

Clarifications and Revisions to the Street Impact Fee Guidelines

1/31/2023

Red Text is deleted language

Blue Text is added language

1.0 Purpose and General Overview

This document is intended as a guide for the administration and application of City Code Chapter 25-6 Article 9, Street Impact Fees, and to be used with the associated ordinances to provide consistency in the application of requirements by City staff, development professionals, and the public for both private and public development projects. This section provides an overview of how the ordinance requirements will be implemented.

The Council adopted the Street Impact Fee via two separate ordinances. The first adopted the Impact Fee Study that determined how the fee would be structured, how the fee determined, the creation of SIF Service Areas, and how it would be applied. The second ordinance was the codification of the Street Impact Fee into the City of Austin Land Development Code, and how it would be applied to the development of property obtaining development permits.

The Street Impact Fee (SIF) was created and adopted into City Code by the City Council for the purpose of funding critical transportation infrastructure needed as development and redevelopment occurs within the City Limits. The Street Impact Fee ordinance applies to all new development and redevelopment within the corporate boundaries of the City of Austin, **excluding annexed areas for limited purpose**, at the time the SIF Ordinance and Fee Study were adopted (December 20, 2020). Redevelopment of an existing site, a change-of-use, or the expansion of existing buildings that increases vehicular trips all constitute new development according to the ordinances.

There are three primary factors that determine the SIF obligation for a proposed new development:

1. Land Use(s) -- existing and proposed
2. Development intensity – existing and proposed
3. Service Area where the development is located.

These primary factors will be discussed later in these guidelines with instructions for documenting the information for the purposes of SIF assessments. A Glossary has been provided in the Appendix that defines terms used in the Ordinances and these guidelines.

1.1. Exemptions and Special Applicability Rates (Ord. 20201210-061 Part 2-D1-6)

The ordinance provides specific exemptions for certain types of development. These provisions result in the following exemptions from paying the Street Impact Fee:

- Federal, State, and Austin Independent School District developments **are not required to pay** the SIF
- **Affordable housing development that complies with the SMART/affordable housing requirements the SIF reduction requires a monthly rate no higher than 60% MFI**

- Affordable housing within the Austin City Limits that meet the following criteria:
Rentals: 60% MFI for no less than 40 years
Ownership: 80% MFI for no less than 99 years

(Note: conditions may exist where a proposed development might meet SMART housing requirements but not meet the above SIF criteria for a reduction)

- Building permits issued prior to June 21, 2022 are exempt.
- Building permits associated with an approved Transportation Impact Analysis (TIA). To qualify, the final TIA memo must be dated on or before December 20, 2020. Buildings included in the TIA study area have until December 20, 2023 to obtain a building permit without paying the SIF.
- Development Modifications to an existing building that does not increase net vehicular trips beyond 10 PM peak hour trips per day is not subject to paying a SIF.
- For New development of for the following land uses as shown in the LUVMET ("Dining", "Animal Hospital/Veterinary Clinic", "Day Care Center", "Hair Salon", "Other Retail", "Automobile Care Center with no drive-thru facility"), the SIF collection rate is as follows: a. Under 1,000 square feet, the collection rate is \$0 per vehicle-mile. b. 1000 square feet but under 5,000 square feet, the collection rate is \$608 per vehicle
- Walk-in Bank and Drive-in Bank land uses per the LUVMET in Service Areas D; G; O and P are not required to pay the SIF.
- Supermarket land uses per the LUVMET in Services Areas D; G; O; and P are not required to pay the SIF.

2.1.2 Single-Family Final Plat

When final plats are proposed as part of a larger development, the Formal SIF Calculation is done with each final plat using the SIF Calculation Worksheet to establish the base fee for the proposed lots. Plats that include qualifying roadway improvements and single-family lots may establish a SIF Offset Agreement that will provide a reduction in the SIF collection amount per lot. The agreement must be referenced on the plat, approved by the city, and filed with the plat in the County records. This information will be uploaded into AMAMDA to be used by the Austin Transportation Department (ATD) to create the SIF Invoice for the building permit.

