

Ordinance

DT-O-0088-21

DT-R-021S-89

AMENDMENT TO ODT-021R-89

(ADOPTING IMPACT FEE ORDINANCE ODT-021S-89)

DU PAGE COUNTY FAIR SHARE ROAD IMPROVEMENT IMPACT FEE  
ORDINANCE

WHEREAS, the DuPage County Board (hereinafter "County Board") has adopted ODT-021-89 regarding the imposition of fair share transportation impact fees, effective June 27, 1989; which has been amended from time to time; and

WHEREAS, the Illinois Road Improvement Impact Fee Law, 605 ILCS 5/5-901 *et seq.* (hereinafter "Impact Fee Law"), establishes procedures for the imposition of impact fees, 605 ILCS 5/5-905; and

WHEREAS, the County has the authority to adopt a fair share road improvement impact fee pursuant to statutory authority and other applicable law; and

WHEREAS, the County Board of DuPage County has determined that fair share impact fees are an equitable and financially responsible approach to ensuring that adequate roads, streets and highways will be available when needed to serve new development; and

WHEREAS, Impact Fee Law requires the County to form an Impact Fee Advisory Committee (hereinafter "IFAC") to review and recommend changes to the Impact Fee Ordinance, Procedures and Comprehensive Road Improvement Plan; and

WHEREAS, DuPage County has complied with the Impact Fee Law regarding presentation of technical factors, procedures and policy to IFAC; and

WHEREAS, Impact Fee Law requires the County to publish public hearing notices and conduct public hearings in conjunction with changes to the Ordinance and Comprehensive Road Improvement Plan; and

WHEREAS, DuPage County has published notices and conducted a public hearing on proposed changes to Impact Fee Ordinance ODT-021R-89 in accordance with Impact Fee Law; and

WHEREAS, IFAC has recommended proposed changes to ODT-021R-89 in the form of revised Ordinance ODT-021S-89; and

WHEREAS, the County Board has previously adopted fair share transportation impact fee ordinances and amendments for the purpose of ensuring that adequate transportation facilities will be provided in the County; and

WHEREAS, this Ordinance is intended to comply in all respects with the Road Improvement Impact Fee Law.

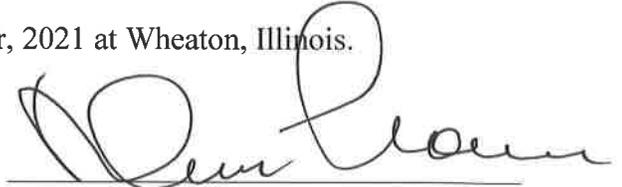
Ordinance

DT-O-0088-21

NOW, THEREFORE, BE IT RESOLVED by the County Board of DuPage County, Illinois that Ordinance ODT-021S-89, incorporated herein by reference, shall be adopted by the County Board and shall go into effect on December 1, 2021; and

BE IT FURTHER RESOLVED that the DuPage County Clerk shall submit a copy of this Amended Ordinance ODT-021S-89 to the codifier for publication and that copies of this Resolution and Ordinance ODT-021S-89 shall be sent to all DuPage County communities, by and through the DuPage County Division of Transportation.

Enacted and approved this 28th day of September, 2021 at Wheaton, Illinois.



DANIEL J. CRONIN, CHAIRMAN  
DU PAGE COUNTY BOARD

Attest:



JEAN KACZMAREK, COUNTY CLERK

AYES 16  
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ORDINANCE

ODT-021S-89  
AMENDMENT TO ODT-021R-89  
DU PAGE COUNTY FAIR SHARE ROAD IMPROVEMENT IMPACT FEE ORDINANCE

WHEREAS, the County Board of DuPage County (hereinafter "County Board") supports responsible new development within the County; and

WHEREAS, the legislature has passed the Road Improvement Impact Fee Law (hereinafter also referred to as "new statute"), formerly Ill. Rev. Stat. ch. 121, sec. 5-901 et seq., now 605 ILCS 5/5-901 et seq., on July 26, 1989; and

WHEREAS, the County Board has determined that fair share impact fees are an equitable and financially responsible approach to ensuring that adequate roads, streets and highways will be available when needed to serve new development; and

WHEREAS, the County has the authority to adopt a fair share road improvement impact fee pursuant to statutory authority and other applicable law; and

WHEREAS, the County Board has committed itself to developing and implementing a fair share road improvement impact fee program to mitigate the adverse traffic impacts of new development; and

WHEREAS, the County Board has previously adopted fair share transportation impact fee ordinances and amendments for the purpose of ensuring that adequate transportation facilities will be provided in the County; and

WHEREAS, additional road improvements are needed to serve new development; and

WHEREAS, DuPage County does not have sufficient revenues to ensure that adequate road improvements will be in place when needed by new development; and

WHEREAS, the County Board has determined that the fair share road improvement impact fees shall be expended on those road improvements within the service area or areas as specified in the COMPREHENSIVE ROAD IMPROVEMENT PLAN, as updated from time to time; and

WHEREAS, this Ordinance is intended to comply in all respects with the Road Improvement Impact Fee Law; and

NOW, THEREFORE, BE IT ORDAINED by the County Board of DuPage County, Illinois:

46 **Section One. Amendment**

47  
48 That certain Ordinance entitled the "DuPage County Fair Share Transportation Impact  
49 Fee Ordinance," being original Ordinance No. ODT-021-89, as amended, is hereby amended  
50 so that it hereafter reads as follows:

51  
52 **Section Two. Title.**

53  
54 This Ordinance shall be known and may be referred to as the "DuPage County Fair  
55 Share Road Improvement Impact Fee Ordinance."

56  
57 **Section Three. Purpose and Authority.**

- 58  
59 1) The County Board of DuPage County recognizes that development in the County will  
60 require that the capacity of the road, street and highway systems in the County be  
61 expanded and that without a funded program for road improvements, new  
62 development will have an adverse impact on the County highway system.  
63  
64 2) The County Board further recognizes that all development in the County generates  
65 traffic on the County highway system and requires direct or indirect access to County  
66 highways, regardless of the location of the development.  
67  
68 3) The purpose of this Ordinance is to ensure that new development that is approved for  
69 construction in the County pays a fair share of the costs of road improvements  
70 expended to serve new development. To that end, the imposition of such road  
71 improvement impact fees is designed to supplement other funding sources so that the  
72 burden of paying for road improvements is allocated in a fair and equitable manner  
73 and orderly growth is promoted throughout the County.  
74  
75 4) The preamble shall be incorporated by reference into the text of this Ordinance as if  
76 fully set forth herein.

77  
78 **Section Four. Definitions.**

79  
80 "ADVISORY COMMITTEE" means the group of members PERSON selected from the  
81 public and private sectors in accordance with the provisions of Section Nineteen hereof to  
82 advise in the development and implementation of the COMPREHENSIVE ROAD  
83 IMPROVEMENT PLAN and the periodic update of the plan.

84  
85 "AFFORDABLE HOUSING" means any housing that is identified by the County,  
86 DuPage Housing Authority or Municipal authorities as meeting the general classification of  
87 affordable.

88  
89 "ANCILLARY STRUCTURE" means any structure that is not the primary improvement  
90 of the property, but which may have been constructed to provide support uses. Ancillary  
91 structures are not intended for permanent human occupancy.

92  
93 "ASSISTED FINANCING" means the financing of residential development by the  
94 Illinois Housing Development Authority, including loans to developers for multi-unit residential  
95 development and loans to purchasers of single-family residences, including condominiums  
96 and townhouses.

97  
98 "AVERAGE TRIP RATE FOR PEAK HOUR OF ADJACENT STREET TRAFFIC"  
99 means the weighted average trip rate during the hour of the highest volume of traffic passing  
100 the site on adjacent streets between 4:00 and 6:00 p.m.

101  
102 "CERTIFICATE OF OCCUPANCY", means a permit issued by either the County or a  
103 municipality as a condition of occupancy, and includes any temporary occupancy permit as  
104 well as any permanent approval.

105  
106 "COMPREHENSIVE ROAD IMPROVEMENT PLAN" means the plan prepared by the  
107 County in consultation with the Advisory Committee.

108  
109 "COUNTY BOARD" means the County Board of DuPage County, Illinois.

110  
111 "COUNTY ENGINEER" means the DuPage County Engineer as that term is used in  
112 605 ILCS 5/5-201 et seq., formerly referred to as Superintendent of Highways.

113  
114 "DEVELOPER" means a PERSON, corporation, organization, or other legal entity  
115 undertaking new development.

116  
117 "ENCUMBERED", means legally obligated or otherwise committed to use under  
118 contract or purchase order.

119  
120 "FEE PAYER" means a PERSON undertaking new development who pays a fair share  
121 road improvement impact fee in accordance with the terms of any current or subsequent  
122 Ordinance.

123  
124 "FLOOR AREA" means the habitable finished floor area of a structure above, at and  
125 below grade as defined by the ANSI Z765-2003 Standard for Single Family Residential  
126 Buildings and by the BOMA standards for commercial structures.

