

STATE OF ILLINOIS

COUNTY OF KANE

ORDINANCE NO. 07-nnn

KANE COUNTY ROAD IMPROVEMENT IMPACT FEE ORDINANCE

WHEREAS, the County Board of Kane County supports responsible New Development within the County; and

5 WHEREAS, additional ~~road~~ highway improvements are needed to serve New Development; and

10 WHEREAS, the legislature has passed the Road Improvement Impact Fee Law 605 ILCS 5/5-901 et seq., on July 26, 1989; and

15 WHEREAS, Kane County does not have nor is it projected in the immediate future to have sufficient revenues to ensure that adequate ~~road~~ highway improvements will be ~~in place~~ completed when needed by New Development; and

20 WHEREAS, the County has the authority to adopt road improvement impact fees (hereinafter "Impact Fees") pursuant to the Road Improvement Impact Fee Law; and,

25 WHEREAS, the County Board of Kane County has determined that 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,

30 WHEREAS, the County Board of Kane County has committed itself to developing and implementing an Impact Fee program to mitigate the adverse traffic impacts of New Development; and,

35 WHEREAS, the County Board of Kane County has determined that the ~~road~~ road improvement Impact Fees shall be expended on those ~~road~~ highway improvements within the Service Area or areas as specified in the County's Comprehensive Road Improvement Plan, as updated from time to time; and

40 ~~WHEREAS, the County Board of Kane County has determined that 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~~

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

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

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

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WHEREAS, the County has previously recommended land use assumptions and has approved a Comprehensive Road Improvement Plan as background data for implementing this Ordinance in its Resolutions 03-206 and 04-21 in full compliance with the statutory requirements of the Road Improvement Impact Fee Law; and

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WHEREAS, the County has, following extensive public participation, adopted revised Land Use Assumptions pursuant to County Board Resolution 06-112, and has adopted a revised Comprehensive Road Improvement Plan for Impact Fees pursuant to County Board Resolution 07-~~nnn~~, in accordance with the provisions of the Road Improvement Impact Fee Law, and has performed all other tasks necessary to update the Kane County Road Improvement Impact Fee Ordinance.

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

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Section One. Title.

This Ordinance shall be known and may be referred to as the "Kane County Road Improvement Impact Fee Ordinance."

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Section Two. Purpose and Authority.

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1. The County Board of Kane County recognizes that New Development in the County will require that the capacity of the road, street and highway systems in the County be expanded and that without a funded program for ~~road~~ highway improvements, New Development will have an adverse impact on the County highway system.

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2. The County Board further recognizes that all New Development in the County generates traffic on the County highway system and requires direct or indirect access to County highways, regardless of the location of the New Development.

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3. The purpose of this Ordinance is to ensure that New Development ~~that is approved for construction in the County~~ pays a fair share of the costs of ~~road~~ highway improvements expended to serve New Development. To that end, the imposition of ~~such road improvement~~ Impact Fees is designed to supplement other funding sources so that the burden of paying for ~~road~~ highway improvements is allocated in a fair and equitable manner and orderly growth is promoted throughout the County.

4. The preambles as set forth hereinabove shall be incorporated by reference into the text of this Ordinance as if fully set forth herein.

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Section Three. **Definitions.**

“Advisory Committee” means the group of members ~~PERSON~~ selected from the public and private sectors in accordance with 605 ILCS 5/5-907 and the provisions of Section ~~Eighteen~~ Nineteen hereof to advise in the development and implementation of the Comprehensive Road Improvement Plan and the periodic update of the plan.

100 “Affordable Housing”: Decent, safe, sanitary, and appropriate housing units that low and moderate-income households can own or rent without having to devote more than approximately 30 percent of their gross income for monthly housing expenses that shall be (1) rent and utilities for rental housing; and (2) debt service (principal and interest), property taxes, and home insurance for home ownership. The maximum purchase price of owner-occupied units shall not exceed that specified in the “Owner Occupied Affordability Chart for Chicago Metro Area” published annually by the Illinois Housing Development Authority. For rental housing to be considered Affordable Housing, the monthly rent for a dwelling unit may not exceed that specified in “Affordable Rental Units for Chicago Metro Area” published annually by the Illinois Housing Development Authority.

110 “Assisted Financing” means the financing of residential development by the Illinois Housing Development Authority, including loans to developers for multi-unit residential development and loans to purchasers of single family residences, including condominiums and townhouses.

115 “Average Trip Rate for Peak Hour of Adjacent Street Traffic” means the weighted average trip rate during the hour of the highest volume of traffic passing the site on adjacent streets between 4:00 and 6:00 p.m.

120 “Block Perimeter”: The linear measurement taken along the public right-of-way line adjacent to and around land entirely bounded by streets. If the land is next to the Fox River, a publicly accessible pedestrian or bicycle path shall be counted as part of the linear measurement if it connects the other streets which define the block perimeter.

125 “Building” either a finished or an unfinished product of construction, or a structure carrying no implication as to size or condition. The terms “Building” and “Structure” are interchangeable.

“Building Permit”. Any form of approval issued or given by the County of a municipality that grants or otherwise allows the commencement of construction of a building.

130 “Certificate of Occupancy” means a permit issued by either the County or a municipality as a condition of occupancy, and includes any temporary occupancy permit as well as any permanent approval.

135 “Committed Transit Service”: Committed Transit Service includes bus routes or commuter rail stations for which the transit service provider will, in the event that transit service is not presently available, verify that transit service will be instituted within five years and will further verify the source of funding for said future Committed Transit Service.

140 "Comprehensive Road Improvement Plan" means the plan prepared by the County in consultation with the Advisory Committee.

"County" means the County of Kane, State of Illinois.

145 "County Board" means the County Board of Kane County, Illinois.

"County Engineer" means the ~~Kane County Engineer of Kane County as "County Engineer" is defined as that term is used~~ in 605 ILCS 5/5-201 et seq., ~~formerly referred to as Superintendent of Highways.~~

150 "Density": Density is calculated for residential New Development by dividing the total number of residential units by the total buildable land area in acres of the New Development. Buildable land excludes land occupied by nonresidential structures, and land excluded from residential development by law (e.g. wetlands, floodplains), but includes areas devoted to public rights of way, stormwater management for the New Development, parking areas, and common open space. For detached residential units on individual lots, the average density for the entire New Development shall be used.

155 "Developer" means any Person, corporation, organization, or other legal entity undertaking New Development.

160 "Division Of Transportation" means the Kane County Division of Transportation located at 41W011 Burlington Road, St. Charles, Illinois 60175.

165 "Encumbered", means legally obligated or otherwise committed to use under contract or purchase order.