2.1.3 Single-Family Building Permit within plat subject to SIF

When the plat is approved, ATD will evaluate the lot requesting a building permit and compare the conditions of the final plat to assure that the development matches the Formal SIF Calculation. After this verification, ATD will produce a Final SIF calculation and the SIF Invoice for each lot. The SIF Invoice must be paid to the Development Services Department (DSD) Development Assistance Center (DAC) to receive the building permit. The SIF collected for the building permit is deposited in the Service Area Account with property and ownership information.

2.1.4 Single-Family Building Permit on a vacant lot

A single-family home on a vacant lot, that was not plated as part of a larger development that is subject to the Street Impact fee, is considered a stand-alone building unit and not required to pay the SIF because the use will produce less than 10 peak hour vehicle trips per day.

2.1.5 Infill single family development and ADUs

The subdivision or re-subdivision of a residential lot, platted prior to the SIF ordinance, where the combined lots and uses do not increase the peak hour vehicle trips per day beyond 10, will not be required to pay a SIF. To qualify, each lot must be restricted by plat note.

2.2.3 Commercial or Multi-Family Building Permit

As each building on the site applies for a shell building permit, the total SIF shown on the SIF allocation chart for that building will be invoiced and the fee must be paid prior to permit issuance. [If a shell permit is not required, the SIF will be applied to the relevant building permit.](#) The SIF collected for the building permit is deposited in the Service Area Account, with plat and site plan information and the street address. [Developments with shell permits approved prior to June 2022 that require finish-out permits will not be required to pay the SIF for the initial finish out permit\(s\).](#) If a change of use results in an intensity increase that exceeds 10 peak hour trips per day, applicability of SIF will be evaluated based on the new conditions.

2.2.4 Change of Use

If a change of use is proposed, or redevelopment of a building is proposed, a SIF will not be required unless the change results in an increase of more than 10 peak hour vehicular trips per day.

2.3 Service Area Map

The City of Austin is divided into 17 service areas, as shown in Figure 2 below. Each service area has an independent calculation of the maximum SIF based on specific land use assumptions and Roadway Capacity Plan (RCP) project needs; therefore, this map will need to be referenced in determining SIF for specific sites. This map may also be found in the SIF Calculation Worksheet on the ATD SIF website. [This map is for illustrative purposes and should not be used for site-specific applicability to SIF.](#)

4.9 Change of Use

If a change of use is proposed as a new development, a SIF may be collected if the change results in an increase of 10 or more PM peak hour trips.

5.1 Transportation Demand Management (TDM)

A reduction to the SIF collection amount is available for specific TDM techniques used in the design and operation of a proposed development. To be eligible for these reductions, a TDM Plan must be approved by ATD at the time of site plan; note that this is available for any development even if a TIA is not required. To achieve this reduction without a TIA, an applicant proposing a development under 2,000 daily trips can submit a modified TDM Plan that provides verifiable methods to reduce vehicular demand, show proximity to transit facilities, and reduce parking below required amounts. [A memorandum of understanding will be issued from ATD identifying TDM components and related SIF reduction amounts.](#)

5.3 Affordable Housing

The SIF Ordinance identifies housing affordability as an allowable reduction to the SIF collection amount. To qualify for this reduction, an applicant must obtain a letter from the City of Austin Housing and Planning Department which verifies that the development meets the criteria for affordability. The SIF reduction applies only to units that are offered at a rate no higher than 60% of the Median Family Income (MFI) for affordability, even though the Housing Department requires developments to reach 80% MFI.

The SIF Ordinance identifies housing affordability as an allowable reduction to the SIF collection amount. If the affordability criteria is met, the reduction in the SIF is 100%. To qualify for this reduction, an applicant must obtain a letter from the City of Austin Housing and Planning Department which verifies that the development meets the criteria for affordability. This SIF reduction applies only to rental units that are offered at a rate no higher than 60% of the Median Family Income (MFI) for affordability for terms no less than 40 years, or for ownership units at 80% MFI for 99 years.

