according to the methodology described in the most recent Impact Fee Program report. Impact fees for all applications except new single-family permit applications are calculated by the Transportation Department. Fees for single-family permit applications are entered into the permit tracking system by the Permit Processing technicians.

B. Payments

Impact fees for development are paid at the time of issuance of a building permit, using the impact fee rate schedule in effect at the time of permit issuance. In the event that the development does not require a building permit, fees are paid prior to issuance of staff decision for an administrative conditional use application or prior to issuance of staff recommendation to the Hearing Examiner for a conditional use application.

For developments with a single building permit for an underground parking garage and an above-ground structure, the impact fee must be paid with the issuance of that permit. When there is a shoring permit for an underground garage followed by a building permit for a garage and a tower, or a shoring permit followed by one building permit for a garage and one or more additional building permits for a podium and one or more towers, the payment of the impact fee must occur with the issuance of the building permit for the structure which will generate the trips which trigger the fee.

When several structures are involved, the impact fee will first be calculated as a whole, incorporating any reductions for internal trip capture. However, the impact fee for the first issued building permit with an impact fee shall not include such reductions. The reduction for internal capture of trips shall be applied only when the building permit(s) for the appropriate accompanying structure or structures are issued. Reductions due to the removal of existing uses must be applied with the first qualifying building permit and continue to be applied until exhausted. The impact fee and reduction amount shall be

calculated according to the rate schedule in effect at the time of building permit issuance.

PROCEDURE

A. Calculations

The Transportation Department:

- Determines the type of development according to the impact fee rate schedule.
- Determines the size of the development, using the appropriate unit and accounting for reduction for a preexisting use.
- Determines if there are any exemptions, reductions, or credit (see Chapters 3 and 4).
- Enters the appropriate information on the Notification of Transportation Impact Fee form.

Note: The official notification of the transportation impact fee occurs during the building permit stage of review, or other approval review in the case where no building permit is required. The applicant is informed during initial project review of the amount of the impact fee, but the date on the Notification of Transportation Impact Fee form is the official date referenced for filing an appeal.

The following sections describe special calculation considerations related to mixed use developments, transportation management plans, tenant improvements, and preexisting uses.

1. Mixed Use Developments

   A development may consist of more than one type of use – a principal use and one or more subordinate uses; two or more principal uses; or some other permutation. The Transportation Department Director is authorized to adjust the impact fees for mixed use development based on an analysis of specific trip generating characteristics of the development.

   A subordinate use is defined as a "use which is secondary or incidental to a permitted or principal use, located on the same lot or in the same structure as the permitted or principal use, and which is functionally related to the permitted or principal use." (BCC 20.50.048.S) Trip generation rates usually take typical subordinate uses into account, and therefore a subordinate use is usually charged the same transportation impact fee rate as the principal use. Some examples are:

- Deli or food service area in a building where the deli exists to serve the building tenants, and is only open during normal business hours. The deli area is charged the same rate per square foot as the office use.

- Recreational facilities which are for building tenant use only. Examples include exercise equipment facilities, shower/locker facilities, and exercise areas. The facility is charged the same rate per square foot as the principal use.

Mixed use developments may also consist of multiple principal uses, which may justify a reduction in trip generation rates based on the interdependency of the uses. Examples include:

- Ground floor retail area in an office building
- Restaurant location in an office building
- Movie theater located within a shopping center
- Bank or savings and loan located within a shopping center or office building
- Ground floor retail in a multifamily units building

In these cases, the developer would work with the Transportation Department to determine a trip generation rate for the project and an appropriate reduction factor, if allowed, based on studies and research. Within downtown, some of the mixed use effects of development have already been factored into a lower trip generation rate for all applicable downtown development. In these situations, adjustments to the trip generation rates for a mixed use development would need to demonstrate further reductions in trip making due to unique characteristics, such as a Transit Oriented Development design.

In no case shall the transportation impact fee reduction factor be greater than 20 percent. The final determination of the trip rate and reduction factor shall be the responsibility of the Transportation Department Director.

Note that the ITE Trip Generation Manual states that for the purpose of trip generation calculation the gross floor area of any space designated for parking garage use within a building shall not be included within the gross floor area figure.