170 "Existing Deficiencies" refers to intersections or highway segments under the jurisdiction of the County that operated at Level of Service "E" (as defined by the Institute of Transportation Engineers) or below in 2003 and that are identified as "Existing Deficiencies" in the Comprehensive Road Improvement Plan adopted by the County in County Board Resolution 04-21.

175 "Fee Payer" means any Person undertaking New Development who pays ~~a road improvement an~~ Impact Fee in accordance with the terms of ~~any current or subsequent~~ this or any previous Ordinance.

180 "Floor Area Ratio": The floor area of the structure or structures on a zoning lot divided by the area of such zoning lot, or, in the case of planned unit developments, by the net site area. In all cases, the lot area or site area used to calculate the Floor Area Ratio shall include the land areas allocated to parking and storm water management.

185 "Highway" means any public way for vehicular Travel which has been laid out in pursuance of any law of the State of Illinois or of the Territory of Illinois, or which has been established by dedication, or used by the public as a highway for 15 years, or which has been or may be laid out and connect a subdivision or platted land with a public highway and which

190 has been dedicated for the use of the owners of the land included in the subdivision or platted land where there has been an acceptance and use under such dedication by such owners, and which has not been vacated in pursuance of law. The term "highway" includes right of way, bridges, drainage structures, signs, guard rails, protective structures and appurtenances necessary or convenient for vehicular traffic. A highway in a rural area is sometimes called a "road", while a highway in a municipal area may be called a "street".

195 "Highway Road Capacity" is the maximum hourly rate at which vehicles can reasonably be expected to traverse a point or a uniform section of a highway or lane thereof during a given time period under prevailing highway , traffic and control conditions. (Highway Capacity Manual HCM 2000, Section 2-II)

200 "Highway Road Improvements" means the improvement, expansion, enlargement or construction of roads, streets or highways under the jurisdiction of the County, and includes, but is not limited to bridges, rights-of-way and traffic control improvements owned and operated by the County. The term "Highway Improvements" shall not include tollways but may include tollway ramps at county highway interchanges. The term "Highway Improvements" does not include any roads, streets, or highways that are not designated for improvement in the Comprehensive Road Improvement Plan, even though they are under the jurisdiction of the
205 County.

210 "Highway Road Improvement Capital Costs" include, but are not limited to, capital costs associated with the construction of new or expanded highway improvements, the need for which is generated by New Development which have a life expectancy of three (3) or more years, and the land acquisition, land improvement, planning, design, and engineering related thereto. Such costs do not include routine and periodic maintenance expenditures, resurfacing or rehabilitation of existing pavement structures, or personnel, training, or other operating costs, but do include the costs of financing such Highway Improvements and reasonable administrative costs for administering the Impact Fee program, provided that such
215 administrative costs do not exceed five percent (5%) of the Impact Fee paid.

"Impact Fee" means the Road Improvement Impact Fee as defined herein.

220 "Infill": Undeveloped land having at least 75% of its perimeter bordering land that has been developed. Developed land includes land either having or that has had pre-existing structures thereon. Land that is currently in agricultural use or forestry use is not considered developed. Park and Forest Preserve properties that border an Infill site shall not be counted as part of the perimeter of undeveloped land.

225 "Land Use Assumptions" means a description of the service area or areas and the roads, streets or highways incorporated therein, and includes projections relating to changes in land uses, densities and population growth rates which affect the level of traffic within the service area or areas for a ten (10) year period of time.

230 "Level of Service (LOS)" is a quality measure describing operational conditions within a traffic stream, generally in terms of such service measures as speed and travel time, freedom to maneuver, traffic interruptions, and comfort and convenience. (Highway Capacity

235 Manual 2000, Section 2-IV) means the category of road service as defined by the Institute of Transportation Engineers which has been selected by the County as the adopted level of service to serve existing development not subject to the impact fee and New Development, provided that the level of service selected for the New Development shall not exceed the level of service adopted for existing development.

240 "Municipality" means any city, village or town with jurisdiction within the boundaries of Kane County.

245 "Municipal Impact Fee" means an Impact Fee assessed by a municipality pursuant to the Road Improvement Impact Fee Law.

250 "New Development" means any residential, commercial, industrial or other Project which is being newly constructed, reconstructed, redeveloped, structurally altered, relocated, or enlarged, and which generates additional traffic within the service area or areas of the County. Conversely, if the construction, expansion or change in use of any building(s) or structure(s) will not generate additional traffic, the development shall not constitute "New Development" and the Developer shall be exempt from the provisions of this Ordinance. New Development will be deemed to begin, commence upon either the issuance of a building permit or the commencement of construction of the New Development, whichever occurs first.

255 Relocation of a business operating within the County to a newly constructed structure shall constitute New Development.

260 "New Development" shall not include any New Development for which site specific development approval has been given by a unit of local government within 18 months before the first date of publication (which publication date was February 19, 2003) by the unit of local government of a notice of public hearing to consider the land use assumptions relating to the development of a comprehensive road improvement plan and imposition of impact fees; provided, however, that a building permit for such new development is issued within 18 months after the date of publication of such notice. For the purpose of Section Eighteen of this Ordinance, New Development shall constitute a structure or group of structures that require submittal of plans to and development approval by a municipality, including a final planned development plan, a final subdivision plat, a conditional or special use permit or a building permit. New Development may also be defined through the terms of a Fee Payment Agreement.

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270 "Non-Commencement" means the cancellation of construction activity making a material change in a structure, or the cancellation of any other new development activity making a material change in the use or appearance of land.

275 "Non-Residential New Development" means a building or other structure that is suitable or capable of being used for all purposes other than residential purposes.

280 "Person" means any individual, firm, partnership, association, public or private corporation, organization or business, charitable trust or governmental agency, Person or any other legal entity.

"Private School": A private, nonprofit educational facility serving one or more of grades kindergarten through grade-12 and formally recognized by the Illinois State Board of Education.

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"Procedures Manual" means a document developed by the County Engineer and available from the Division of Transportation that sets forth the procedures, processes, forms and definitions to be used in the administration of this Ordinance.

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"Project" means the construction of or an addition to a building.

"Redevelopment": New Development sites in which at least 75% of the land area thereof has been previously developed.

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"Residential New Development" means a house, building or other structure that is suitable or capable of being used for residential purposes.

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"Road Improvement Impact Fee" means any charge or fee levied or imposed by the County as a condition to the issuance of a building permit or certificate of occupancy in connection with a ~~n~~New dDevelopment, when any portion of the revenues collected is intended to be used to fund any portion of the costs of ~~ROAD~~ Highway Improvements.

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"Roads, Streets or Highways" means any road, street or highway which has been designated for improvement in the Comprehensive Road Improvement Plan, together with all necessary appurtenances, including but not limited to bridges, rights-of-way, tollway ramps and traffic control improvements.