127  
128 "GROSS LEASABLE FLOOR AREA" is the total floor **area** designed for tenant  
129 occupancy and exclusive use, including any basements, mezzanines, or upper floors.

130  
131 "IMPACT FEE IMPROVEMENT CREDIT AGREEMENT" means a written agreement  
132 between the COUNTY and a developer and/or fee payer as provided for in Section 13.1 of  
133 this Ordinance.

134  
135 "IMPACT FEE REMITTANCE AGREEMENT" means a written agreement between the  
136 COUNTY and a developer and/or fee payer as provided in Section 9 of this Ordinance.

137

138 "LAND USE ASSUMPTIONS" means a description of the service area or areas and  
139 the roads, streets or highways incorporated therein, and includes projections relating to  
140 changes in land uses, densities and population growth rates which affect the level of traffic  
141 within the service area or areas for a ten (10) year period of time.  
142

143 "LEVEL OF SERVICE" is a measure of roadway sufficiency of traffic flow, in which  
144 tolerable operating speeds are assessed, and in which changes in operating conditions,  
145 fluctuations in volume, and temporary restrictions to flow are evaluated.  
146

147 "LEVEL OF SERVICE D," as defined in the Highway Capacity Manual (Special Report,  
148 209, p. 11-4), borders on a range in which small increases in traffic flow may cause  
149 substantial increases in approach delay and, hence, decreases in arterial speed.  
150

151 "NEW DEVELOPMENT" means any residential, commercial, industrial or other project  
152 designed for human occupancy which is being newly constructed, reconstructed,  
153 redeveloped, structurally altered, relocated, or enlarged, and which generates additional  
154 traffic within the service area or areas of the County. Conversely, if the construction,  
155 expansion or change in use of any building(s) or structure(s) will not generate additional  
156 traffic, the development shall not constitute "NEW DEVELOPMENT" and the DEVELOPER  
157 shall be exempt from the provisions of this Ordinance and shall be issued an impact fee  
158 waiver. NEW DEVELOPMENT will be deemed to begin upon either the issuance of a building  
159 permit or commencement of construction, whichever occurs first.  
160

161 "NON-COMMENCEMENT" means the cancellation of construction activity making a  
162 material change in a structure, or the cancellation of any other new development activity  
163 making a material change in the use or appearance of land.  
164

165 "NON-RESIDENTIAL DEVELOPMENT" means a building or other structure that is  
166 suitable or capable of being used for all purposes other than residential purposes.  
167

168 "PERSON" means any individual, firm, partnership, association, public or private  
169 corporation, organization or business, charitable trust or governmental agency, PERSON or  
170 any other legal entity.  
171

172 "PROCEDURES MANUAL" means a document developed by the COUNTY  
173 ENGINEER and available from the Division of Transportation that sets forth the procedures,  
174 processes, forms and definitions to be used in the administration of this Ordinance.  
175

176 "RESIDENTIAL DEVELOPMENT" means a house, building or other structure that is  
177 suitable or capable of being used for residential purposes.  
178

179 "ROAD CAPACITY" means the maximum number of vehicles, as defined by the  
180 Highway Capacity Manual, Special Report 209, p. 11-11, which have a reasonable  
181 expectation of passing over a given section of a lane or a roadway in one direction, or in both  
182 directions for a two-lane, three-lane, or four-lane road, street or highway, during a given time  
183 period under prevailing traffic conditions at an identified level of service.

184  
185 "ROAD IMPROVEMENTS" means the improvement, expansion, enlargement or  
186 construction of roads, streets or highways under the jurisdiction of the County or adjacent  
187 facilities under State or municipal jurisdiction, and includes, but is not limited to bridges,  
188 rights-of-way, traffic control improvements and multi-modal transportation and transit  
189 infrastructure enhancements that serve to enhance the capacity and vehicular throughput of  
190 facilities owned and operated by the County. The term "road improvements" shall also mean  
191 preparation of plans and engineering related to the delivery of said improvements. The term  
192 "road improvements" shall not include tollways but may include tollway ramps at county  
193 highway interchanges.

194  
195 "ROAD IMPROVEMENT CAPITAL COSTS" include, but are not limited to, capital  
196 costs associated with the construction of new or expanded road improvements, the need for  
197 which is generated by new development which have a life expectancy of three (3) or more  
198 years, and the land acquisition, land improvement, planning, design, and engineering related  
199 thereto. Such costs do not include routine and periodic maintenance expenditures,  
200 resurfacing or rehabilitation of existing pavement structures, or personnel, training, or other  
201 operating costs, but do include the costs of financing such road improvements and  
202 reasonable administrative costs for administering the impact fee program, provided that such  
203 administrative costs do not exceed five percent (5%) of the fee paid.

204  
205 "ROAD IMPROVEMENT IMPACT FEE" means any charge or fee levied or imposed by  
206 the County as a condition to the issuance of a building permit or certificate of occupancy in  
207 connection with a new development, when any portion of the revenues collected is intended  
208 to be used to fund any portion of the costs of road improvements.

209  
210 "ROADS, STREETS OR HIGHWAYS" means any road, street or highway which has  
211 been designated for improvement in the COMPREHENSIVE ROAD IMPROVEMENT PLAN,  
212 together with all necessary appurtenances, including but not limited to bridges, rights-of-way,  
213 tollway ramps and traffic control improvements.

214  
215 "SERVICE AREA" means the land within the boundaries shown on Exhibit A to this  
216 Ordinance, formerly designated as impact fee districts in Ordinance ODT-021-89, as  
217 amended, and which are now designated in the COMPREHENSIVE ROAD IMPROVEMENT  
218 PLAN.

219  
220 "SITE-RELATED IMPROVEMENTS" means capital improvements necessary for direct  
221 access/egress to the development in question. Direct access/egress site-related  
222 improvements include the following: (1) site driveways and roads; (2) right and left-turn lanes  
223 for or leading to those driveways and roads; (3) traffic control measures for or leading to  
224 those driveways and roads; (4) acceleration/deceleration lanes; (5) median  
225 openings/closings; (6) roads necessary to provide direct access to the development; (7)  
226 landscaping; (8) lighting; (9) utilities; and (10) berms. The term "SITE-RELATED  
227 IMPROVEMENTS" includes any improvements made to roads, streets, or highways that are  
228 not designated for improvements in the County highway system.

229

230 "SPECIFICALLY AND UNIQUELY ATTRIBUTABLE" shall have the same meaning as  
231 that term is used in 605 ILCS 5/5-901 et seq.

232  
233 "SYSTEM IMPROVEMENT" means capital improvements, other than site-related  
234 improvements, on roads, streets or highways under the jurisdiction of the County which are  
235 designated for improvement in the COMPREHENSIVE ROAD IMPROVEMENT PLAN.  
236 Improvements not designated are not included in the term "System Improvement."

237  
238 "TECHNICAL SPECIFICATIONS" means the document that contains the impact fee  
239 calculation factors necessary for computation of the impact fee for a particular land use, the  
240 INDIVIDUAL ASSESSMENT, and the fee schedule attached to this document.

241  
242 "TEMPORARY STRUCTURES" means a building or structure intended for temporary  
243 human occupancy or for the protection of animals, chattels or property of any kind.

244  
245 "WORKING DAY" means any day on which the offices of the County are officially  
246 open, not including Saturdays, Sundays, and other holidays designated by the County Board.

247  
248 **Section Five. Interpretation of Ordinance and Fee Schedule and Appeals.**

- 249  
250 1) Interpretation of the provisions of this Ordinance, the fee schedules and individual  
251 assessments shall be made by the COUNTY ENGINEER of DuPage County.  
252 Whenever necessary, the COUNTY ENGINEER may use Trip Generation (10th ed.  
253 Institute of Transportation Engineers) or the Highway Capacity Manual (Special  
254 Report 209, Transportation Research Board), as may be amended from time to time,  
255 or locally obtained empirical data, in making such interpretations. The COUNTY  
256 ENGINEER shall establish a PROCEDURES MANUAL identifying the procedures the  
257 Division of Transportation will utilize in administering this Ordinance.  
258  
259 2) Any decision by the COUNTY ENGINEER with respect to this Ordinance may be  
260 appealed to the County Board through the Division of Transportation Committee. Any  
261 appeal shall be made by written petition within fourteen (14) calendar days of notice of  
262 a decision by the COUNTY ENGINEER.  
263  
264 3) Upon receipt of a petition for appeal of a decision of the COUNTY ENGINEER, the  
265 Division of Transportation Committee shall schedule consideration of such appeal for  
266 its next regularly scheduled meeting. The Committee shall notify the FEE PAYER by  
267 regular mail of the date of such meeting and shall consider such written or oral  
268 testimony that the FEE PAYER may present in conjunction with the decision and  
269 recommendation of the COUNTY ENGINEER. The Committee shall affirm, reverse, or  
270 modify the COUNTY ENGINEER's decision at the scheduled meeting.  
271  
272 4) The FEE PAYER shall have fourteen (14) calendar days after the Committee's  
273 decision to appeal that decision to the County Board. The County Board shall  
274 schedule consideration of such appeal at its next regularly scheduled meeting. Failure

275 by the County Board to render a decision within sixty (60) days of said County Board  
276 meeting shall constitute a denial of the appeal.