2. Transportation Management Plans

The Transportation Department Director is authorized to adjust the impact fees to account for the specific trip generating characteristics of the development, including the expected levels of ridesharing and transit usage of the development (BCC 22.16.080 D). One possible application of this provision would be when a

development is required to implement a Transportation Management Program (TMP) as defined in BCC 14.60.070 and .080. The potential adjustment to trip generation rates from a TMP will be determined by the Director based upon the specific TMP elements. The maximum adjustment allowed is 20 percent. The calculation of allowable adjustments will consider the interaction of the TMP with other land use characteristics of the development. For example, if the development is mixed use, there are potential adjustments to account for trip internalization and shared trips. These adjustments are not necessarily additive to trip adjustments related to a TMP.

3. Preexisting Uses

A preexisting use is represented by a building formerly located on the site but now demolished, a building still on site but currently vacant, or a building currently on the site and in use. Whether the preexisting use can be considered for impact fee reduction purposes will depend on the timing of the demolition or vacancy, as determined by the Transportation Department Director.

The threshold for imposing the fee for a building permit or a conditional use application is one new trip in the pm peak hour. In the case of tenant improvement permits, "development" is defined as any proposed new use or expanded existing use for which SEPA review is required, with a threshold of 11 new trips in the pm peak hour. The following describes the circumstances when a reduction of the fee for a previously existing use on the site is allowed.

- For a building permit application:

  When a previous use has occupied the site, a reduction is given for the pm peak hour trips generated by the previous use if the use was generating those trips within two years of the date of the new building permit application. The rate used to calculate both the reduction for the previous use and the impact fee for the new use is the adopted rate in effect at the date of building permit issuance. The amount of the reduction is the calculated impact fee for a use of the type and size of the previous use. This amount is subtracted from the gross fee for the new building permit application, resulting in a net impact fee. No refund is given for a change to a less intensive use.

- For a conditional use application:

  When a previous use has occupied the site, a reduction is given for the pm peak hour trips generated by the previous use if the use was generating those trips within two years of the date of Conditional Use Permit approval and the new use will not require a building permit or tenant improvement application. The rate

used to calculate both the reduction for the previous use and the impact fee for the new use is the adopted rate in effect on the date of Conditional Use Permit approval. The amount of the reduction is the calculated impact fee for a use of the type and size of the previous use. This amount is subtracted from the gross fee for the new conditional use application, resulting in a net impact fee. No refund is given for a change to a less intensive use.

- For a tenant improvement application:

Tenant improvement permits for which SEPA review is required are subject to the requirements of BCC 22.16.020 (Transportation Impact Fee Program), with a threshold for imposing the impact fee of 11 or more new p.m. peak hour trips. SEPA is not required to re-tenant spaces that have been vacant for less than two years unless (a) the proposal results in a change in use classification in the Land Use Code Use Charts, (b) the existing building square footage is greater than 4,000 square feet in area, and (c) the proposal generates 30 or more new p.m. peak hour trips.

Any tenant space that remains vacant for two years or more shall be considered a new use and is subject to SEPA review and threshold determination unless the time limitation on the life of the threshold determination is extended pursuant to BCC 22.02.034.C. Land Use will then confirm whether SEPA is required on the project or not.

If the SEPA requirement is triggered, the impact fee is calculated only on the net increase in trips generated by the development, as determined by the size and use of the facility before and after development. No impact fee refund is provided for a change to a less intensive use.

When a previous use has occupied the site, a reduction is given for the pm peak hour trips generated by the previous use if the use was generating those trips within two years of the date of the tenant improvement application. The rate used to calculate both the reduction for the previous use and the impact fee for the new use fee is the adopted rate in effect at the date of the tenant improvement approval issuance. The amount of the reduction is the calculated impact fee for a use of the type and size of the previous use. This amount is subtracted from the gross fee for the new tenant improvement application, resulting in a net impact fee. No refund is given for a change to a less intensive use.

Any adjustments for preexisting uses apply only to the subject site; there is no transfer of adjustments from site to site.

B. Payments

The amount of the impact fee is based on the impact fee rate schedule in effect at the time that the building permit or other approval is issued, unless otherwise provided as per BCC 22.16.080.G. No building permit or other approval is issued until the impact fees are paid.