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"Service Area" means the land area within the boundaries shown on Exhibit A ~~to~~ of this Ordinance, and which are now designated in the Comprehensive Road Improvement Plan.

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"Site-Related Improvements" means capital improvements necessary for direct access/egress to the ~~n~~New dDevelopment in question. Direct access/egress ingress to and egress from Site-Related Improvements include the following: (i) site driveways and roads; (ii) right and left-turn lanes for or leading to those driveways and roads; (iii) traffic control measures for or leading to those driveways and roads; (iv) acceleration/deceleration lanes; (v) median openings/closings; (vi) roads necessary to provide direct access to the development; (vii) landscaping; (viii) lighting; (ix) utilities; (x) berms, and the Rights of Way needed for the above. The term "Site-Related Improvements" includes any improvements made to roads, streets, or highways that are not designated for improvements in the County highway system.

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26. "Site Specific Development Approval" means an approval of a plan submitted by a Developer to a unit of local government describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of real property. The plan may be in the form of, but need not be limited to, any of the following: a preliminary or final planned unit development plan, subdivision plat, development plan, conditional or special use permit, or any other form of development use approval, as utilized by a unit of local government, provided that the development use approval constitutes a final exercise of discretion by the unit of local government.

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330 "Specifically and Uniquely Attributable" shall have the same meaning as that term is
used in 605 ILCS 5/5-901 et seq.

335 "System Improvement" means capital improvements, other than site-related
improvements, on ~~roads, streets or~~ highways under the jurisdiction of the County which are set
forth designated for improvement in the Comprehensive Road Improvement Plan.
~~Improvements not designated are not included in the term "System Improvement."~~ The
dedication of highway right of way to meet the published minimum requirements of a unit of
government for the functional classification of a highway shall not be considered a System
Improvement.

340 "Technical Specifications" means ~~the~~ those documents that contains the impact fee
calculation factors necessary for computation of the Impact Fee for a particular land use, the
Individual Assessment, and the Impact Fee schedule attached to this ~~document~~ Ordinance.

345 "Temporary Structures" means a building designed or intended for temporary human
occupancy or for the temporary protection of animals, chattels, or property of any kind. For the
purposes of this Ordinance, "temporary" is defined as a period of time no greater than two
years.

350 "Transportation Committee" means the Transportation Committee as designated by the
Kane County Board.

355 "Unit of Local Government" means any city, village or town with jurisdiction over any
real property in Kane County. The terms "Unit of Local Government" and "Municipality" are
interchangeable.

360 "Walking Distance": The distance that a pedestrian must travel between destinations
without obstruction, in a safe and comfortable environment. Walking Distance is measured in
linear feet along such paths, sidewalks or ways with 1,320 feet equaling a 1/4 mile and 2,640
feet equaling a 1/2 mile.

"Working Day" means any day on which the offices of the County are officially open, not
including Saturdays, Sundays, and other holidays designated by the County Board.

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Section Four. **Interpretation of Ordinance and Fee Schedule and Appeals.**

370 1. Application Interpretation of the provisions of this Ordinance, the Impact Fee
schedules and individual assessments shall be made by the County Engineer ~~of Kane County.~~
Whenever necessary, the County Engineer may use Trip Generation (6th ed. ~~or later~~ of the
Institute of Transportation Engineers as may be amended or revised from time to time) or the
Highway Capacity Manual (Special Report 209, Transportation Research Board), as may be
amended from time to time, or locally obtained empirical data, in applying this
375 Ordinance ~~making such interpretations.~~ The County Engineer shall establish a Procedures
Manual identifying the procedures the Division of Transportation will utilize in administering this
Ordinance.

380 2. Any decision by the County Engineer with respect to this Ordinance may be
appealed to the County Board through the ~~Division of~~ Transportation Committee. Any appeal
shall be made by written petition within fourteen (14) calendar days of notice of a decision by
the County Engineer.

385 3. Upon receipt of a petition for appeal of a decision of the County Engineer, the
~~Division of~~ Transportation Committee shall schedule consideration of such appeal for its next
regularly scheduled committee meeting. The Transportation Committee shall notify the Fee
Payer by regular mail of the date and time of such meeting and shall consider such written or
oral testimony that the Fee Payer may present in conjunction with the decision and
390 recommendation of the County Engineer. The Transportation Committee shall affirm, reverse,
or modify the County Engineer's decision at the regularly scheduled meeting.

395 4. The Fee Payer shall have fourteen (14) calendar days after the Transportation
Committee's decision to appeal ~~that the Transportation Committee's~~ decision to the County
Board. The County Board shall schedule consideration of such appeal at its next regularly
scheduled County Board meeting. Failure by the County Board to render a decision within sixty
400 (60) days of said County Board meeting shall constitute a denial of the Fee Payer's appeal.

400 5. Upon a final decision by the County Board, a Fee Payer may seek any subsequent
relief in a de novo proceeding in a the Circuit Court of the Sixteenth Judicial Circuit, Kane
County, Illinois, competent jurisdiction.

Section Five. **All Developers of New Development to Pay Road Improvement Impact Fee.**

405 All Developers of New Development shall pay ~~a fair share road improvement an~~ Impact
Fee to the County in accordance with the terms and conditions of this Ordinance.

Section Six. **Assessment of Impact Fees and Impact Fee Schedule.**

410 An Impact Fees shall be calculated pursuant to the Impact Fee schedules shown in
Exhibit B of this Ordinance and shall be due upon issuance of a building permit, unless
otherwise provided for herein. Unless the project is otherwise covered by an Impact Fee
Agreement, Impact Fees shall be assessed based on the predominant use of each building.
Speculative projects for which the use of the buildings has not been determined will be
assessed at the highest of the rates in the Impact Fee schedule which may be appropriate for
the structure being built. Any New Development that has received Site Specific Development
Approval prior to January 1, 2008, may, upon request of the Developer, be assessed a Road
Improvement Impact Fee under the terms of Kane County Ordinance 04-22; however, any
Road Improvement Impact Fee that is due and payable on or after January 1, 2010 shall be
calculated in accordance with the terms of the Ordinance in effect at that time. NEW
DEVELOPMENT that is assessed an Impact Fee under Ordinance 04-22 shall not be eligible
for the Impact Fee Discount provided for in Section Eighteen of this Ordinance.
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Section Seven. **Timing of Payment of Fees.**

425 1. Except as may be provided in subsections 3 and 4 of this Section, ~~road improvement~~ Impact Fees for a new single family Residential New Development imposed pursuant to any current or subsequent Ordinance shall ~~be paid in full~~ prior to the issuance of a Building Permit by either a municipality or the County, be paid in full.