- 277  
278 5) A FEE PAYER may seek any subsequent relief in a de novo proceeding in a circuit  
279 court of competent jurisdiction.

280  
281 **Section Six. All Developers of New Development to Pay Fair Share Fee.**

282  
283 All DEVELOPERS of new development shall pay a fair share road improvement impact  
284 fee to the County in accordance with the terms and conditions of this Ordinance.

285  
286 **Section Seven. Assessment of Impact Fees.**

- 287  
288 1) Impact fees shall be calculated pursuant to the fee schedules shown in Exhibit B of  
289 this Ordinance and shall be due upon issuance of a building permit by the local  
290 authority unless otherwise provided herein. Unless the development is otherwise  
291 covered by an impact fee agreement, impact fees shall be assessed based on the  
292 predominant use of each building. Where separate building components are defined in  
293 mixed use developments, impact fees will be assessed based on the predominant  
294 style of each component. Speculative developments for which the use of buildings has  
295 not been determined will be assessed based on the projected use with the highest fee  
296 rate for the development. It is incumbent upon the developer and/or fee payer to seek  
297 relief from the COUNTY should the use at the time of occupancy be of lesser impact.  
298  
299 2) Any NEW DEVELOPMENT that has received site specific development approval shall  
300 be assessed an impact fee under the terms of the Ordinance in effect at the time the  
301 impact fee became due.  
302  
303 3) NEW DEVELOPMENT, except as provided in Section 19 of this Ordinance, shall be  
304 required to pay impact fees regardless of the jurisdiction of adjacent roadways where  
305 access or egress is being requested.  
306

307 **Section Eight. Payment of Impact Fees.**

- 308  
309 1) Except as may be provided in subsections 3 and 4 of this Section, fair share road  
310 improvement impact fees for new single-family residential development imposed  
311 pursuant to any current or subsequent Ordinance shall be paid in full prior to the  
312 issuance of a building permit by either a municipality or the County.  
313  
314 2) Except as provided in subsection 3 of this Section, fair share road improvement impact  
315 fees for new multi-family residential and for new non-residential development imposed  
316 pursuant to any current or subsequent Ordinance shall be paid in full prior to the  
317 issuance of an initial certificate of occupancy by either a municipality or the County,  
318 provided that the DEVELOPER and the County have entered into an agreement which  
319 provides that the DEVELOPER must notify the County when a building permit or  
320 certificate of occupancy has been issued. If there is no agreement regarding such

321 notice, then the FEE PAYER shall pay the fee as a condition to the issuance of a  
322 building permit. In the event that a building permit or certificate of occupancy is issued  
323 by a municipality without an impact fee having been paid, the County may collect the  
324 fee from the FEE PAYER at any time. FEE PAYERS paying an impact fee after a  
325 building permit or certificate of occupancy has been issued shall be charged a rate of  
326 interest which is three percent (3%) over the prime commercial rate in effect at the  
327 time that the fee is imposed. Interest shall begin accruing on the first business day  
328 following the date of building permit issuance.

- 329
- 330 3) Payment of the fair share road improvement impact fee may be authorized at any point  
331 earlier than as specified in subsections 1 and 2 above if the County and the FEE  
332 PAYER enter into an agreement that provides for such earlier payment of the fee. At  
333 the option of the County, the County may also enter into a Fair Share Fee Agreement  
334 with a FEE PAYER pursuant to Section Nine hereof that provides for the installment  
335 payment of the fee at a rate of interest which is 3% over the prime commercial rate in  
336 effect at the time that the fee is imposed, for a period of up to ten (10) years after the  
337 fee is due, provided that the County receives adequate security ensuring such later  
338 payment of the fee. In all agreements and/or deferral arrangements, interest shall  
339 begin accruing on the first business day following submittal of the impact fee  
340 application. DEVELOPERS of new residential developments who receive "assisted  
341 financing" as defined by this Ordinance, or who have received a commitment for  
342 assisted financing and whose financing has been provided within six (6) months of the  
343 issuance of a certificate of occupancy, may enter into an agreement with the County  
344 whereby the impact fee may be paid in installments over a ten (10) year period of time  
345 at a rate of interest which is three percent (3%) over the prime commercial rate in  
346 effect at the time that the fee is imposed.
- 347
- 348 4) In the event that any applicant fails to complete a permit application, including  
349 payment of fees, within 180 days of the original application date, the County shall  
350 terminate the original application and a new application shall be filed pursuant to any  
351 new rules and regulations of this Ordinance including any new fee schedule.

352

353 **Section Nine. Fair Share Road Improvement Impact Fee Remittance Agreements.**

354

- 355 1) At any time prior to the issuance of a building permit, the FEE PAYER may enter into  
356 an IMPACT FEE REMITTANCE AGREEMENT with the County providing for payment  
357 of the impact fee imposed by this Ordinance, in accordance with application  
358 requirements specified by the COUNTY ENGINEER. Such Remittance Agreement  
359 may provide for installment payments of the fee for a period up to ten (10) years, only  
360 in the case of development funded by "assisted financing", reduction of the fee through  
361 transportation systems management strategies, recapture payments for construction  
362 credits, credit and security arrangements and other matters relating to the fee. In  
363 addition, such Remittance Agreement may include an Improvement Credit Agreement  
364 as provided for in Section Thirteen of this Ordinance. The County may require the  
365 developer or Fee Payer to secure the deferred payment of an impact fee due under  
366 the provisions of this Ordinance. Security may be in the form of a promissory note,

367 cash bond, security bond, an irrevocable letter of credit, or a lien or mortgage on the  
368 lands to be covered by the building permit. The Remittance Agreement may provide  
369 that such security may be partially releasable upon receipt of partial payments of the  
370 fee. FEE PAYERS receiving "assisted financing" shall be charged a rate of interest  
371 which is three percent (3%) over the prime commercial rate in effect at the time that  
372 the fee is imposed, on any monies deferred.

- 373
- 374 2) FEE PAYERS for any new development other than residential development and FEE  
375 PAYERS of multi-unit residential development will be allowed to enter into fee  
376 agreements to defer payment of some portion of the fees due upon an initial certificate  
377 of occupancy. Fee agreements shall provide that a payment of at least fifty percent  
378 (50%) of the determined fees or construction credits in lieu of cash shall be payable  
379 when the initial certificate of occupancy is issued, and the balance shall be payable in  
380 twelve (12) months. FEE PAYERS shall be charged a rate of interest that is three  
381 percent (3%) over the prime commercial rate in effect at the time that the fee is  
382 imposed, on any monies deferred.
- 383
- 384 3) Within ten (10) working days of receipt of a written request for a Fee Agreement, the  
385 COUNTY ENGINEER shall determine if all pertinent information has been provided. If  
386 the COUNTY ENGINEER determines that additional documentation is required, the  
387 COUNTY ENGINEER shall send a written statement specifying the deficiencies by  
388 mail to the PERSON submitting the request. Until the deficiencies are corrected, the  
389 County shall take no further action on the request.
- 390
- 391 4) When the COUNTY ENGINEER determines that the request is complete, the  
392 COUNTY ENGINEER shall draft an Impact Fee Agreement that shall be reviewed and  
393 approved by the FEE PAYER. Upon acceptance of the Fee Agreement by the FEE  
394 PAYER, the Transportation Committee shall consider the Fee Agreement at its next  
395 regularly scheduled meeting, and if the Committee approves the Fee Agreement, the  
396 Chairman of the Committee may execute the Agreement on behalf of the County. The  
397 Committee shall only deny a Fee Agreement upon written findings that it is not in the  
398 best interest of the County, for reasons including but not limited to the extraordinary  
399 potential impacts of a development.

400

401 **Section Ten. Intergovernmental Agreements.**

402

- 403 1) At any time after the adoption of this Ordinance, the County may enter into an  
404 intergovernmental agreement with any municipality within its jurisdiction regarding the  
405 fee imposed by this Ordinance. Such intergovernmental agreements shall be adopted  
406 in accordance with State statutes and may include provisions governing administrative  
407 issues involving the collection of the fee imposed, such as the reimbursement of  
408 collection costs from the fees collected, and any other matters deemed necessary or  
409 appropriate by the County and the municipality.
- 410
- 411 a) The intergovernmental agreement may provide for the collection of a fair share  
412 road improvement impact fee for municipal roads as an additional component of the

413 DuPage County Fair Share Road Improvement Impact Fee, provided that all the  
414 municipalities in the applicable impact fee service area enter into an intergovernmental  
415 agreement with the County that provides that the municipal road portion of the fee  
416 shall be expended for municipal road improvements within the service area in which  
417 the fee is collected, and provided that the use of the funds on municipal roads is used  
418 in the same manner and for the same purposes as motor fuel tax money allotted to the  
419 County under the provisions of 605 ILCS 5/5-701 et seq., solely for road improvement  
420 capital costs.

