

**UPPER MORELAND TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1679

AN ORDINANCE CREATING A NEW ARTICLE VI FOR CHAPTER 330 "VEHICLES AND TRAFFIC," IN THE UPPER MORELAND TOWNSHIP CODE OF ORDINANCES IN ORDER TO ESTABLISH A TRANSPORTATION IMPACT FEE CONSISTENT WITH PENNSYLVANIA ACT 209 OF 1990, 53 P.S. §10501-A, *et seq.*

WHEREAS, Upper Moreland Township has experienced considerable traffic growth related to land development and redevelopment of residential, commercial and other development in recent years, and

WHEREAS, it is anticipated that traffic congestion and transportation issues will continue to be an issue in the Township for years into the future, and

WHEREAS, the Board of Commissioners, by Resolution R-2016-8 created a Transportation Advisory Committee in order to advise the Township Board of Commissioners on Transportation Capital Improvements that are needed in the Township, and

WHEREAS, the Board of Commissioners has reviewed and adopted the "Pennsylvania Act 209 Transportation Impact Fee - Roadway Sufficiency Analysis and Transportation Capital Improvements Plan" for Upper Moreland Township after a public hearing held thereon, and

WHEREAS, the Township Board of Commissioners finds that a Transportation Impact Fee authorized by Pennsylvania Act 209 of 1990, as amended, 53 P.S. §10501-A, *et seq.* is warranted under the circumstances in the Township in order to provide a mechanism to help finance the necessary transportation improvements,

NOW THEREFORE, in consideration of the foregoing, it is hereby ENACTED and ORDAINED by the Board of Commissioners of Upper Moreland Township that a new Article VI, "Transportation Impact Fee Ordinance," shall be added to Chapter 330, Vehicles and Traffic as follows:

1. Title.

This Ordinance shall be known as the "Transportation Impact Fee Ordinance."

2. Purpose.

The purpose of this Ordinance is to establish an Impact Fee Program to ensure that the transportation system of the Township is available and adequate to support any new growth and development as well as the redevelopment of previously used sites. To advance this objective, there is hereby created a transportation impact fee payable to the Township at the time of building permit issuance for any new development.

3. General Conditions.

The Land Use Assumptions Report, adopted by the Board of Commissioners of Upper Moreland Township, as well as the Roadway Sufficiency Analysis and Transportation Capital Improvements Plan, adopted by the Board of Commissioners of Upper Moreland Township are incorporated herein as fully as though set forth verbatim. Copies of these reports shall be maintained at the Upper Moreland Township building.

4. Definitions.

The terms and definitions set forth in §502-A of Act 209 of 1990, 53 P.S. §10502-A are incorporated herein as fully as though set forth verbatim, as amended from time to time.

5. Imposition.

There is hereby enacted an impact fee to be imposed upon new development, as defined in 53 P.S. §10502-A for the purpose of off-site public transportation capital improvements authorized by Act 209 of 1990 and described in the Transportation Capital Improvements Plan of Upper Moreland Township. Said impact fee shall apply to all new development within the transportation service area defined in the Roadway Sufficiency Analysis and Transportation Capital Improvements Plan. The amount of the traffic impact fee shall be sum of \$1,904 per weekday afternoon peak hour trip calculated in accordance with Section 10 below.

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 Commissioners and available for inspection at Upper Moreland Township for improvements within the transportation service area. 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 permitted under the provisions of the Act. Provided, however, that the applicant may provide written consent for the use of its collected impact fees in any other manner, and provided that the Board of Commissioners may grant an applicant credit against an applicant's impact fees for specific transportation projects, offsite to any development subject to these provisions, which are included in the Transportation Capital Improvements Plan, or are otherwise necessary in the Township.

7. Traffic Studies.

As part of any application for land development or subdivision, the Board of Commissioners may require the preparation of a Transportation Study to determine the traffic generation or circulation patterns in a new development, subdivision, redevelopment, or change of land use.

8. Applicability of Impact Fee Imposition.

This Ordinance shall be uniformly applicable to all development that occurs within the transportation service area. The Board of Commissioners of Upper Moreland Township retains the right to waive collection of a transportation impact fee when warranted by the total circumstances of the new development in the public interest.

9. Exemptions.

Reserved for future consideration.