430 2. Except as otherwise provided within this subsection and in subsection 3 of this Section, ~~road improvement~~ Impact Fees for ~~new~~ multi-family Residential New Development and for ~~new~~ Non-Residential New Development imposed pursuant to any current or subsequent Ordinance shall ~~be paid in full~~ prior to the issuance of a building permit by either a municipality or the County, be paid in full. In the event that the Developer and the County should enter into a written agreement designating that the Developer must notify the County when a Building Permit or Certificate of Occupancy has been issued, ~~road improvement~~ Impact Fees for said New Development shall ~~be paid in full~~ prior to the issuance of an initial Certificate of Occupancy by either a municipality or the County, be paid in full.

440 3. In the event that a building permit or certificate of occupancy is issued by a municipality without an impact fee having been paid, the County may collect the fee from the Fee Payer at any time. A Fee Payer paying an impact fee after a Building Permit or Certificate of Occupancy has been issued shall be charged a rate of interest which is three percent (3%) over the prime commercial rate in effect at the time that the Impact Fee is imposed. Interest shall begin accruing on the first business day following the date of said Building Permit or Certificate of Occupancy issuance.

450 4. Payment of the ~~road improvement~~ Impact Fee may be authorized at any time point earlier than as specified in subsections 1 and 2 of this section above if the County and the Fee Payer enter into an agreement that provides for such earlier payment of the Impact Fee. At the option of the County, the County may also enter into an Impact Fee Payment Agreement with a Fee Payer pursuant to Section Eight hereof that provides for the installment payment of the Impact Fee at a rate of interest which is 3% over the prime commercial rate in effect at the time that the Impact Fee is imposed, for a period of up to ten (10) years after the Impact Fee is due, provided that the County receives adequate security ensuring such later payment of the Impact Fee. In all agreements and/or deferral arrangements, interest shall begin accruing on the first business day following submittal of the Impact Fee application.

460 5. Developers of ~~new~~ Residential New Developments who receive "assisted financing" as defined by this Ordinance, or who have received a commitment for assisted financing and whose financing has been provided within six (6) months of the issuance of a Certificate of Occupancy, may enter into an agreement with the County whereby the Impact Fee may be paid in installments over a ten (10) year period of time at a rate of interest which is three percent (3%) over the prime commercial rate in effect at the time that the fee is assessed imposed.

470 6. The County and any municipalityies may enter into intergovernmental agreements that provide for the cooperative collection of the Impact Fees or for the conditioning of the issuance of Municipal Building Permits or Certificates of Occupancy upon proof of payment of the County Impact Fee.

475 7. Municipalities shall provide the County with a Notice of Issuance of any Building Permits in accordance with the provisions of 65 ILCS 5/11-39-1, and shall submit a copy of the developer's Receipt of Payment of the Impact Fee or executed Fee Payment Agreement along with such notice.

Section Eight. Fee Payment Agreements.

480 1. At any time prior to the issuance of a building permit, the Fee Payer may enter into a Fee Payment Agreement with the County providing for payment of the Impact Fee imposed by this Ordinance, in accordance with application requirements specified by the County Engineer. Such Impact Fee Payment Agreement may provide for installment payments of the Impact Fee for a period up to ten (10) years, only in the case of development funded by "assisted financing", reduction of the Impact Fee through transportation systems management
485 strategies, recapture payments for construction credits, credit and security arrangements and other matters relating to the Impact Fee. In addition, such Impact Fee Payment Agreement may include an Improvement Credit Agreement as provided for in Section Twelve of this Ordinance. Security provided for the payment of any Impact Fee due under the provisions of
490 this Ordinance may be in the form of a promissory note, cash bond, security bond, an irrevocable letter of credit, or a lien or mortgage on the lands to be covered by the Building Permit. The Impact Fee Payment Agreement may provide that such security may be partially releasable upon receipt of partial payments of the Impact Fee. Fee Payers receiving "assisted financing" shall be charged a rate of interest which is three percent (3%) over the prime commercial rate in effect at the time that the Impact Fee is assessed ~~imposed~~, on any monies
495 deferred.

500 2. Fee Payers for Non-residential New Development and Fee Payers of multi-unit Residential New Development will be allowed to enter into Impact Fee payment agreements to defer payment of some portion of the Impact Fees due upon the issuance of a Building Permit. Impact Fee payment agreements shall provide that a payment of at least fifty percent (50%) of the determined fees or construction credits in lieu of cash shall be payable upon the issuance of a Building Permit, and the balance shall be payable in twelve (12) months. Fee Payers shall be charged a rate of interest that is three percent (3%) over the prime commercial rate in effect at the time that the Impact Fee is assessed ~~imposed~~, on any monies deferred.

505 ~~3. If the use changes from one category to another either by adding 25,000 square feet or rearranging the space to effectively add 25,000 square feet, then subsequent fees shall be calculated according to the most recent fee schedule and the balance of the fees shall be due and owing before such building permits are issued.~~

510 ~~3.4.~~ Within ten (10) working days of receipt of a written request for a Fee Payment Agreement, the County Engineer shall determine if all pertinent information has been provided by the Person making the written request. If the County Engineer determines that additional documentation is required, the County Engineer shall send a written statement specifying the deficiencies by mail to the Person submitting the request. Until the deficiencies are corrected,
515 the County shall take no further action on the request.

~~4.5.~~ When the County Engineer determines that the request is complete, the County Engineer shall draft an Impact Fee Payment Agreement that shall be reviewed and approved

520 by the Fee Payer. Upon acceptance of the Impact Fee Payment Agreement by the Fee Payer,
the Transportation Committee shall consider the Impact Fee Payment Agreement at its next
regularly scheduled committee meeting, and if the Transportation Committee approves the
Impact Fee Payment Agreement, the County Engineer may execute the Agreement on behalf
525 Agreement upon written findings that it is not in the best interest of the County, for reasons
including but not limited to the extraordinary potential impacts of a development.

Section Nine. **Intergovernmental Agreements.**

530 1. At any time after the adoption of this Ordinance, the County may enter into an
intergovernmental agreement with any municipality within its jurisdiction regarding the fee
imposed by this Ordinance. Such intergovernmental agreements shall be adopted in
accordance with State statutes and may include provisions governing administrative issues
involving the collection of the fee imposed, such as the reimbursement of collection costs from
535 the fees collected, and any other matters deemed necessary or appropriate by the County and
the municipality.