421  
422 **Section Eleven. Fair Share Road Improvement Impact Fee Schedule.**

- 423
- 424 1) Any PERSON who initiates any development, except those preparing an Individual  
425 Assessment pursuant to Section Twelve of this Ordinance and those activities  
426 exempted from the fee by the provisions of Section Eighteen hereof, shall pay a fair  
427 share impact fee as set forth on Exhibit B to this Ordinance.  
428
  - 429 2) Where the land use in a particular development is not listed on the fee schedule, the  
430 COUNTY ENGINEER may determine the land use classification which most closely  
431 identifies the development, and which shall apply for purposes of determining the  
432 applicable fee under this Section.  
433
  - 434 3) In the event that the development proposed is a change in the immediate past use, the  
435 amount of the fee shall be based on the change in trips generated by the new use, and  
436 the formula set out in Section Twelve shall be used to calculate the fee.  
437
  - 438 4) Where a proposed development is to be located within two (2) service areas, the  
439 COUNTY ENGINEER shall determine the fee as follows:  
440
    - 441 a) If a residential development, the fee shall be determined by counting the number of  
442 dwelling units located within each service area and charging a straight-per-unit cost  
443 for units within each area.  
444
    - 445 b) If a non-residential development, the fee shall be determined by calculating the  
446 average of the fees that would otherwise be charged if the development were  
447 located entirely within each service area.  
448

449 **Section Twelve. Individual Assessment of Impact.**

- 450
- 451 1) Any PERSON who initiates development may choose to provide an Individual  
452 Assessment of the impacts of the proposed development upon the road, street and  
453 highway systems in the County. The Individual Assessment may be used to determine  
454 whether a fair share of the road improvements' capital costs necessitated by the  
455 proposed development should be less than the fee established in Section Eleven of  
456 this Ordinance or the appropriate fee for a particular use or combination of uses not  
457 identified in Section Eleven.  
458

459 2) Any PERSON who chooses to provide an Individual Assessment is required to submit  
 460 to the COUNTY ENGINEER a written statement of intent to perform an Individual  
 461 Assessment.

462  
 463 3) The Individual Assessment shall be calculated according to the following formula (See  
 464 TECHNICAL SPECIFICATIONS for more detailed information):  
 465

466 
$$\text{GROSS FEE} = \frac{((\text{PHAST} \times \text{NT}) \times (\text{TRIP LENGTH} \times \% \text{VMT}) / 2) \times (\text{LANE-MILE COST})}{(\text{CAPACITY})}$$

467  
 468  
 469 
$$\text{NET FEE} = \text{GROSS FEE} \text{ minus TAX CREDIT minus IMPROVEMENT CREDITS minus}$$
  
 470 
$$\text{DEMOLITION CREDITS.}$$

471  
 472 
$$\text{DISCOUNTED FEE} = \text{NET FEE} \times .85 \text{ (ADMINISTRATIVE DISCOUNT)}$$

473  
 474 
$$\text{MITIGATED FEE} = \text{DISCOUNTED FEE} \times (100\% \text{ minus IMPACT FEE MITIGATION}$$
  
 475 
$$\text{FACTOR})$$

476  
 477 WHERE:

478

PHAST	Number of trips generated on a weekday during the peak hour of adjacent street traffic between 4:00 P.M. and 6:00 P.M.
NT	Fraction of PHAST which represents new trips on the highway system: 1 minus the fraction of PHAST which are passby trips minus the fraction of PHAST which are diverted trips.
Trip Length	Average Trip Length in Miles
%VMT	% of Vehicle Miles of Travel on County Highway System in the given Service Area.
Capacity	Lane Mile Capacity at LOS "D" in Vehicles Per Hour
Lane-Mile Cost	Average Construction and Right of Way Cost of a Lane-Mile with Intersection Improvements
Tax Credit	The present value of that portion of the highway, local gas tax and motor fuel taxes expected to be generated by the development which are devoted to capital expenditures.
Improvement Credits	The value of improvement credits pursuant to an Improvement Credit Agreement (See Section Thirteen).

Demolition Credits	The value of impact fees that would have been assessed on a building or buildings that FEE PAYER demolishes prior to development. (See Section Fourteen).
Impact Fee Mitigation Factor	The percentage determined by the COUNTY ENGINEER by which the Discounted Fee shall be reduced based upon trip reduction measures included in the new development, as provided for in Section Nineteen of this Ordinance. Only new developments meeting the specific requirements of Section Nineteen are eligible for this reduction. For all other projects, the Impact Fee Mitigation Factor is 0%.

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4) The Individual Assessment shall include the following information:

- a) The proposed trip generation rates for the proposed development, on an average daily and on a peak design hour basis. The trip generation rates shall be based on local empirical surveys for the same or similar land use types.
- b) The proposed trip reduction rates for pass-by and diverted-linked trips, if any. The trip reduction rates shall be based on local empirical surveys for the same or similar land use types.
- c) The proposed average trip length generated from the proposed development onto the County's road system. Trip length information shall be based upon local empirical surveys of similar land use type and may include, if available, empirical data which specify the percentage of travel made on County Highways by users of the proposed development;
- d) Assessment of the costs of providing a lane-mile with intersection improvements and right-of-way. The cost figures used shall be based upon recently assembled empirical information of the costs in DuPage County for the cost of a lane-mile.
- e) A completed Impact Fee Mitigation Assessment as defined in Section XX of this Ordinance.
- f) The Individual Assessment shall be prepared by professionals, qualified by the County in accordance with established procedures, in the field of transportation planning and engineering and impact analysis.
- g) Within ten (10) working days of receipt of an Individual Assessment, the COUNTY ENGINEER shall determine if the Individual Assessment is complete. If the COUNTY ENGINEER determines the application is not complete, the COUNTY ENGINEER shall send a written statement specifying the deficiencies by mail to the PERSON submitting the application. Until the deficiencies are corrected, the

COUNTY ENGINEER shall take no further action on the application, other than further reviews for completeness.

- h) When the COUNTY ENGINEER determines the Individual Assessment is complete, the assessment shall be reviewed within fifteen (15) working days. The COUNTY ENGINEER shall approve the proposed fee if the COUNTY ENGINEER determines that the traffic information, traffic factors, and methodology used to determine the proposed impact fee are professionally acceptable and fairly assess the costs for capital improvements to the road, street and highway systems in the County in accordance with the formula set out in Subsection 1 of this Section. If the COUNTY ENGINEER determines that the traffic information, traffic factors, or methodology are unreasonable, the proposed fee shall be denied, and the DEVELOPER shall pay the fair share impact fee according to the schedule established in Section Eleven (1) of this Ordinance or as set by the COUNTY ENGINEER, if the use had not previously been identified in the fee schedule. If the Individual Assessment is denied, the PERSON or DEVELOPER may appeal the decision of the COUNTY ENGINEER in the manner provided for in Section Five of this Ordinance.

**Section Thirteen. Fair Share Impact Fee Improvement Credit Agreements.**

- 1) Any PERSON who initiates development may request an improvement credit against the fair share impact fee imposed by this Ordinance for any contribution, payment, recapture, construction, or dedication of land accepted and received by DuPage County for system improvements in accordance with the provisions of this section. Credits shall not be given for any contributions made by a DEVELOPER that are not used for the benefit of the County road, street or highway system, such as the donation of parks or school sites. Credits shall not be given for any contributions made by a DEVELOPER that are required by the County, a municipality or other unit of local government such as:
  - a) Subdivision or service roads either on site or immediately adjacent the Development site
  - b) Acceleration, deceleration or any turn lanes required for safe access to/from the site on state, county or local roads
  - c) Stormwater detention or any other required environmental treatments to the site
  - d) Traffic signal installations sought by the developer or installed by another entity for the safe access to/from the development.
- 2) A FEE PAYER, or his or her successor in interest, may apply for an improvement credit, which has not otherwise been used in another improvement credit agreement, against an impact fee which would otherwise be due and owing under the provisions of this Ordinance, provided that the improvement for which credit is being sought is