10. Calculation of Impact Fees.

A. The transportation impact fees 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 attributable to and necessitated by the new development, redevelopment, subdivision or change of land use within the transportation service area as calculated in accordance with Act 209 and herewith, divided by the number of anticipated peak hour trips generated by all new development consistent with (a) the adopted Land Use Assumptions Report and (b) calculated in accordance with the Trip Generation Manual published by the Institute of Transportation Engineers as amended from time to time, or other recognized and acceptable calculation of per trip costs for transportation improvements within the transportation service area.

B. The specific transportation impact fee for a new subdivision, land development, redevelopment, or change of land use within the transportation service area for road improvements shall be determined as of the date of preliminary subdivision or land development approval by multiplying the per trip cost established for the transportation service area by the estimated number of p.m. peak hour trips to be generated by the new subdivision, land development, redevelopment, or change of land use using the Trip Generation Manual published by the Institute of Transportation Engineers as amended from time to time, or other acceptable methodology of calculating the anticipated peak hour trips for the development.

C. The Board of Commissioners of Upper Moreland Township may require the preparation of a special transportation study as part of an application for land development or subdivision in order to determine the traffic generation or calculation for a new p.m. peak hour trip for the development to assist in the determination of the amount of the transportation impact fee for any such subdivision or land development.

11. Transportation Service Area.

The transportation service area for Upper Moreland Township is as depicted in the Land Use Assumptions Report and Roadway Sufficiency Analysis and measures at or less than seven square miles.

12. Collection and Administration of Transportation Impact Fees.

A. Collection of Impact Fees. Impact fees pursuant to this Ordinance shall be collected by the Township prior to the issuance of any building permit.

B. Establishment of Fund. Upon receipt of any transportation impact fees pursuant to this Ordinance, where the applicant has not given written consent waiving the provisions of Act 209 of 1990, the Township Manager and Director of Finance 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 Township funds. Interest earned by such 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 and Director of Finance shall establish appropriate accounts and shall maintain records whereby impact fees collected pursuant to this Ordinance can be segregated as required by Act 209.

D. Maintenance of Records. The Township Manager or Director of Finance 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 monies received and which shall ensure that the disbursement of funds from any such account shall be used solely and exclusively for the provision of projects specified in the Transportation Capital Improvements Plan.

E. Refunds. Unless an applicant has consented in writing otherwise, 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:

(1) In the event the Township completes or terminates the Transportation Capital Improvements Plan and there remain undisbursed funds, the respective payor 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;

(2) In the event any specific road improvement project is completed at a cost to the Township less than 95% of the budget it costs of the road project, the Township shall refund an amount equal to that the excess budgeted costs over actual costs to the payors, *pro rata*, plus accumulated interest;

(3) In the event the Township fails to commence construction of a project 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;

(4) In the event the development for which the 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 impact fees attributable to an expired building permit to cover fees incurred by a renewal of said expired permit;

(5) With respect to refunds arising out of subparagraphs (1) and (2) herein, 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; and

(6) All requests for refunds arising under this Ordinance shall be made no later than four (4) years after the date payment was received by Upper Moreland Township and shall be preceded by sixty (60) days notice of the payor's intention to claim a refund and the reason therefore.

13. Repealer. All Ordinances, Code Sections or parts thereof in conflict herewith shall be repealed to the extent of such conflict.

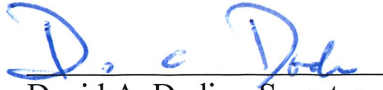
14. Severability. Should any sentence, section, clause, part or provision of this Ordinance be declared by a court competent jurisdiction to be invalid, the same shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part declared to be invalid.

15. Retroactive Application. Notwithstanding any language to the contrary herein, impact fees may be imposed on those projects involving developments, redevelopments, subdivisions and change of land uses 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, (a) that such retroactivity shall not extend 18 months after the adoption of the Resolution that created the Advisory Committee in connection herewith; and (b) in retroactive applications, the per trip fee shall not exceed \$1,000 or the actual calculated fee, whichever is less.

ENACTED by the Board of Commissioners of Upper Moreland Township on this 10th day of July 2017 by the Board of Commissioners of Upper Moreland Township.

Attest:

UPPER MORELAND TOWNSHIP
BOARD OF COMMISSIONERS



David A. Dodies, Secretary



R. Samuel Valenza, President