CHAPTER 3

EXEMPTIONS FROM THE IMPACT FEE

POLICY

The following types of development are exempt from paying a transportation impact fee:

- Any development or portion thereof used exclusively for "child care services" as defined in LUC 20.50.014 now or as hereafter amended; provided, that no such exemption shall be provided unless the developer has first signed an agreement satisfactory to the City which provides assurance that such child care services use shall continue for at least that term specified in such agreement;
- Any development or portion thereof used exclusively for affordable housing; provided, that no such exemption shall be provided unless the developer has first signed an agreement satisfactory to the City which provides assurance that any units granted an exemption under this section shall remain affordable for the life of the project;
- Public transportation facilities;
- City parks or public parks each as defined in LUC 20.50.040, now or as hereafter amended;
- Privately operated not-for-profit social service facilities recognized by the Internal Revenue Service under Internal Revenue Code Section 501(c)(3);
- Public libraries;
- Publicly funded educational institutions;
- Hospitals, as defined in LUC 20.50.024 now or as hereafter amended, if not operated for profit.

PROCEDURE

Impact fees for these exemptions shall be paid from public funds other than the impact fee fund.

CHAPTER 4

CREDITS

POLICY

Credits applied to impact fees can derive from several sources, as follows:

- Dedication of land and/or construction of improvements
- Payment in lieu of improvements
- Payments of local improvement district (LID) assessments
- Concomitant agreements

Calculated credits will be used to reduce the obligated impact fee payment. Credits for dedicated land and/or improvements may be eligible for a credit balance reimbursement if the credit exceeds the value of the impact fee amount. For other credit types, the maximum credit reduction is equal to the value of the impact fee (i.e., no credit balance will exceed the value of the impact fee).

A. Credits for Dedication of Land and/or Construction of Improvements

The Impact Fee Project List is adopted within the Transportation Facilities Plan. If transportation improvements to be provided by the developer are on the Impact Fee Project List and are required as a condition of development, the fair market value of land dedicated to and accepted by the City, and the actual cost of construction of such improvements dedicated to and accepted by the City, are subtracted from the transportation impact fee. The Transportation Department Director shall determine, subject to final approval by the City Council, whether the City will accept such dedication for which a credit is requested. If the cost of the land and improvements exceeds the transportation impact fee, a percentage of that cost may be reimbursed to the developer from impact fee funds.

A developer may provide interim improvements which consist of a portion of a project from the Impact Fee Project List. Only the actual cost of work which can be used in the Impact Fee Project List project (grading, curb placed at final location, etc.) is credited against the impact fee.

If land is donated in exchange for an increase in floor area ratio, the fair market value of the increased floor area is deducted from the impact fee credit described above.

B. Credits for Payment in Lieu of Construction of Improvements

If a transportation improvement is (1) required as a condition of development approval and (2) on the Impact Fee Project List and (3) incorporated within an adopted Capital Investment Program project, the City may require the development to pay an amount equal to the developer's cost of construction ("paid cost") in lieu of constructing the improvement. Such payment will be applied to the fund for the Capital Investment Program project. If the cost of the land and improvement exceeds the transportation impact fee, a percentage of that cost may be reimbursed to the developer from impact fee funds.

To determine the developer's cost of construction, the developer shall first submit a scope of work which includes a written description of the work and construction drawings. Items and quantities shall also be included in the scope, using a template supplied by the Transportation Department review engineer. Some materials for this submittal may be provided to the developer by review staff from city Capital Investment Program documentation. After review and approval of this information by the review engineer, the developer shall submit a cost estimate based upon the approved scope of work for review and approval by staff. Review staff will determine the acceptability of the submitted information for establishing the payment and credit amount.

C. Credits for Payments for Local Improvement District Assessments

If a development is obligated to pay local improvement district assessments for a project on the Impact Fee Project List, the development receives an impact fee credit in the amount of the assessments. However, no credit will be given if the payments from the local improvement district were used in the impact fee program to reduce the cost of the transportation improvement project.

D. Credits for Concomitant Agreements

If a development is on a property that is subject to a concomitant agreement providing for payment or construction of a project on the impact fee list, an impact fee credit is given for the amounts already paid or improvements already built.

PROCEDURE

Calculation of Credits and Reimbursement

100 percent of the fair market value of the dedication of land and 100 percent of the actual or paid cost of improvement construction (if the dedication and improvement are on the Impact Fee Project list and are required as a condition of approving the development activity) are credited against the impact fee, up to the amount of the impact fee.