- 558 located within the same service area as the development which would be the  
559 beneficiary of the credit.  
560
- 561 3) The County will not be required to refund any impact fee or part thereof for any  
562 improvement credits that exceed the impact fee imposed by this Ordinance for the new  
563 development.  
564
- 565 4) A PERSON submitting an impact fee improvement credit agreement where the  
566 agreement value is less than the impact fee determined for a development, shall pay  
567 the County the difference between the determined fee and the impact fee  
568 improvement credit according to the timing provided in Section 8.1 of this Ordinance.  
569
- 570 5) A PERSON shall be entitled to an improvement credit equal to the dollar value of the  
571 cost of system improvements contributed, paid for or committed to by the PERSON or  
572 his or her predecessor in interest in conjunction with the County's approval of the  
573 development which is subject to the impact fee for which a credit is being sought.  
574 Credit for system improvements will be given only if the COUNTY ENGINEER  
575 determines the system improvements are justified in accordance with the  
576 COMPREHENSIVE ROAD IMPROVEMENT PLAN. The cost of such improvements  
577 shall be based on the following criteria:  
578
- 579 a) The actual cost of improvements based on a valid contract proposal or bid  
580 tabulations for work performed in DuPage County on a DuPage County highway;  
581 and  
582
- 583 b) The mean value of two qualified appraisals of the fair market value of any land or  
584 interest therein which is part of the improvement for which a credit is being sought.  
585 The PERSON or DEVELOPER and the County shall each provide a qualified  
586 appraisal from which the mean shall be determined.  
587
- 588 6) The PERSON or DEVELOPER shall initiate such determination of entitlement to credit  
589 by submitting a written request for an Improvement Credit Agreement to the COUNTY  
590 ENGINEER. The request for an Improvement Credit Agreement shall include the  
591 following information:  
592
- 593 a) A proposed plan of specific road improvements prepared and certified by a duly  
594 qualified and licensed Illinois engineer; and  
595
- 596 b) The projected costs for the suggested roadway improvements, which shall be  
597 based on local information for similar roadway improvements, along with the  
598 construction timetable for the completion of such improvements. Such estimated  
599 costs shall include the cost of all labor and materials, the appraised value or cost of  
600 all lands, property, rights, easements and franchises acquired, financing charges,  
601 interest prior to and during construction and for one (1) year after completion of  
602 construction, cost of plans and specifications, surveys of estimated costs and of  
603 revenues, costs of engineering and legal services and all other expenses

604 necessary or incidental to determining the feasibility or practicability of such  
605 construction or reconstruction.

606  
607 Within ten (10) working days of receipt of the request for an Improvement Credit  
608 Agreement, the COUNTY ENGINEER shall determine if all pertinent information has  
609 been provided. If the COUNTY ENGINEER determines that additional information is  
610 required, the COUNTY ENGINEER shall send a written statement outlining the  
611 deficiencies to the PERSON submitting the request. The COUNTY ENGINEER shall  
612 take no further action on the proposed Agreement, other than further reviews for  
613 completeness, until all deficiencies have been corrected or otherwise settled. Once  
614 the COUNTY ENGINEER determines that the proposed improvement is a system  
615 improvement and the proposed costs for the suggested improvement are  
616 professionally acceptable and fairly assess its cost and the agency with jurisdiction  
617 over the proposed improvement is in agreement with the improvement, the COUNTY  
618 ENGINEER shall draft an Improvement Credit Agreement that shall be reviewed and  
619 approved by the PERSON or DEVELOPER submitting the request for the agreement.  
620 The Improvement Credit Agreement shall specifically outline the capital roadway  
621 improvements that will be constructed by the PERSON or DEVELOPER, the time by  
622 which the improvements shall be completed, and the dollar credit the PERSON or  
623 DEVELOPER shall receive for construction of the improvements. If the COUNTY  
624 ENGINEER determines that either the suggested improvement is not a system  
625 improvement or that the proposed costs are not acceptable, the COUNTY  
626 ENGINEER shall notify the PERSON or DEVELOPER of his or her decision and may  
627 propose an alternative improvement consistent with the provisions of this Ordinance.  
628

- 629 7) Upon acceptance of the Improvement Credit Agreement by the COUNTY ENGINEER  
630 and the PERSON or DEVELOPER, the Transportation Committee shall consider the  
631 Improvement Credit Agreement at its next regularly scheduled meeting. And, if the  
632 Committee approves the Improvement Credit Agreement, the Chairman of the  
633 Committee may execute the Agreement on behalf of the County. Any Improvement  
634 Credit Agreement that awards the PERSON or DEVELOPER a dollar credit of over  
635 \$100,000 shall be reviewed and ratified by the County Board before it may be  
636 executed by the Chairman.  
637

638 **Section Fourteen. Fair Share Impact Fee Credit Agreements.**

- 639  
640 1) DuPage County shall allow DEVELOPERS or municipalities to accrue impact fee  
641 credits through Credit Agreements. Credits are garnered through a limited set of  
642 circumstances including:  
643 a. Dedication of real property exclusively for use by the COUNTY for capital  
644 facilities.  
645 b. Transfer of a facility (roadway) to the COUNTY which constitutes a system  
646 improvement.  
647  
648 2) The County Engineer shall review the proposed dedication or transfer to ensure that  
649 the property or roadway is suitable for COUNTY needs. If acceptable, the County

650 Engineer shall inform the agency seeking credits. If not acceptable, the County  
651 Engineer shall provide written notice to the credit petitioner.  
652

- 653 3) If the County Engineer has deemed the credit petition acceptable, the County  
654 Engineer shall then cause the following to occur prior to the Credit Agreement:
- 655 a. Require the Credit petitioner to produce plats and legal descriptions of all  
656 properties or facilities subsumed under the agreement.
  - 657 b. An assessment of the value of the property or facility in question by a certified  
658 appraiser selected by the COUNTY.
  - 659 c. An appraisal of the value of the property or facility in question by a certified  
660 appraiser selected by the DEVELOPER or agency.
  - 661 d. Negotiate any differences in the value of the two appraisals  
662
- 663 4) The COUNTY shall prepare a proposed agreement stating the agreed value of the  
664 credit and shall present the agreement to the Impact Fee Advisory Committee,  
665 Transportation Committee of the County Board and to the County Board for approval.  
666 The Impact Fee Advisory Committee and Transportation Committee may recommend,  
667 reject or modify the agreement. In the event that the committees reject or modify the  
668 proposed agreement the COUNTY and the DEVELOPER or Agency may modify or re-  
669 draft the proposed agreement and re-submit the agreement to the Impact Fee  
670 Advisory Committee and Transportation Committee. With approval by both of these  
671 bodies, the County Board shall consider and approve, reject or recommend  
672 modification of the agreement.  
673

674 Credits shall be issued to the petitioner upon transfer of title and deed to the COUNTY  
675 and a credit account shall be established. The credit holder shall provide the  
676 COUNTY with the name, address, phone number and e-mail of the primary contact  
677 who will be managing the credit account. The credit holder shall notify the COUNTY  
678 when management of the account changes or when the primary credit holder changes.  
679 Successors in interest are required to provide credit management information to the  
680 COUNTY. Failure to provide this information within two (2) years of a management  
681 change may result in the forfeiture of Credit account.  
682

- 683 5) The Division of Transportation shall maintain records of the use of impact fee credits  
684 toward payment of impact fee due and shall provide at the minimum an annual  
685 statement to the beneficiary of each impact fee credit agreement indicating use of any  
686 impact fee credits during the reporting period and the balance of impact fee credits  
687 remaining. Upon execution of an impact fee credit agreement, the beginning balance  
688 shall be equal to the dollar value of the impact fee credits as specified in the impact  
689 fee credit agreement. Impact fee credits will be applied against new development in  
690 the following manner:
- 691
  - 692 a. The recipient of the impact fee credit shall indicate on the impact fee application  
693 that impact fees assessed shall be paid by utilizing impact fee credits and shall  
694 indicate the impact fee credit agreement number.  
695

- 696 b. For each portion of the new development to which an impact fee credit is  
697 intended to be applied, the COUNTY shall calculate the gross impact fee in  
698 accordance with Section 11 of this Ordinance or in accordance with Exhibit B of  
699 this Ordinance. The remaining impact fee credit balance shall be reduced by  
700 the gross impact fee for that portion of the new development. The impact fee  
701 receipt shall note that the impact fees were paid through application of impact  
702 fee credits and the amount of impact fee credit expended.  
703
- 704 c. If the impact fee credits remaining are insufficient to cover the gross impact fee  
705 for the new development, the COUNTY shall notify the FEE PAYER and the  
706 credit holder and shall utilize the remaining impact fee credit balance to apply  
707 against the impact fee due. The FEE PAYER shall then be notified of the  
708 remaining impact fee due.  
709

710 **Section Fifteen. Demolition Credits.**

- 711
- 712 1) A PERSON shall be entitled to a DEMOLITION CREDIT equal to the dollar value of  
713 impact fee that would have been charged on the building or buildings being  
714 demolished as part of a redevelopment plan or NEW DEVELOPMENT. The  
715 DEMOLITION CREDIT shall not exceed the gross impact fee for the NEW  
716 DEVELOPMENT.  
717
- 718 2) At the time of impact fee application, the PERSON applying for an impact fee shall  
719 present to the COUNTY evidence of demolition related to NEW DEVELOPMENT. A  
720 copy of the demolition permit, regardless of applicant participation in said demolition,  
721 or a letter of intent to demolish if the demolition will be accomplished during or after  
722 NEW DEVELOPMENT, are satisfactory documents. The demolition permit or letter  
723 shall be attached to the impact fee application and demolition credits shall be  
724 calculated based upon the impact fee schedule in effect at the time of demolition.  
725 These credits shall be deducted from the gross impact fee calculated for the NEW  
726 DEVELOPMENT.  
727
- 728 3) A PERSON shall not be entitled to a demolition credit if the unit(s) were demolished  
729 more than 5 years prior to the effective date of this ordinance wherein the land would  
730 be considered vacant.  
731
- 732 4) The COUNTY shall not issue demolition credits for demolitions not associated with  
733 NEW DEVELOPMENT.  
734