540 2. The intergovernmental agreement may provide for the collection of an road
~~improvement~~ Impact Fee for municipal streets roads as an additional component of the Kane
County Road Improvement Impact Fee, provided that all the municipalities in the applicable
Impact Fee Service Area enter into an intergovernmental agreement with the County that
provides that the municipal street road portion of the Impact Fee shall be expended for
municipal street road improvements within the Service Area in which the fee is collected, and
545 provided that the use of the Impact Fees funds on municipal streets roads is used in the same
manner and for the same purposes as motor fuel tax money allotted to the County under the
provisions of 605 ILCS 5/5-701 et seq., solely for Highway road Improvement Capital Costs.

Section Ten. **Road Improvement Impact Fee Schedule.**

550 1. Any PERSON who initiates any New Development, except those preparing an
Individual Assessment pursuant to Section Eleven of this Ordinance and those activities
exempted from the Impact Fee by the provisions of Section Seventeen hereof, shall pay an fair
~~share~~ Impact Fee as set forth on Exhibit B of ~~to~~ this Ordinance.

555 2. Where the land use in a particular development is not listed on the fee schedule, the
County Engineer may determine the land use classification which most closely identifies the
development and which shall apply for purposes of determining the applicable fee under this
Section. For land uses not specifically listed in Exhibit B, the County may, at the discretion of
the County Engineer, determine an appropriate Impact Fee based on accepted traffic
560 engineering practices, published data, the cost per trip published in the Road Improvement
Impact Fee Schedule, and the formula in Section Eleven of this Ordinance.

565 3. In the event that the New Development proposed is a change in the immediate past
use, at the site of the New Development the amount of the Impact Fee shall be based on the
change in trips generated by the new use of the New Development site, and the formula set
out in Section Eleven shall be used to calculate the Impact Fee.

4. Where a proposed New Development is to be located within two (2) Service Areas, the County Engineer shall determine the Impact Fee as follows:

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a. If a Residential New Development, the Impact Fee shall be determined by counting the number of dwelling units located within each Service Area of the New Development and charging a straight-per-unit cost for the dwelling units within each area.

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b. If a Non-residential New Development, the Impact Fee shall be determined by calculating the average of the Impact Fees that would otherwise be charged if the New Development were located entirely within each Service Area.

580 Section Eleven. **Individual Assessment of Impact.**

1. Any Person who initiates New Development may choose to provide an Individual Assessment of the impacts of the proposed New Development upon the road, street and highway systems in the County. The Individual Assessment may be used to determine whether a fair share of the road improvements' capital costs necessitated by the proposed New Development should be less than the Impact Fee established in Section Ten of this Ordinance or the appropriate Impact Fee for a particular use or combination of uses not identified in Section Ten.

2. Any Person who chooses to provide an Individual Assessment is required to submit to the County Engineer a written statement of intent to perform an Individual Assessment.

3. The Individual Assessment shall be calculated according to the following formula (See Technical Specifications for more detailed information):

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$$\text{GROSS FEE} = \frac{((\text{TRIPS} \times \text{NT}) \times (\text{TRIP LENGTH} \times \% \text{VMT})) / 2 \times \text{COST}}{(\text{CAPACITY}) \times \text{FEE PER TRIP.}}$$

$$\text{NET FEE} = \text{GROSS FEE} \text{ minus TAX CREDIT minus IMPROVEMENT CREDIT minus DEMOLITION CREDIT}$$

$$\text{REDUCED FEE} = \text{NET FEE} \times ((100 \text{ minus FEE REDUCTION PERCENTAGE}) / 100)$$

605 Where

TRIPS = Number of trips generated on a weekday during the peak hour, between 4:00 p.m. and 6:00 p.m., of adjacent street traffic between 4:00 p.m. and 6:00 p.m.

NT = Fraction of TRIPS that represents new trips on the roadway system (discounting pass-by and link diverted trips).

- 610 **TRIP LENGTH =** The average trip length by land use category in miles.
- % VMT =** % of vehicle-miles of travel on the KCDOT system in a given impact fee service area.
- CAPACITY =** Lane-mile capacity at LOS "D" in vehicles per hour.
- COST =** Average design, construction, and right-of-way cost of building one lane-mile of road.
- TAX CREDITS =** The present value of that portion of the highway, local gas and motor fuel taxes expected to be generated by the development which are devoted to capital expenditures.
- FEE PER TRIP** The Impact Fee for the Service Area for New Development that generates one trip during the peak hour of adjacent street traffic between 4:00 p.m. and 6:00 p.m. as specified in Exhibit B of this Ordinance.
- 615 **FEE REDUCTION PERCENTAGE** The amount determined by the County Board by which Road Improvement Impact Fees shall be reduced from the amount calculated based on the cost per trip, as specified in Exhibit B of this Ordinance.
- 620 **IMPROVEMENT CREDITS =** The value of Improvement Credits pursuant to an Improvement Credit Agreement (See Section Twelve).
- 625 **DEMOLITION CREDITS =** The value of Impact Fees that would have been assessed on Structures a building or buildings that a Fee Payer demolishes in conjunction with New prior to Development. (See Section Thirteen).
- 630 4. The Individual Assessment shall include the following information:
- a. The proposed trip generation rates for the proposed New 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 (TRIPS factor);
- 635 b. 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; A determination of the percentage of the trips generated by the New Development that represents new trips on the highway system (NT factor);

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~~c. 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 Kane County for the cost of a lane mile. Any other data and supporting calculations that demonstrate a lower Impact Fee would be justified due to the unique nature or location of the New Development.~~

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5. ~~An~~ The Individual Assessment shall only be prepared by transportation professionals, qualified by the County in accordance with established procedures, in the field of transportation planning and engineering and impact analysis.

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6. 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.

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7. When the County Engineer determines the Individual Assessment is complete, the Individual Assessment shall be reviewed within fifteen (15) working days thereafter. The County Engineer shall approve the proposed Impact 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 Ten of this Ordinance or as set by the County Engineer, if the use had not previously been identified in the Impact Fee schedule. If the Individual Assessment is denied by the County Engineer, the Person or Developer may appeal the decision of the County Engineer in the manner provided for in Section Four of this Ordinance.

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Section Twelve. Improvement Credit Agreements.

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1. ~~Eligibility.~~ Any Person who initiates New 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 Kane County for System Improvements in accordance with the provisions of this Section. Highway Improvements made primarily for the benefit of individuals or entities other than the County, including but not limited to turn lanes, traffic signals at private entrances, improvements to cross streets not on the County Highway System over and above those necessary for the efficient operation of County intersections, and improvements to private property, together with the engineering and right of way costs therefor, are not eligible for Improvement Credits. The County Engineer shall make the final determination as to which improvements are System Improvements eligible for an Improvement Credit. 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

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685 given for any contributions made by a DEVELOPER that are required by the County, a
municipality or other unit of local government such as improvements on site or access to a site

690 2. The County will not be required to refund any Impact Fee or part thereof funds for
any improvement credit that exceeds the Impact Fee assessed imposed by this Ordinance for
the proposed New Development. However, a Fee Payer, or his or her successor in interest,
695 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 located within the same Service Area as the development which would be the
beneficiary of the credit, and provided that the refund application is made within five years of
the date of execution of the original Improvement Credit Agreement.