Reimbursement to the developer is made only when the value of the land dedication and the actual or paid cost of construction, multiplied by the growth percentage, exceed the impact fee. The growth percentage is the development share of cost, as described in the Transportation Impact Fee Program, 2009 Update, or most current edition. Figure 1 illustrates the calculation of credits, as described below.

If land is donated in exchange for an increase in floor area ratio, the Real Property & Land Survey Division of the Civic Services Department calculates the fair market value of the increased floor area and deducts that value from the impact fee credit described above.

Calculation of Credits for Land and/or Improvements

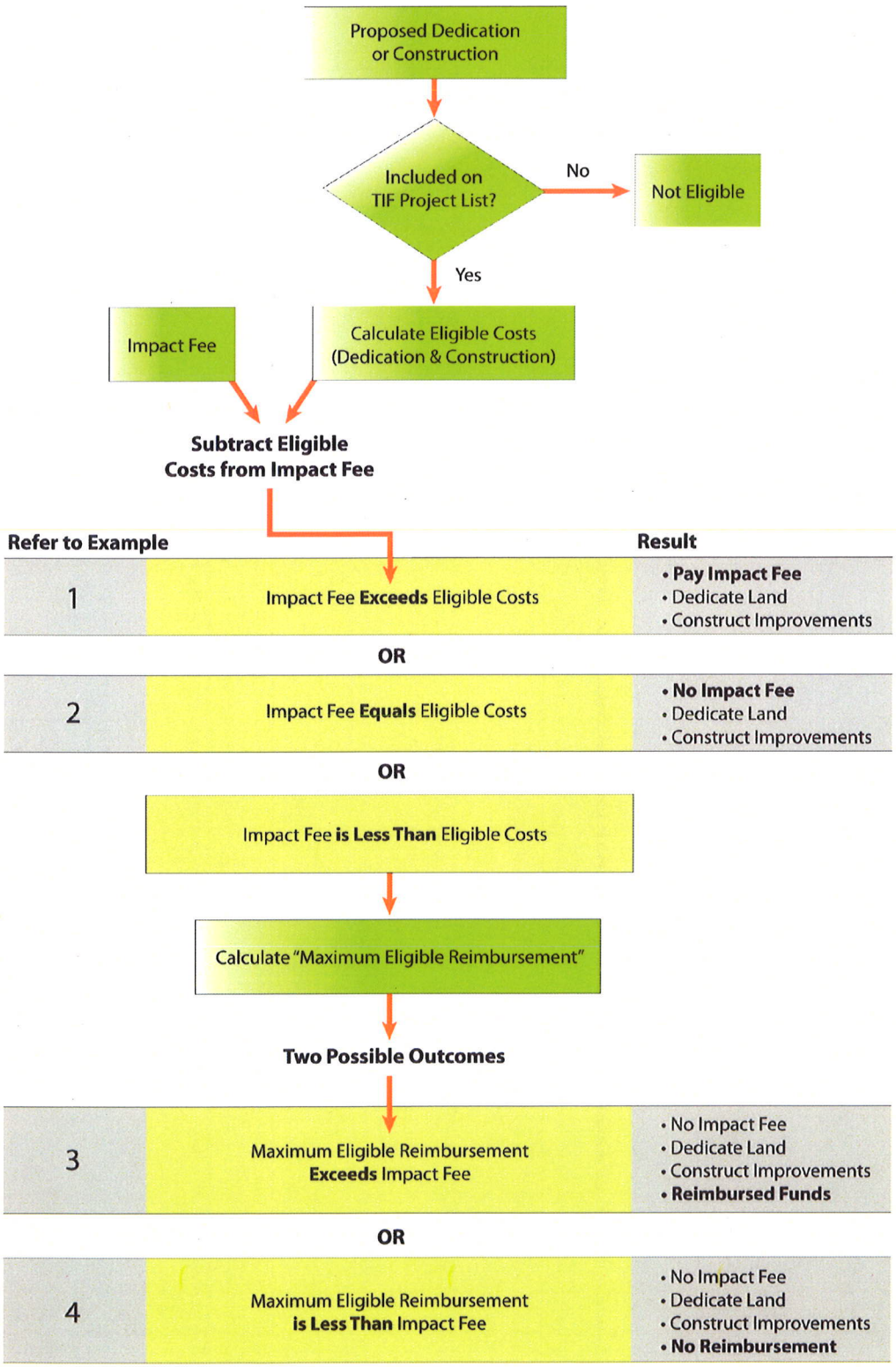


Figure 1.