735 **Section Sixteen. Establishment of Service Areas.**

736

737 There are hereby established service areas for the County in accordance with the  
738 boundaries set forth on Exhibit A of this Ordinance. The funds collected pursuant to  
739 this Ordinance shall be expended within the service area from which they were  
740 collected, in accordance with the provisions of Section Seventeen of this Ordinance.  
741

742 **Section Seventeen. Use of Funds Collected.**

- 743
- 744 1) The funds collected pursuant to this Ordinance and Ordinance ODT-021-89, as  
745 amended, shall be used in the same manner and for the same purposes as motor fuel  
746 tax money allotted to the County under the provisions of 605 ILCS 5/5-701 et seq.,  
747 solely for road improvements capital costs that are specifically and uniquely  
748 attributable to the development charged the fee. In no event shall funds be expended  
749 to alleviate existing deficiencies in the County's road, street or highway systems. The  
750 funds shall be expended on road improvements within the service area or areas from  
751 which they were collected, as specified in the COMPREHENSIVE ROAD  
752 IMPROVEMENT PLAN. In the event that a service area boundary is the centerline of a  
753 County road or intersection, the COUNTY ENGINEER may use the funds to complete  
754 the road improvements to the opposite side of the road or right of way. Co-mingling of  
755 funds with regular highway, local gasoline or motor fuel tax funds on projects is  
756 permissible to the extent that regular tax funds are used to pay for at least the cost of  
757 alleviating the existing deficiencies. The COUNTY ENGINEER shall provide a written  
758 justification of the allocation of impact fee funds whenever such funds are allocated to  
759 projects that will remedy existing deficiencies, demonstrating that the impact fee funds  
760 are not used for such deficiencies.
- 761
- 762 2) Use of impact fees by agencies other than DuPage County is permissible under state  
763 statute (605 ILCS 5/5-903). Road improvements may also include the improvement,  
764 expansion, enlargement or construction of roads, ramps, streets or highways under  
765 the jurisdiction of the State of Illinois or other local agency, provided that the State,  
766 COUNTY or local entities have developed an agreement providing for the construction  
767 and financing of such road improvements and that these improvements are  
768 incorporated into the comprehensive road improvement plan. Road improvements  
769 shall not include tollways but may include tollway ramps. Use of funds is limited to  
770 projects adjacent to and effecting County highways where there is a demonstrable  
771 performance or capacity benefit.
- 772
- 773 3) Any expenditure or encumbrance of impact fee funds used to acquire right of way shall  
774 be expended or encumbered in conjunction with the construction associated with that  
775 right of way and shall begin within five (5) years from receipt of the funds used to  
776 acquire the right of way.
- 777
- 778 4) The impact fees collected by the County pursuant to this Ordinance shall be kept  
779 separate from other funds of the County.
- 780
- 781 5) A "Road Improvement Impact Fee Fund" shall be established for each service area  
782 established in Section Fifteen of this Ordinance to ensure that the fees collected are  
783 appropriately earmarked and spent for road improvement capital costs in accordance  
784 with the provisions of this Ordinance. In the event that any municipality enters into an  
785 intergovernmental agreement for the collection of a Fair Share Road Improvement  
786 Impact Fee for municipal roads, an additional Road Improvement Impact Fee Fund  
787 shall be established for each of the service areas in which the municipality is located to

788 ensure that the municipal component of the fee is expended on municipal projects  
789 within the district in which it is collected.

790  
791 6) Road improvement impact fees collected shall be accrued to the fund established for  
792 the service area in which the new development is proposed.

793  
794 7) Any funds on deposit not immediately necessary for expenditure shall be invested in  
795 interest bearing accounts designated solely for such funds for each service area. All  
796 interest derived from these investments shall be retained in the appropriate fund and  
797 used for road improvements authorized in this Ordinance.

798  
799 8) The County shall provide that an accounting be made annually for any account  
800 containing impact fee proceeds and interest earned. Such accounting shall include,  
801 but shall not be limited to, the total funds collected, the source of the funds collected,  
802 the total amount of interest accruing on such funds, the amount of funds expended on  
803 road improvements, and a list of the credits given. The County shall publish the results  
804 of the accounting in a newspaper of general circulation within DuPage County at least  
805 three (3) times. The notice shall also state that a copy of the accounting report shall be  
806 made available to the public for inspection at reasonable times. A copy of the report  
807 shall be given to the Advisory Committee and shall be posted with Advisory Committee  
808 approval on the DuPage County impact fee web page.

809  
810 **Section Eighteen. Refunds.**

811  
812 1) Any impact fee collected may be returned to the FEE PAYER if the approved new  
813 development is cancelled due to non-commencement of construction before the funds  
814 have been spent or encumbered by contract. Refunds may be made in accordance  
815 with this Section, provided that the FEE PAYER or his or her successor in interest files  
816 a written request for a refund within one (1) year of the date that the fees were  
817 required to be encumbered by contract.

818  
819 2) Impact fees collected shall be encumbered for the construction of roadway facilities  
820 within five (5) years of the date of collection. In determining whether the funds have  
821 been encumbered, the funds should be accounted for on a first-in- first-out (FIFO)  
822 basis.

823  
824 3) The fees collected pursuant to this Ordinance shall be returned to the FEE PAYER  
825 only upon receipt of a written refund Affidavit. The Affidavit shall include the following  
826 information:

827  
828 a) A notarized sworn statement that the FEE PAYER paid the impact fee for the  
829 property and the amount paid;

830  
831 b) A copy of the dated receipt issued by the County for payment of the fee;  
832

- 833 c) A certified copy of the latest recorded deed for the property that comprises the new  
834 development for which the fee was paid;  
835
- 836 d) A copy of the most recent ad valorem tax bill that comprises the new development  
837 for which the fee was paid;  
838
- 839 4) Within ten (10) working days of receipt of the written request, the COUNTY  
840 ENGINEER shall determine if it is complete. If the COUNTY ENGINEER determines  
841 the refund request is not complete, the COUNTY ENGINEER shall send a written  
842 statement specifying the deficiencies by mail to the PERSON submitting the request.  
843 Unless the deficiencies are corrected, the COUNTY ENGINEER shall take no further  
844 action on the request.  
845
- 846 5) When the COUNTY ENGINEER determines the request for refund is complete, the  
847 COUNTY ENGINEER shall review it within fifteen (15) working days and shall approve  
848 the proposed refund if the COUNTY ENGINEER determines the FEE PAYER has paid  
849 an impact fee which the County has not spent or encumbered within five (5) years  
850 from the date the fees were paid.  
851
- 852 6) When the money requested is still in a fund and has not been spent or encumbered  
853 within five (5) years of the date the fees were paid, the money shall be returned along  
854 with interest at a rate which is seventy percent (70%) of the prime commercial rate in  
855 effect at the time that the fee is imposed, less three percent (3%) of the total fee to  
856 defray the costs of administration.  
857
- 858 7) Refunds may be made at the discretion of the COUNTY ENGINEER without  
859 application in any case where inadvertent mathematical overpayment has been made.  
860

861 **Section Nineteen. Exemptions.**  
862

863 The following development shall be exempt from payment of the fair share road  
864 improvement impact fee imposed in this Ordinance:  
865

- 866 1) Alteration or expansion of existing single family or multi-family dwelling units where the  
867 use is not changed;
- 868 2) Alteration or expansion of existing commercial units where the existing plus proposed  
869 gross floor area is under 10,000 square feet.
- 870 3) Internal remodeling of existing space of any kind;
- 871 4) NEW DEVELOPMENT where the structural alteration or enlargement of an existing  
872 building that has a current area of 10,000 square feet or more meets any of the  
873 following conditions:
- 874 a) the addition or expansion of the existing structure does not exceed ten percent  
875 (10%) of the existing floor area square footage of the building; or

- 876 b) where additional trips created by the alteration or enlargement does not exceed ten  
877 percent (10%) of trips per existing land use; or
- 878 c) where the alteration is required by COUNTY or Municipal building code;
- 879 5) The construction of ANCILLARY STRUCTURES which are not dwelling units and  
880 which do not constitute an increase in intensity of use;
- 881 6) The replacement or reconstruction of a destroyed or partially destroyed building with a  
882 new building of the same size and use;
- 883 7) Publicly owned and operated school and university buildings;
- 884 8) Public buildings owned, operated and occupied by local, county, state and federal  
885 government agencies.
- 886 9) TEMPORARY STRUCTURES;
- 887 10) AFFORDABLE HOUSING. Each housing unit (or designated percentage of the  
888 housing units in multi-family housing developments) meeting the definition of  
889 "affordable housing" and the requirements of this Section shall be exempt from the  
890 payment of an impact fee.