700 3. A Person shall be entitled to an improvement credit equal to the dollar value of the
cost of eligible System Improvements contributed, paid for or committed to by the person or his
or her predecessor in interest in conjunction with the County's approval of the New
Development which is subject to the Impact Fee for which a credit is being sought. ~~Credit for
system improvements will be given only if the COUNTY ENGINEER determines the system
improvements are justified in accordance with the COMPREHENSIVE ROAD IMPROVEMENT
PLAN.~~ The cost of such improvements shall be based on the following criteria:

705 a. The actual cost of improvements based on a valid contract proposal or bid
tabulations for work performed in Kane County on a Kane County highway; and

710 b. The mean value of two legitimate, qualified appraisals of the fair market value
of any land or interest therein which is part of the improvement for which a credit is
being sought. The Person or Developer and the County shall each provide a qualified
appraisal from which the mean shall be determined.

715 4. The Person or Developer shall initiate such determination of entitlement to
Improvement Credit by submitting a written request for an Improvement Credit Agreement to
the County Engineer. The request for an Improvement Credit Agreement shall include the
following information:

720 a. A proposed plan of specific road improvements, prepared and certified by a
duly qualified and licensed Illinois engineer; and

725 b. The projected costs for the suggested roadway improvements, which shall be
based on local information for similar roadway improvements, along with the
construction timetable for the completion of such improvements. Such estimated costs
shall include the cost of all labor and materials, the appraised value or cost of all lands,
property, rights, easements and franchises acquired, financing charges, interest prior to
and during construction and for one (1) year after completion of construction, cost of
plans and specifications, surveys of estimated costs and of revenues, costs of
engineering and legal services and all other expenses necessary or incidental to
determining the feasibility or practicability of such construction or reconstruction.

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5. Within ten (10) working days of receipt of the request for an Improvement Credit Agreement, the County Engineer shall determine if all pertinent information has been provided. If the County Engineer determines that additional information is required, the County Engineer shall send a written statement outlining the deficiencies to the Person submitting the request.
735 The County Engineer shall take no further action on the proposed Agreement, other than further reviews for completeness, until all deficiencies have been corrected or otherwise settled.

6. Once the County Engineer determines that the proposed improvement is a System Improvement and the proposed costs for the suggested System Improvement are professionally acceptable and fairly assess its cost and the agency unit of government with jurisdiction over the proposed System Improvement is in agreement with the System Improvement, the County Engineer shall draft an Improvement Credit Agreement that shall be reviewed and approved by the Person or Developer submitting the request for the
745 Improvement Credit Agreement. The Improvement Credit Agreement shall specifically outline the capital highway roadway improvements that will be constructed by the Person or Developer, the time by which the System Improvements shall be completed and the ~~dollar credit the PERSON or DEVELOPER shall receive for construction~~ total dollar value of the System Improvements. If the County Engineer determines that either the suggested System Improvement is not a System Improvement or that the proposed costs are not acceptable, the
750 County Engineer shall notify the Person or Developer of his or her decision and may propose an alternative System Improvement consistent with the provisions of this Ordinance.

7. Upon acceptance of the Improvement Credit Agreement by the County Engineer and
755 the Person or Developer, the Transportation Committee shall consider the Improvement Credit Agreement at its next regularly scheduled committee meeting. ~~And,~~ If the Transportation Committee approves the Improvement Credit Agreement, the County Engineer may execute the Agreement on behalf of the County. Any Improvement Credit Agreement that ~~awards the PERSON or DEVELOPER a dollar credit of~~ includes System Improvements with a total dollar
760 value over \$100,000 shall be reviewed and ratified by the County Board before it may be executed by the County Engineer.

8. Use of Improvement Credits. The Division of Transportation shall maintain records of the use of Improvement Credits toward payment of Impact Fees due and shall provide a quarterly statement to the beneficiary of each Improvement Credit Agreement indicating use of any Improvement Credits during the reporting period and the balance of Improvement Credits remaining. Upon execution of the Improvement Credit Agreement, the beginning balance shall be equal to the total dollar value of the Improvement Credits as specified in the Agreement. Improvement Credits will be applied against New Development in the following manner:
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a. The beneficiary shall indicate on the Impact Fee application that Impact Fees assessed will be paid by utilizing Improvement Credits and shall indicate the Improvement Credit Agreement number.
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b. For each portion of the New Development to be applied against an Improvement Credit, the Division of Transportation shall calculate the net Impact Fee in accordance with Section Eleven of this Ordinance. The remaining Improvement Credit balance shall be reduced by the net Impact Fee for that portion of the New
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Development. The Impact Fee receipt shall note that the Impact Fees were paid through application of Improvement Credits and the amount of Improvement Credit expended.

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c. If the Improvement Credits remaining are insufficient to cover the net Impact Fee for the New Development, the remaining Net Fee shall be reduced by the Fee Reduction Percentage then in effect and the applicant notified of the Impact Fee due.

Section Thirteen. **Demolition Credits.**

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1. A Person shall be entitled to a Demolition equal to the dollar value of Impact Fee that would have been charged on the building(s) ~~or buildings~~ being demolished as part of a redevelopment plan or New Development. The Demolition Credit shall not exceed the ~~gross impact~~ reduced Impact Fee for the New Development.

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2. At the time of Impact Fee application, the Person applying for an impact fee shall present to the County a copy of the demolition permit or letter of authorization from the unit of local government issuing the demolition permit. The demolition permit ~~or letter~~ shall be attached to the impact fee application and demolition credits shall be calculated based upon the Impact Fee schedule in effect at the time of demolition. These credits shall be deducted from the gross Impact Fee calculated for the New Development.

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3. The COUNTY shall not grant ~~issue~~ demolition credits for demolitions not associated with New Development.

Section Fourteen. **Establishment of Service Areas.**

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There are hereby established Service Areas within ~~for~~ the County in accordance with the boundaries set forth on Exhibit A of this Ordinance. The Impact Fee funds collected pursuant to this Ordinance shall be expended within the service area from which they were collected, in accordance with the provisions of Section Fifteen ~~Fourteen~~ of this Ordinance.