A. Real Property & Land Survey Division

The Real Property & Land Survey Division of the Civic Services Department determines the fair market value of the dedication.

B. Transportation Department

The Transportation Department:

1. Determines if the proposed dedication or construction is included on the Impact Fee Project List.

2. Calculates eligible construction costs.

3. Calculates the transportation impact fee.

4. Subtracts the fair market value of the land dedication (A, above) and the eligible construction costs (B.2, above) from the impact fee (B.3, above).

   a. If the resulting amount (the Net Impact Fee) is positive, the developer pays that amount in addition to dedicating the land and constructing the improvements. (See Example 1).

   b. If the resulting amount is zero, the Net Impact fee is 0. (See Example 2).

   c. If the resulting amount is negative, the Net Impact fee is 0 and the developer may be entitled to a Credit Balance/Reimbursement as determined by Step 5.

5. Calculates the proportion of the land dedication and actual or paid construction cost which is eligible for reimbursement to the developer from impact fees paid by subsequent developers. This calculation is necessary to ensure that any reimbursements will be paid only from future impact fees and not from general City funds. The Transportation Department:

   a. Identifies the growth percentage for the project on the Impact Fee Project List.

   b. Multiplies the total value of the land dedication and actual or paid construction cost (A + B.2, above) by the growth percentage. The resulting figure is the maximum amount of the credit which is eligible for reimbursement from impact fees paid by subsequent developers. This amount is called the Maximum Eligible Reimbursement

   c. Subtracts the impact fee from the Maximum Eligible Reimbursement. Two situations can arise:

- If the Maximum Eligible Reimbursement exceeds the impact fee, the resulting amount (the Credit Balance/ Reimbursement) will be reimbursed to the developer from future impact fee funds as a latecomer payment (see Step 6 below for procedures). (See Example 3).
- If the Maximum Eligible Reimbursement is less than the impact fee, the developer will not receive any reimbursement because the growth percentage of the developer's contributed land and construction has less value than the impact fee that is due. (See Example 4).

Example Credit Calculations

Example 1.

Developer Owes Net Impact Fee (See Procedure B.4.a)

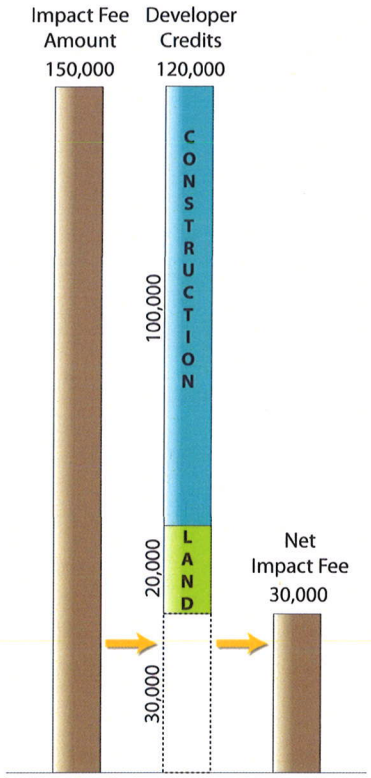
Impact Fee = $150,000

Land Dedication = $20,000

Eligible Actual or Paid Construction Costs = $100,000

Net Impact Fee = $150,000 – ($20,000 + $100,000) = $30,000

Developer Mitigation = $30,000 impact fee plus $120,000 land dedication and construction (actual or paid).



Example 2.