891

892 **Section Twenty. Impact Fee Mitigation**

893

894 A NEW DEVELOPMENT shall be eligible for a discount from impact fees assessed in  
895 accordance with Section Eleven provided the following criteria:

896

897 1) New Development in Downtown Areas are eligible for the following discounts (up to a  
898 maximum of 65%):

899

900 a) 20% Discount if the new development is within ½ mile of an existing METRA  
901 station operating under a regular schedule

902

903 b) 10% Discount if the new development is within ¼ mile of an existing PACE  
904 suburban fixed bus route operating under a regular schedule

905

906 c) 10% Discount for Mixed Use Developments with a total floor area of greater than  
907 20,000 square feet having residential and at least 2 of the following land uses  
908 incorporated:

909

910 i) Retail

911

912 ii) Office

913

914 iii) Restaurant

915

916 iv) School or Day Care

917

v) Entertainment (e.g., theaters, recreational uses)

918

vi) Grocery store

919

vii) Medical/Dental Office

- 917 d) 25% Discount for Redevelopment of a site in a downtown Tax Increment Finance  
918 (TIF) district where the redevelopment site meets any two (2) of the following  
919 criteria:  
920 i) Age  
921 ii) Deterioration of Buildings  
922 iii) Depreciation of physical maintenance  
923 iv) Obsolescence  
924 v) Structures below minimum code  
925 vi) Excessive vacancies  
926
- 927 e) Demolition Credit discounts as applied under Section Fifteen (15) of this Ordinance  
928
- 929 2) New Development in Suburban Areas are eligible for the following discounts (up to a  
930 maximum of 40%):  
931
- 932 a) 10% Discount if the new development is within ½ mile of an existing METRA  
933 station operating under a regular schedule  
934
- 935 b) 10% Discount if the new development is within ¼ mile of an existing PACE  
936 suburban fixed bus route operating under a regular schedule  
937
- 938 c) 10% Discount for Mixed Use Developments with a total floor area of greater than  
939 20,000 square feet having residential and at least 2 of the land uses included under  
940 paragraph 1c.  
941
- 942 d) 10% Discount for Redevelopment of an existing site with any of the criteria listed  
943 under paragraph 1d.  
944

945 All New Development seeking these discounts must provide the appropriate checklist  
946 and affidavit incorporated as Exhibit C to this Ordinance.  
947

948 **Section Twenty-One. Advisory Committee.**  
949

- 950 1) An Advisory Committee has previously been established by the County in compliance  
951 with the requirements of the new impact fee statute to assist the County in the  
952 recommendation of land use assumptions and the development of the  
953 COMPREHENSIVE ROAD IMPROVEMENT PLAN. After the effective date of this  
954 Ordinance, the Advisory Committee shall continue to have the following duties:  
955
- 956 a) Report to the County on all matters relating to the imposition of impact fees;  
957
- 958 b) Monitor and evaluate the implementation of the COMPREHENSIVE ROAD  
959 IMPROVEMENT PLAN and the assessment of impact fees;  
960
- 961 c) Report annually to the County with respect to the progress of the implementation of  
962 the COMPREHENSIVE ROAD IMPROVEMENT PLAN; and

963  
964 d) Advise the County of the need to update or revise the land use assumptions,  
965 COMPREHENSIVE ROAD IMPROVEMENT PLAN, or impact fees.

- 966  
967 2) The County shall adopt procedural rules to be used by the Advisory Committee in  
968 carrying out the duties imposed by this Section. The County shall cooperate with the  
969 Advisory Committee and shall make available all professional reports relating to the  
970 development and implementation of the land use assumptions, the  
971 COMPREHENSIVE ROAD IMPROVEMENT PLAN, and the periodic up-dates of the  
972 plan.

973  
974 **Section Twenty-Two. Review of Land Use Assumptions and Update of**  
975 **COMPREHENSIVE ROAD IMPROVEMENT PLAN.**

976  
977 The Advisory Committee shall periodically review the land use assumptions and the  
978 COMPREHENSIVE ROAD IMPROVEMENT PLAN, in accordance with Section Twenty-One,  
979 and shall advise the County of the need to update these documents. The COMPREHENSIVE  
980 ROAD IMPROVEMENT PLAN shall be updated every five (5) years. The five (5) year period  
981 shall commence on the date of the original adoption of the COMPREHENSIVE ROAD  
982 IMPROVEMENT PLAN and shall be conducted in accordance with statutory requirements.

983  
984 **Section Twenty-Three. Review of Ordinance.**

- 985  
986 1) The Transportation Committee shall periodically review the factors used to calculate  
987 the impact fee schedule in Section Eleven, the factors used for an individual  
988 assessment provided for in Section Twelve, the administration of this Ordinance and  
989 the PROCEDURES MANUAL, and shall revise the impact fee schedule in accordance  
990 with any changes in the factors used in calculating the fee. The review shall not affect  
991 the applicability of the impact fee schedule in Section Eleven or the factors in Section  
992 Twelve until a revision to the schedule or the factors is approved by the County Board.  
993 If the COUNTY ENGINEER determines that the arithmetic average of the increase in  
994 the fees will be five percent (5%) or greater from the previous fee schedules, the  
995 County shall hold a public hearing regarding the revisions to the fee schedules. The  
996 County shall give thirty (30) days notice of such public hearing by publication in a  
997 newspaper of general circulation within DuPage County. A majority vote of the  
998 members of the County Board then holding office is required before the fees may be  
999 increased. In no event shall this paragraph or any other section of this Ordinance be  
1000 construed to prevent the DuPage County Board from taking any action to amend this  
1001 Ordinance after its effective date.

- 1002  
1003 2) In addition to the periodic review of factors, the County shall apply a nationally  
1004 recognized cost inflation factor to the impact fees on an annual basis. This cost factor  
1005 shall be based upon the McGraw-Hill Engineering News Record Construction Cost  
1006 Index for the City of Chicago which is updated monthly and annually. This adjustment  
1007 shall be applied annually and shall go into effect at the beginning of the succeeding  
1008 fiscal year. As in Section 21.1, if the COUNTY ENGINEER determines that the

1009 arithmetic average of the increase in the fees will be five percent (5%) or greater from  
1010 the previous fee schedules, the County shall hold a public hearing regarding the  
1011 revisions to the fee schedules. The County shall give thirty (30) days notice of such  
1012 public hearing by publication in a newspaper of general circulation within DuPage  
1013 County. A majority vote of the members of the County Board then holding office is  
1014 required before the fees may be increased.  
1015

- 1016 3) Unless there has been a State or County gas tax increase or decrease, any fee  
1017 increase or decrease shall become effective on December 1st of the year that the fees  
1018 are increased or decreased. If there has been a gas tax increase or decrease, the  
1019 revised fee schedules may be considered by the Transportation Committee at its next  
1020 regularly scheduled meeting and then by the County Board at its next subsequently  
1021 scheduled meeting and shall be revised to reflect the allocation of such tax funds to  
1022 transportation capacity improvements.  
1023
- 1024 4) An annual report shall be provided to the County Board that examines the expenditure  
1025 of the impact fee funds collected under the provisions of this ordinance and analyzes  
1026 the effectiveness of such expenditures. The first annual report shall be produced on or  
1027 before June 1, 1990, and a report shall be produced prior to June 1st of every year  
1028 thereafter.  
1029

1030 **Section Twenty-Four. Effective Date of Ordinance.**

1031 This Ordinance shall become effective on December 2, 2019.  
1032  
1033

1034 **Section Twenty-Five. Transition.**

- 1035
- 1036 1) This Ordinance amends Ordinance ODT-021-89, as previously amended. Any  
1037 PERSON who has paid or became obligated to pay an impact fee or who has entered  
1038 into a Fair Share or Credit Agreement under the terms of a preceding ordinance shall  
1039 continue to be bound by the fee schedule of that ordinance.  
1040
- 1041 2) Any fee collected or payable pursuant to a preceding ordinance, which has heretofore  
1042 been allocated to a service area described in the preceding ordinance, shall be  
1043 disbursed only within said service area.  
1044

1045 **Section Twenty-Six. Penalties.**

- 1046
- 1047 1) The COUNTY ENGINEER may initiate, through the State's Attorney, judicial  
1048 proceedings to collect any fee that has become due under this or any predecessor  
1049 Ordinance.  
1050
- 1051 2) Unless a FEE PAYER is currently appealing a fee, in addition to other remedies  
1052 provided by other applicable laws, when an impact fee required by this Ordinance has  
1053 not been paid, the County or the COUNTY ENGINEER shall not issue to the violator  
1054 any subsequent approvals or permits for any other development in the County and

1055 shall suspend review of any pending applications or petitions of the violator until the  
1056 impact fee has been paid.

1057  
1058 **Section Twenty-Seven. Distribution.**

1059  
1060 Certified copies of this Ordinance shall be sent to each of the thirty-five (35)  
1061 municipalities having territory within DuPage County, the Illinois Department of  
1062 Transportation, the DuPage Mayors & Managers Conference, and one copy to the DuPage  
1063 County Treasurer and the DuPage County Auditor.

