

AN ORDINANCE IMPOSING AN IMPACT FEE UPON NEW DEVELOPMENT WITHIN A TRANSPORTATION SERVICE AREA WITHIN THE TOWNSHIP OF PEACH BOTTOM AND ESTABLISHING PROCEDURES AND STANDARDS ANCILLARY THERETO.

WHEREAS, Peach Bottom Township will experience considerable growth in the form of residential, commercial and industrial development in the next ten years; and

WHEREAS, it is anticipated that such new development will continue; and

WHEREAS, it is anticipated that such future development will create a substantial impact upon the transportation facilities within certain districts of the Township; and

WHEREAS, the Board of Supervisors is required to keep all roads open, in repair and useable for the safe and convenient travel by the public; and

WHEREAS, fulfillment of the above duty by the Board of Supervisors will entail a substantial cost directly attributable to the impact of new development; and

WHEREAS, the Board of Supervisors is empowered by law to impose all or a portion of said cost upon new development; and

WHEREAS, 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 safety and capacity standards, which public facilities shall be identified in a capital improvements program, taking in to consideration the projected growth of the Transportation Service Area; and

WHEREAS, the Township hereby finds and declares that an "Impact Fee" imposed upon residential and nonresidential development in order to assist in the financing of specified major transportation capacity improvements in the designated Transportation Service 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.

NOW, THEREFORE, in consideration of the foregoing, it is hereby **ENACTED AND ORDAINED** by the Board of Supervisors of Peach Bottom Township as follows:

SECTION 1. Title. This Ordinance shall be known as the "Peach Bottom Township Impact Fee Ordinance".

SECTION 2. Purpose. The purpose of this Ordinance is to establish an 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 condition and standards for the determination and imposition of the impact fee set forth herein are those set forth in Act 209 of 1990, and any and all amendments thereto (hereinafter the "Act"), and consist of:

(1) The recitals set forth above;

(2) The analysis, advice and recommendations of the Impact Fee Advisory Committee;

(3) The Land Use Assumptions 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 Resolution of 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 set forth in Section 16 of this Ordinance.

(d) The procedure for credits against or refunds of impact fees shall be as set forth in Section 18 and Section 19 of this Ordinance.

(e) Exemptions as the Board of Supervisors shall choose to enact shall be as 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 as described in the Program adopted by the Board of Supervisors. Said impact fee shall apply to all new developments or subdivisions within the transportation area identified

herein and shall be a condition precedent to final approval of a development plan or subdivision plan or issuance of a building permit. For purposes of this Ordinance "new development" shall mean "any commercial, industrial or residential or other project which involves new construction, enlargement, reconstruction, redevelopment, relocation or structural alteration and which is expected to generate additional vehicular traffic within the transportation service area of the municipality".

Section 6. Uses. Impact fees collected pursuant to this Ordinance shall be expended for costs incurred for improvements attributable to new development within the Transportation Service Area in which the new development will be located as defined in the Transportation Capital Improvements Plan adopted by Resolution of the Board of Supervisors. Additionally, such fees may be used for the acquisition of land and right-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) Land Use Assumption as adopted by Township Resolution.
- (b) Roadway Sufficiency Analysis as adopted by Township Resolution.
- (c) The Transportation Capital Improvements Plan as adopted by Township Resolution.
- (d) Designation of a transportation district or transportation service area as set forth on the Transportation Service Area Map identified as Exhibit A and incorporated herein by reference.

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 nonresidential developments only; provided, however, that no studies may be required where the proposed developments will not require a deviation from the land use assumptions used to create the Program.

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 Fee. This Ordinance shall be uniformly applicable to all development that occurs within the designated Transportation Service Area.

Section 10. Imposition of Impact Fee. No building permit shall be issued for development in the 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. Method of 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 Transportation Service Area which are attributed to and necessitated by new development within the Transportation Service Area as defined, divided by the number of anticipated PM 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, 7th or subsequent editions, which is hereby adopted by the Township, to equal a per PM peak hour trip cost for transportation improvements within the service area. For purposes of this Ordinance, "weekday PM peak hour of adjacent street traffic" is any hour between 4:00 P.M. and 6:00 P.M.

(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 PM peak hour trip cost established for the Transportation Service Area as established by Section 13 hereof 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 a new nonresidential development to assist in the determination of the amount of the transportation fee for such development or subdivision.

Section 13. Establishment of Transportation Service Area. The Transportation Service Area is established as shown on the "Transportation Service Area Map" (attached hereto as Exhibit A) and incorporated herein by reference).

Additional transportation district subareas or combinations of transportation district subareas 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 and 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 of the Transportation Service Area will be used exclusively to fund transportation improvement projects scheduled for the area.

Section 14. Calculation of PM Peak Hour Trip Fee for Transportation Service Area. The amount of PM peak hour trip fee for the Transportation Service Area shall be \$887.00. This is determined as follows:

Total cost of road improvements in the Transportation Service Area included in the adopted Transportation Capital Improvements Plan attributable and necessitated by new development or subdivision within the Transportation Service Area including fifty percent (50%) of the estimated costs of improvements to highway roads and streets qualifying as a state highway or portion of a rural highway system as provided in Section 102 of the State Highway Law -

\$ 2,973,089.00

Estimated number of PM peak hour trips

generated by all new development or

subdivision within the Transportation

Service Area - 3,352

Cost per PM peak hour trip \$ 887.00

Section 15. 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 16. 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 manners 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 proper accounting of such fees. All such fees shall be deposited in interest-bearing accounts 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) 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 Transportation Service Area.

Section 17. 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 18. 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 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 applicable impact fee. If, however, the amount of the credit is calculated to be 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.

(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.

Section 19. 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 the Township completes or terminates the Transportation Capital Improvements Plan and there remain 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 earned bears to the total impact fees collected plus interest.

(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 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 20. Effect of Impact Fee on Zoning, Proposed Residential Development 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, subdivision and proposed residential development regulations of the Township, which shall be operative and remain in full force and effect without limitation with respect to all such development.

Section 21. 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 ordinance 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 ordinance, regulations or policies, for other public facilities in addition to the impact fee for transportation improvements as provided herein.

Section 22. 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 23. Repealer. All ordinances, code sections or parts thereof in conflict herewith shall be repealed to the extent of such conflict.

Section 24. 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 25. Effective Date. This Ordinance shall take effect five (5) days after its passage.

Section 26. Retroactive Application.

(a) Notwithstanding Section 26 hereof, impact fees may be imposed on those projects involving developments, subdivisions and Planned Residential Development 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 PM peak hour per trip fee may not exceed One Thousand Dollars (\$1,000.00) or the actual calculated fee, whichever is less.

ENACTED AND ORDAINED this 1st day of June, 2005, by the Board of Supervisors of Peach Bottom Township.

ATTEST:

Secretary/Treasurer

BOARD OF SUPERVISORS OF

PEACH BOTTOM TOWNSHIP

By: _____

Supervisor

By: _____

Supervisor

By: _____

Supervisor