Zero Net Impact Fee (See Procedure B.4.b)

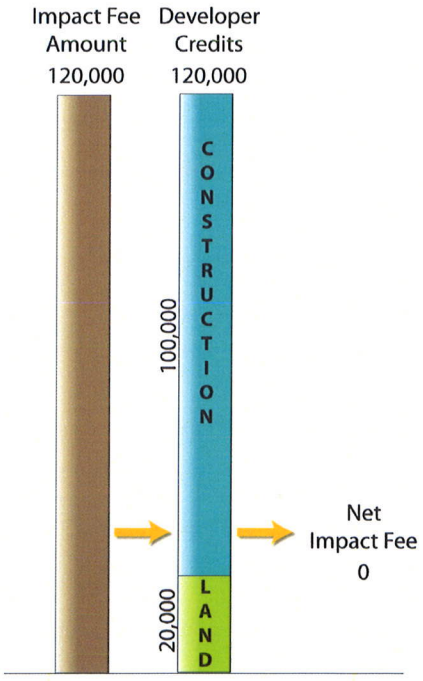
Impact Fee = $120,000

Land Dedication = $20,000

Eligible Actual or Paid Construction Costs = $100,000

Net Impact Fee = $120,000 – ($20,000 + $100,000) = $0

Developer Mitigation = $0 impact fee plus $120,000 land dedication and construction (actual or paid).



Example 3.

Developer Does Not Owe Net Impact Fee and City Owes Reimbursement to Developer (See Procedures B.4.c and B.5)

Impact Fee = $30,000

Land Dedication = $20,000

Eligible Actual or Paid Construction Costs = $100,000

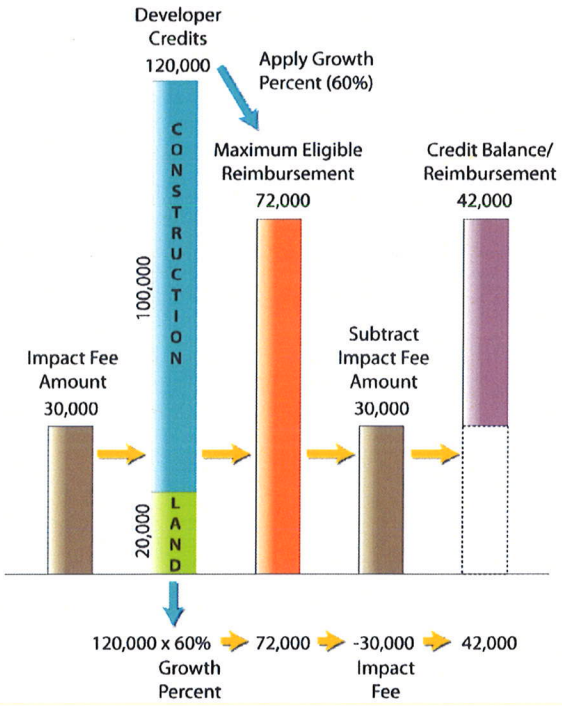
Net Impact Fee = $30,000 – ($20,000 + $100,000) = -$90,000 = 0

Growth Percentage = 60%

Maximum Eligible Reimbursement = ($20,000 + $100,000) x (.60) = $72,000

Credit Balance/Reimbursement = $72,000 - $30,000 = $42,000

Developer Mitigation = Land dedication and construction (actual or paid). $42,000 would be reimbursed by the City to the developer from future impact fee funds. Net cost to developer = $120,000 land dedication and construction less $42,000 reimbursement = $78,000.



Example 4.

Developer Does Not Owe Net Impact Fee and City Does Not Owe Reimbursement (See Procedures B.4.c and B.5)

Impact Fee = $50,000

Land Dedication = $20,000

Eligible Actual or Paid Construction Costs = $100,000

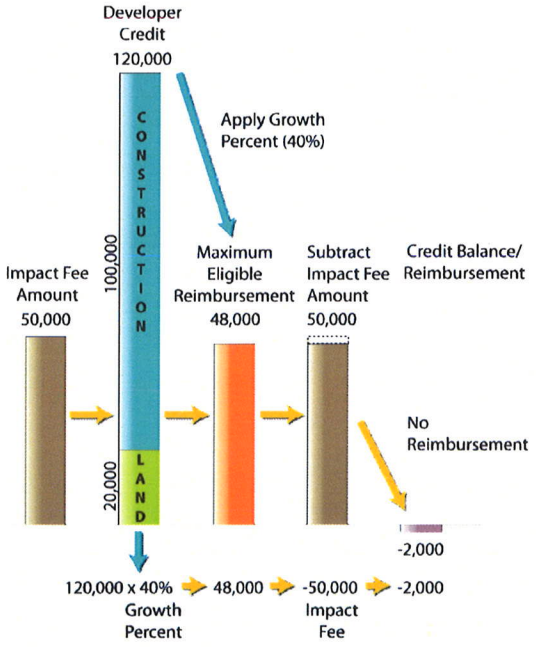
Net Impact Fee = $50,000 – ($20,000 + $100,000) = -$70,000 = 0

Growth Percentage = 30%

Maximum Eligible Reimbursement = ($20,000 + $100,000) x (.30) = $36,000

Credit Balance/Reimbursement = $0, since $36,000 is less than the $50,000 Impact Fee $36,000 - $50,000 = -$14,000 = 0

Developer Mitigation = $120,000 Land dedication and construction (actual or paid).