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Section Fifteen. **Use of Funds Collected.**

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1. The Impact Fees funds collected pursuant to this Ordinance shall be used in the same manner and for the same purposes as motor fuel tax money allotted to the County under the provisions of 605 ILCS 5/5-701 et seq., solely for highway road ~~road~~ improvements capital costs that are specifically and uniquely attributable to the New Development charged the Impact Fee. In no event shall Impact Fees funds be expended to alleviate existing deficiencies in the County's road, street or highway systems which were identified in the Comprehensive Road Improvement Plan that was the basis for the original adoption of Road Improvement Impact Fees by the County ~~Unit of Local Government~~. The Impact Fees funds shall be expended on highway road ~~road~~ improvements within the service area or areas from which they were collected, as specified in the Comprehensive Road Improvement Plan. In the event that a Service Area boundary is the centerline of a County highway road ~~road~~ or intersection, the County Engineer may use the Impact Fees funds to complete the highway road ~~road~~ improvements to the opposite side of the highway road ~~road~~ or right of way. Co-mingling of Impact Fees funds with regular highway, local gasoline or motor fuel tax funds on projects is permissible to the extent that regular tax funds are used to pay for ~~at least~~ the cost of alleviating any ~~the~~ existing deficiencies. The County

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Engineer shall provide a written justification of the allocation of Impact Fees ~~funds~~ whenever such Impact Fees funds are allocated to projects that will remedy existing deficiencies, demonstrating that the Impact Fees ~~funds~~ are not used for such existing deficiencies.

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2. Any expenditure or encumbrance of impact Fees ~~funds~~ used to acquire right of way shall be expended or encumbered in conjunction with the construction associated with that right of way and shall begin within five (5) years from receipt of the Impact Fees ~~funds~~ used to acquire the right of way.

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3. The Impact Fees collected by the County pursuant to this Ordinance shall be kept separate from other funds of the County.

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4. A "Road Improvement Impact Fee Fund" shall be established for each Service Area established in Section Fourteen of this Ordinance to insure that the Impact Fees collected are appropriately earmarked and spent for highway road improvement capital costs in accordance with the provisions of this Ordinance. In the event that any municipality enters into an intergovernmental agreement for the collection of a Road Improvement Impact Fee for municipal roads, an additional Road Improvement Impact Fee Fund shall be established for each of the service areas in which the municipality is located to insure that the municipal component of the Impact Fee is expended on municipal projects within the Service Area district in which it is collected.

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5. ~~Road improvement~~ Impact Fees collected shall be accrued to the fund established for the Service Area in which the New Development is proposed.

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6. Any Impact Fees funds on deposit not immediately necessary for expenditure shall be invested in interest bearing accounts designated solely for such Impact Fees funds for each Service Area. All interest derived from these investments shall be retained in the appropriate fund and used for highway road improvements authorized in this Ordinance.

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7. The County shall provide that an accounting be made annually for any account containing Impact Fee proceeds and interest earned thereon. Such accounting shall include, but shall not be limited to, the total Impact Fees funds collected, the source of the Impact Fees funds collected, the total amount of interest accruing on such Impact Fees funds, the amount of Impact Fees funds expended on road improvements, and a list of the Improvement Credits given. The County shall publish the results of the accounting once a year in a newspaper of general circulation within Kane County ~~at least three (3) times~~. The notice shall also state that a copy of the accounting report shall be made available to the public for inspection at reasonable times. A copy of the report shall be given to the Advisory Committee.

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Section Sixteen. **Refunds.**

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1. Any Impact Fee collected may be returned to the Fee Payer if the approved New Development is cancelled due to failure to commence non-commencement of construction before the Impact Fees funds have been spent or otherwise encumbered ~~by contract~~. Refunds may be made in accordance with this Section, provided that the Fee Payer or his or her successor in interest files a written request for a refund within one (1) year of the date that the Impact Fees funds were required to be encumbered ~~by contract~~.

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2. Impact Fees collected shall be encumbered for any of the purposes listed in Section Fifteen of this Ordinance ~~the construction of roadway facilities~~ within five (5) years of the date of collection. In determining whether the funds have been encumbered, the Impact Fees funds should be accounted for on a first-in- first-out (FIFO) basis.

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3. The Impact Fees collected pursuant to this Ordinance that have not been encumbered in accordance with Paragraph 2 of this Section shall be returned to the owner of record only upon receipt of a written refund Affidavit. The Affidavit shall include the following information:

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a. A notarized sworn statement that the applicant is the owner of record of the New Development for which the Impact Fee was paid; FEE-PAYER paid the impact fee for the property and the amount paid;

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b. A copy of the dated receipt issued by the County for payment of the fee;

b.e: A certified copy of the latest recorded deed for the property;

c.d: A copy of the most recent ad valorem property tax bill; and

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d.e: A sworn statement of entitlement.

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4. Within ten (10) working days of receipt of the written request, the County Engineer shall determine if the written request ~~it~~ is complete. If the County Engineer determines the refund request is not complete, the County Engineer shall send a written statement specifying the deficiencies by mail to the Person submitting the request. Unless the request's deficiencies are corrected, the County Engineer shall take no further action on the request.

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5. When the County Engineer determines the request for refund is complete, the County Engineer shall review it within fifteen (15) working days, and shall approve the proposed refund if the County Engineer determines the Fee Payer has paid an impact fee which the County has not spent or encumbered within five (5) years from the date the fees were paid.

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6. If any Impact Fees have ~~When the money requested is still in a fund and has not been spent or otherwise~~ encumbered within five (5) years of the date the Impact Fees were paid, the Impact Fees money shall be returned along with interest at a rate which is seventy percent (70%) of the prime commercial rate in effect at the time that the Impact Fee is imposed, less five percent (5%) of the total fee to defray the costs of administration.

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7. Impact Fee refunds may be made at the discretion of the County Engineer without application in any case where inadvertent mathematical error resulting in overpayment has been made.

Section Seventeen. **Exemptions.**

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The following New Development shall be exempted from payment of the ~~road improvement~~ Impact Fees imposed by ~~in~~ this Ordinance:

925 1. Alterations or expansion of an existing dwelling unit where no additional units are created and the use of the unit is not changed;

930 2. The internal alteration of a non-residential unit of less than 25,000 square feet where (a) no additional useable square feet of space are added, (b) where the construction or expansion of square footage does not require a zoning change, or (c) where the alteration is required by the County's or a Municipality's building code;

3. The construction of accessory buildings which are not dwelling units and which do not constitute an increase in intensity of use;

935 4. The replacement of a destroyed or partially destroyed building with a new building of the same size and use;

5. Publicly owned and operated school buildings; and

940 6. Public buildings owned, operated and occupied by government agencies.

7. Temporary Structures.

8. Affordable Housing.

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9. Private Schools.