Affordability-related reductions shall be applied only to units that meet the criteria. ; those units shall be granted total relief from SIF collection. Any other reductions that the development is may be eligible for (e.g., transit proximity) shall be applied to the remaining land uses and associated SIF collection amount after subtracting the affordability reduction. Reductions cannot be applied retroactively.

For example, a proposed development has 10 residential units at or below 60% MFI and 100 residential units that do not qualify for the affordability reduction, includes 10,000 square feet of retail space, and it also qualifies for a 50% SIF reduction from other ordinance allowable reductions. First, the 10 affordable units would get a 100% reduction for their portion of the SIF collection amount. Then, after subtracting the associated SIF collection amount of those 10 affordable units, the 50% SIF reduction would be applied to the remaining land uses to determine the ultimate SIF collection amount. Please contact TDS staff if you would like to discuss the application of the affordable housing reduction for specific developments.

5.5 Parking Reductions

Mitigate difference between TCM and LDC requirements

5.6 Existing Trip Reduction (LDC-25-6-669)

A SIF collection reduction may be granted if there are existing uses that are generating vehicular trips prior to the new development or redevelopment. The existing trip total will be subtracted from the new

trip count and will decrease the SIF collection amount accordingly. The SIF Ordinance allows a credit to be given for construction of improvements by a developer prior to obtaining a building permit. The improvement must be identified as part of the Roadway Capacity Plan (RCP) or must be eligible to be included in future updates to the RCP. The construction value will be credited at 100% against the SIF collection amount if an Offset Agreement is approved according to these guidelines

6.1 Offset Qualification (LDC 25-6-669)

Construction improvements identified in, or that could be included in future updates to, the Roadway Capacity Plan are eligible for possible offset to the required SIF collection amount. This includes construction of improvements connecting roadway segments that will eventually be in the RCP. The construction must be completed prior to SIF collection for the credit to be given unless the improvement is identified on an approved site plan or subdivision final plat. If a development has an approved final plat or site plan without an Offset Agreement, an offset may still be granted if staff approves an Offset Agreement, and it is filed in the County records prior to the obtaining a building permit. Improvements built prior to the passage of the SIF ordinance qualify for an offset if no previous compensation by the City was given (density bonus for dedicated level 1 street would not qualify for offset).

9.0 Appeals

A property owner or applicant for development may appeal the following administrative decisions to the Land Use Commission:

- If a street impact fee was applied in error
- There was an error in the calculation of the fee
- If a qualifying offset was denied, or the value is disputed, or the expiration of the terms are disputed
- If a qualifying reduction is denied or calculated in error
- If a qualifying refund amount is disputed

Before an appeal can be scheduled for hearing by the Land Use Commission, the owner or applicant must identify the specific decision that is being appealed and the reason why it is being appealed in a letter to the Director of the Austin Transportation Department. The owner or applicant must meet with the Director to attempt to resolve the disputed issues prior to the scheduling of the appeal.

A decision on the administrative appeal decision by the Land Use Commission may be appealed to the City Council on commission rules for appeals

9.0 APPEALS

The City Council adopted the Street Impact Fee (SIF) ordinance on December 20, 2020, with collection of the fee to begin on June 22, 2022. The Ordinance provides for a process to appeal the decision of the staff under specific conditions. The Transportation Development Services (TDS) Division within ATD is charged with administration and implementation of the ordinance in the city development process from the Fee Assessment stage to issuance of the SIF Invoice for payment at the Building Permit stage and is the processing division for an appeal.

Staff review and SIF Invoice Issuance

In the process of reviewing a project for permits, the TDS staff will determine the amount of SIF to be invoiced for each building permit and create the SIF invoice for payment prior to the issuance of the building permit.

If an applicant wants to appeal the staff determination of the SIF invoiced amount, they will have to formally make the appeal to the Director of the Austin Transportation Department by completing the appeal forms provided in Appendix D. The building permit will not be issued until the appeal process has been exhausted and a decision by the City is final. The applicant may, however, choose to pay the fee to obtain the building permit while on appeal, and if the appeal is granted, the SIF will be refunded as appropriate.