6. Reimbursement to the developer of Credit Balance/ Reimbursement is processed as latecomer payments, as follows:

   a. The City Council, by Resolution, accepts the dedication of land or constructed improvement.

   b. Transportation Financial Services receives the copy of the Notification of Transportation Impact Fee with the credit balance, calculates ten percent of the amount of the total credit owed, and determines if the City has received sufficient transportation impact fees in the Impact Fee Fund to pay ten percent of the credit owed.

   c. When there are sufficient funds in the Impact Fee Fund, Transportation Financial Services prepares a Warrant Request to refund ten percent to the developer and enters the identifying information into the Transportation Impact Fee Tracking System. Transportation Financial Services then records the remaining credit dollar amount for consideration in future CIP Plan updates.

   d. Subsequent payments are made in accordance with the CIP Plan at the rate of at least 10% per year, final payment to be no later than the year specified for construction of the improvement by the CIP or the Transportation Facilities Plan which was in effect when the dedication was accepted. Entries of the payments are entered in to the Transportation Impact Fee Tracking system by Transportation Financial Services.

   e. Interest is not paid on any outstanding credit balance since dedications are made at the option of the developer. Developers have the option of paying the full transportation impact fee, or, with the City Council's approval, dedicating land and constructing improvements.

CHAPTER 5

REFUNDS TO DEVELOPERS

POLICY

If no construction has commenced, a refund of the transportation impact fee will be made under any of the following circumstances:

- The building permit or other approval expires
- The application is withdrawn, cancelled, or modified
- A fee has been erroneously paid or collected.

The transportation impact fee paid plus interest earned (based on the city's net internal investment portfolio yield) less a reasonable administrative charge for the processing of said fee will be refunded. Any fee erroneously paid or collected will be refunded in full, with interest earned.

All transportation impact fees not expended or encumbered within six years of collection will be refunded in full to the property owner currently of record with interest earned unless the City Council has made written findings extending the six-year period. (Ord. 4824 § 9, 1995; Ord. 4104 § 10, 1989.)

PROCEDURE

The Transportation Department Director designates the interest rate applied to impact fee refunds based upon the average monthly net earnings rate of the City's internal investment portfolio between the date the fee was paid and the date of the refund.

The administrative charge for the processing of impact fee refunds is $150 in 2010. This amount is based upon a reasonable approximation of the average staff hours necessary for the processing of a refund by representatives of the Transportation, Development Services, and Finance Departments. The amount may be adjusted in the future to reflect changes in cost of service.

CHAPTER 6

APPEALS

POLICY

If a developer chooses to appeal the determination of the amount of the transportation impact fee, the developer must file an appeal with the City Clerk's Office within 14 days of the date that notice of the fee is given to the developer. The appeal is processed pursuant to Process II of the Land Use Code (LUC 20.35.250 et seq. per 22.16.095 Appeal of Fees). Pending the determination on an appeal, a building permit is issued only if the developer first pays under protest the full amount of the transportation impact fee.

PROCEDURE

The developer has 14 days from the date recorded on the Notification of Transportation Impact Fee in which to appeal the transportation impact fee. The date recorded on the Notification of Transportation Impact Fee form is either:

- The date the notification is handed to the developer, or
- The date the notification is provided electronically to the developer.

To appeal, a developer must submit to the City Clerk's Office the following:

- A brief statement indicating the basis for the appeal, or
- A brief statement identifying explicit exceptions or objections, or specific errors in fact or conclusion, or
- Any other information relevant to the appeal.

The Transportation Department processes all appeals according to Process II of the Land Use Code. Pending the determination of the appeal, a developer may obtain the building permit only after paying, under protest, the full amount of the Transportation Impact Fee. The developer must provide a statement in writing to the Transportation Department that he/she is paying under protest.