1064  
1065 **Section Twenty-Eight. Severability.**

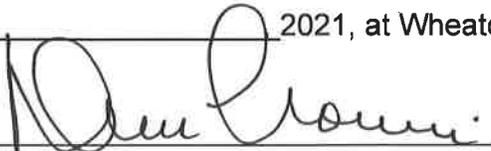
1066  
1067 In the event that any portion or section of this Ordinance is determined to be invalid,  
1068 illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no  
1069 manner effect the remaining portions or sections of the Ordinance which shall remain in full  
1070 force and effect.

1071  
1072 **Section Twenty Nine. Sunset Provision.**

1073  
1074 In the event that the County deems Fair Share Road Improvement Impact Fee  
1075 program unnecessary, the County shall:

- 1076  
1077 1) Cease collection of impact fees unless a schedule is established providing for the  
1078 cessation.
- 1079  
1080 2) Maintain all processes included in this ordinance unless the program is terminated  
1081 immediately, whereupon all revenue collection provisions of this Ordinance shall be  
1082 suspended.
- 1083  
1084 3) Maintain all impact fee administrative accounts until all fees have been expended.
- 1085  
1086 4) Notify all municipalities and agencies with interest in the impact fee program of the  
1087 cessation of the program.
- 1088

1089  
1090 Enacted and approved this \_\_\_\_\_ 2021, at Wheaton, Illinois.

1091  
1092  
1093 

1094 Daniel J. Cronin, Chairman  
1095 DuPage County Board

1096  
1097 ATTEST:

1098   
Jean Kaczmarek, County Clerk

ODT-021S Revised Ordinance  
Fee Schedule

**DuPage County Division of Transportation**  
**Fair Share Road Improvement Impact Fee Schedule**  
**Ordinance ODT-021S-89, effective December 1, 2021**

LAND USE	ITE CATEGORY	RATE PER	Impact Fee District									AVERAGE FEE ODT-021S
			1	2	3	4	5	6	7	8	9	
<b>Residential - General</b>												
Single Family Detached	210	1,000 sq ft	\$730	\$556	\$210	\$577	\$304	\$8	\$280	\$331	\$486	\$387
Single Family Attached	220	Dwelling Unit	\$1,190	\$913	\$341	\$898	\$482	\$41	\$437	\$539	\$781	\$625
Multifamily Attached	221/222	Dwelling Unit	\$945	\$724	\$274	\$722	\$401	\$40	\$358	\$444	\$617	\$503
Senior Adult Housing/Ind Living	251/252	Dwelling Unit	\$420	\$300	\$110	\$317	\$157	\$11	\$153	\$169	\$255	\$210
<b>Residential - Service</b>												
Continuous Care/Cong Care	253/255	1,000 sq ft(2)	\$301	\$248	\$75	\$233	\$122	\$10	\$86	\$137	\$188	\$156
Assisted Living/Memory Care	254	1,000 sq ft(2)	\$1,011	\$795	\$325	\$786	\$456	\$91	\$402	\$504	\$677	\$561
<b>Commercial - Industrial</b>												
Warehousing	150	1,000 sq ft(2)	\$570	\$460	\$182	\$447	\$265	\$47	\$244	\$280	\$384	\$320
General Light Ind/Ind Park	110/130	1,000 sq ft(2)	\$937	\$763	\$328	\$761	\$443	\$109	\$421	\$475	\$649	\$543
High Cube Fulfillment Ctr/Warehouse	155/156	1,000 sq ft(2)	\$1,461	\$1,167	\$474	\$1,144	\$668	\$120	\$589	\$696	\$990	\$812
Mini-Warehouse/Storage	151	1,000 sq ft(2)	\$392	\$314	\$106	\$303	\$172	\$40	\$152	\$188	\$257	\$214
Data Center	160	1,000 sq ft(2)	\$197	\$167	\$63	\$162	\$96	\$12	\$95	\$95	\$130	\$113
<b>Commercial - Office</b>												
1,000 -50,000 sf	710	1,000 sq ft(2)	\$2,271	\$1,833	\$756	\$1,813	\$1,051	\$198	\$950	\$1,111	\$1,544	\$1,281
50,001 to 250,000 sf	710	1,000 sq ft(2)	\$2,164	\$1,740	\$698	\$1,723	\$994	\$192	\$894	\$1,054	\$1,453	\$1,212
250,001 sf and over	710	1,000 sq ft(2)	\$2,071	\$1,663	\$673	\$1,648	\$952	\$165	\$870	\$1,013	\$1,412	\$1,163
Medical	720	1,000 sq ft(2)	\$4,463	\$3,621	\$1,485	\$3,564	\$2,056	\$404	\$1,873	\$2,176	\$3,044	\$2,521
Office Park/Business Park	750/770	1,000 sq ft(2)	\$2,518	\$2,027	\$845	\$2,025	\$1,174	\$236	\$1,074	\$1,252	\$1,721	\$1,430
Research and Development	760	1,000 sq ft(2)	\$972	\$765	\$219	\$743	\$371	\$0	\$323	\$396	\$599	\$488
<b>Commercial - Restaurant</b>												
Quality	931	1,000 sq ft(2)	\$5,315	\$4,180	\$1,621	\$4,147	\$2,306	\$313	\$2,003	\$2,442	\$3,491	\$2,869
High Turnover	932	1,000 sq ft(2)	\$4,417	\$3,488	\$1,297	\$3,443	\$1,879	\$174	\$1,628	\$1,998	\$2,871	\$2,355
Fast Food	934	1,000 sq ft(2)	\$8,216	\$6,473	\$2,142	\$6,277	\$3,243	\$0	\$2,723	\$3,467	\$5,215	\$4,195
Coffee /Donut Shop	937	1,000 sq ft(2)	\$2,405	\$1,887	\$497	\$1,769	\$841	\$0	\$661	\$887	\$1,475	\$1,158
<b>Commercial - Retail</b>												
1,000 - 50,000 sf	820	1,000 sq ft(1)	\$988	\$764	\$34	\$666	\$181	\$0	\$108	\$232	\$526	\$389
50,001 to 250,000 sf	820	1,000 sq ft(1)	\$1,618	\$1,273	\$309	\$1,171	\$551	\$0	\$425	\$586	\$970	\$767
250,001 sf and over	820	1,000 sq ft(1)	\$2,501	\$1,965	\$631	\$1,913	\$978	\$0	\$816	\$1,030	\$1,572	\$1,267
Supermarket	850	1,000 sq ft(1)	\$5,831	\$4,598	\$1,642	\$4,494	\$2,414	\$102	\$2,056	\$2,555	\$3,767	\$3,051
Convenience Market	851	1,000 sq ft(1)	\$9,376	\$7,372	\$2,318	\$7,077	\$3,581	\$0	\$2,989	\$3,842	\$5,890	\$4,716
Gas Station with Conv Mkt (3)	945/853	Veh Fueling Pos	\$2,721	\$2,143	\$689	\$2,063	\$1,066	\$0	\$887	\$1,135	\$1,729	\$1,381
Home Improvement Superstore	862	1,000 sq ft(1)	\$1,540	\$1,212	\$392	\$1,177	\$602	\$0	\$494	\$643	\$982	\$782
Free Standing Discount Superstore	813	1,000 sq ft(1)	\$3,881	\$3,078	\$1,130	\$3,011	\$1,630	\$143	\$1,415	\$1,733	\$2,520	\$2,060
Pharmacy/Drug Store (5)	881	1,000 sq ft(1)	\$5,372	\$4,241	\$1,678	\$4,220	\$2,368	\$370	\$2,065	\$2,506	\$3,557	\$2,931
Auto Sales - New	840	1,000 sq ft(2)	\$2,195	\$1,723	\$636	\$1,691	\$936	\$84	\$811	\$978	\$1,441	\$1,166
<b>Commercial - Service</b>												
Hospital	610	1,000 sq ft(2)	\$2,012	\$1,556	\$619	\$1,563	\$859	\$116	\$751	\$936	\$1,316	\$1,081
Clinic	630	1,000 sq ft(2)	\$3,375	\$2,621	\$1,025	\$2,597	\$1,441	\$207	\$1,278	\$1,561	\$2,200	\$1,812
Veterinary Clinic	640	1,000 sq ft(2)	\$4,005	\$3,115	\$1,381	\$3,183	\$1,871	\$490	\$1,675	\$2,003	\$2,702	\$2,269
Hotel/Motel	310	Room	\$1,160	\$903	\$334	\$886	\$472	\$16	\$417	\$515	\$756	\$607
All Suites Hotel	311	Room	\$720	\$558	\$212	\$548	\$307	\$28	\$253	\$320	\$457	\$378
Day Care Centers	565	1,000 sq ft(2)	\$1,090	\$1,190	\$651	\$763	\$745	\$250	\$689	\$731	\$975	\$787
Movie Theaters	444	1,000 sq ft(2)	\$5,405	\$4,184	\$1,510	\$4,119	\$2,210	\$110	\$1,901	\$2,360	\$3,459	\$2,806
(1) Gross leasable square footage												
(2) Gross square footage												