Because the SIF appeals process potentially includes consideration by the Land Use Commission and the City Council, it will be necessary to coordinate with both entities to schedule hearings. It is also necessary to meet deadlines associated with the public posting of agendas and back-up information related to the appeals case. Because of these requirements of those other entities, ATD staff cannot provide an estimate as to how long it will take to consider and finalize a SIF appeal.

Step 1 -- Complete SIF Appeal Packet (see Appendix D):

To initiate an appeal of a SIF invoice, the owner or their representative must complete a packet of information containing the following items:

- A letter from the owner or their representative to the Director of ATD that identifies the Invoice and the amount of the SIF, the property address and relevant development process case numbers, and why they feel the fee should be modified.
- A copy of the city-issued SIF invoice
- An SIF Ordinance Findings of Fact sheet that identifies the six ordinance sanctioned reasons an appeal can be considered, with the applicant explaining how at least one or more of the reasons are applicable.

Step 2 -- Director (or Designee) Consideration of the Appeal:

The applicant, upon completing the packet documents, may either have them delivered by mail or may provide a PDF of the completed and signed packet documents emailed to the Transportation Development Services division SIF email address. (StreetImpactFee@austintexas.gov)

Upon acceptance of the completed appeal documents, a meeting with the Austin Transportation Director will be scheduled within ten business days. The applicant will be notified of the scheduled meeting by email using the email indicated in the submitted appeal documents.

The meeting with the Director is held with the applicant and the Director will render a decision within five business days after the appeal meeting, and the Directors office will inform the applicant of the decision in writing by email.

Director Approves the Appeal

If the Director approves the appeal, the invoice is modified or made null, and the building permit will be issued accordingly. If the applicant has already paid the fee while the appeal was in process, the fee will be refunded.

Director Denies that Appeal

If the Director denies the appeal, the applicant may request that the appeal be forwarded to the Land Use Commission (Planning Commission). The applicant will have to submit the administrative fee for processing the appeal through the Commission prior to the scheduling on

the agenda. The appeal will be placed on the next available Planning Commission agenda based on the back-up material deadline submittal requirements. Because the appeal to the Commission will be a public hearing, the length of time for a decision to be rendered is not certain.

Step 3 -- Planning Commission Consideration of the Appeal:

The Planning Commission (Land Use Commission) receive the appeal packet submitted by the applicant and the Directors written decision. The staff will present the Directors recommendation and the applicant will present their case. After consideration, the Planning Commission will render a decision either approve or deny the appeal based on the documents presented and forward that recommendation to Council for action.

Step 4 -- City Council Consideration of the Appeal:

Once the Planning Commission has heard the appeal and offered a recommendation to the City Council, the Director's office will coordinate the appeal with the City Manager's office and the City Clerk's office to schedule the appeal on a Council Agenda that would allow for hearing the appeal. The applicant will be notified of the proposed City Council agenda date.

Because an appeal consideration by Council is a public hearing, the length of time for a decision to be rendered is not certain. Council will either direct staff to approve or deny the appeal.

Step 5 – Final Processing

If Council approves the appeal, staff will issue a SIF refund check to the applicant in the appropriate amount. The SIF ordinance does not allow for the creation of an account for the owner to carry the refund about as a credit for future SIF payments.

If Council denies the appeal, the owner must pay the balance of the SIF invoice in order for the applicable building permits to be pulled unless the SIF invoice was paid prior to the appeals process.

Appeals Packet- Sample Letter to the Director

Richard Mendoza
Acting Director Austin Transportation Department

Property Owner's Name
Property Owner's e-mail address:
Property Address of SIF Invoice:
COA Case Number:

Date:

I am appealing the decision of the Austin Transportation Department staff's assessment of the Street Impact Fee for my property because I believe they have calculated the fee in error. I have attached a copy of the invoice in question, and the Ordinance Findings of Fact Worksheet that explains the details of the error, and our understanding of what the Street Impact Fee should be for this development.

Please review our case and consider our position on this matter promptly.

Respectfully,
Owners Name or Agent