Section Eighteen. Discounts

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1. A New Development shall be eligible for a 40% discount from the Impact Fee assessed in accordance with Section Ten of this Ordinance, provided that all of the following four criteria are met:

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• All building entrances in the New Development are (i) within ½ mile Walking Distance of existing or Committed Transit Service for buses only, or (ii) within 1 mile walking distance of an existing or Committed Transit Service for passenger trains (transit station).

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• The New Development includes a residential component and also includes at least four of the land uses or trip generators listed in paragraph 2 below

or

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All building entrances are: (i) within ¼ mile Walking Distance of a residential zoning district and at least four of the land uses or trip generators listed in paragraph 2 below; or (ii) within ½ mile Walking Distance of a residential zoning district and at least six of the land uses or trip generators listed in paragraph 2 below

970 • The New Development has (i) an average residential Density of at least seven units per acre; or (ii) an average non-residential or mixed use Floor Area Ratio of at least 0.5

975 • The maximum Block Perimeter within the New Development is less than or equal to 2,200 feet and the main or a public entrance to the building is directly accessible from the public sidewalk along a street, with no parking allowed between the building and the public sidewalk along the street.

980 2. Land Uses and Trip Generators referenced in this Section are: parks, forest preserves, community or civic centers, schools or daycare centers, libraries, places of worship, post offices, convenience stores, laundry/dry cleaners, neighborhood retail centers, restaurants, pharmacies, grocery stores, banks, medical/dental offices or hospitals, and general offices. A single use may not be counted in more than one category. Accessory uses within a principal use may not be counted as a separate use; for example, a school within a
985 church shall be considered one (1) use.

990 3. New Development meeting the requirements of paragraph 1 of this Section shall be given an additional 10% discount from from the fee assessed in accordance with Section Ten of this ordinance, provided the New Development is located on an Infill or Redevelopment site.

995 4. New Development meeting the requirements of paragraph 1 of this Section shall be given an additional 10% discount from the Impact Fee assessed in accordance with Section Ten of this Ordinance, provided the New Development (i) has an average residential DENSITY of at least 14 units per acre; or (ii) has an average non-residential or mixed use Floor Area Ratio of at least 1.0.

1000 5. New Development meeting the requirements of paragraph 1 of this Section shall be given an additional 10% discount from the Impact Fee assessed in accordance with Section Ten of this ordinance, provided the New Development (i) has an average residential Density of at least 28 units per acre; or (ii) has an average non-residential or mixed use Floor Area Ratio of at least 1.5.

1005 6. The maximum discount any New Development may receive under this Section is 70%. Impact Fees calculated through an Individual Assessment are not eligible for any of the discounts in this Section.

1010 7. In order to receive the Discount described in this Section, the Developer shall submit a Discount Application to the Division of Transportation. The Discount Application shall include an overall plan of the New Development, a description of the permitted and anticipated land uses, and detailed calculations clearly demonstrating that the New Development meets the requirements listed in the above paragraphs, and a schedule indicating the anticipated year of construction of the various phases and elements of the New Development. The Division of Transportation may establish further requirements for a Discount Application as
1015 needed to properly administer the requirements of this Section.

1020 8. As a condition of receiving a discount under this Section, the Developer shall
1025 enter into an Impact Fee Payment Agreement with the County in accordance with Section
Eight of this Ordinance. The Impact Fee Payment Agreement shall provide that the Developer
will construct the New Development in accordance with the documents submitted with the
Discount Application, within a period not to exceed ten years. The Impact Fee Payment
Agreement shall also include a commitment by the Developer that if the New Development is
not completed in accordance with the Discount Application within ten years of the date of the
Impact Fee Payment Agreement, or if there is a material change in the New Development that
would result in its ineligibility to receive a Discount, or its receiving a lesser Discount, that the
Developer shall pay to the County an amount equal to the Discount or excess Discount
received. The County may, as a condition of the Impact Fee Payment Agreement, require a
guaranty in a form acceptable to the County to ensure such payment.

1030 Section Eighteen. Nineteen **Advisory Committee.**

1035 1. An Advisory Committee has been previously ~~been~~ established by the County in
compliance with the requirements of the Road Improvement Impact Fee Law ~~new impact fee~~
statute to assist the County in the recommendation of land use assumptions and the
development of the Comprehensive Road Improvement Plan. After the effective date of this
Ordinance, the Advisory Committee shall continue to have the following duties:

- 1040 a. Report to the County on all matters relating to the imposition of impact fees;
- b. Monitor and evaluate the implementation of the Comprehensive Road
Improvement Plan and the assessment of Impact Fees;
- 1045 c. Report annually to the County with respect to the progress of the
implementation of the Comprehensive Road Improvement Plan; and
- d. Advise the County of the need to update or revise the land use assumptions,
Comprehensive Road Improvement Plan, or impact fees.

1050 2. The County shall adopt procedural rules to be used by the Advisory Committee in
carrying out the duties imposed by this Section. The County shall assist ~~cooperate with~~ the
Advisory Committee and shall make available all professional reports relating to the
development and implementation of the land use assumptions, the Comprehensive Road
Improvement Plan, and the periodic up-dates of the plan.

1055 Section ~~Nineteen~~Twenty. **Review of Land Use Assumptions and Update of
Comprehensive Road Improvement Plan.**

1060 The Advisory Committee shall periodically review the land use assumptions and the
Comprehensive Road Improvement Plan, approved by Resolution 04-21 and as updated from
time to time, in accordance with Section Eighteen, and shall advise the County of the need to
update these documents. The Comprehensive Road Improvement Plan shall be updated at
least once every five (5) years. The five (5) year period shall commence on the date of the

1065 most recent original adoption of the Comprehensive Road Improvement Plan, and shall be conducted in accordance with statutory requirements.

Section ~~Twenty-Two~~Twenty-one. Review of Ordinance.

1070 1. The Advisory Committee shall periodically review the factors used to calculate the Impact Fee schedule in Section Ten, the factors used for an individual assessment provided for in Section Eleven, the administration of this Ordinance and the Procedures Manual, and shall revise the Impact Fee schedule in accordance with any changes in the factors used in calculating the Impact Fee. The review shall not affect the applicability of the Impact Fee schedule in Section Ten or the factors in Section Eleven until a revision to the schedule or the factors is approved by the County Board. If the County Engineer determines that the arithmetic average of the increase in the Impact Fees will be five percent (5%) or greater from the previous fee schedules, the County shall hold a public hearing regarding the revisions to the Impact Fee schedules. The County shall give thirty (30) days notice of such public hearing by publication in a newspaper of general circulation within Kane County. A majority vote of the members of the County Board then holding office is required before the Impact Fees may be increased. In no event shall this paragraph or any other section of this Ordinance be construed to prevent the Kane County Board from taking any action to amend this Ordinance after its effective date.

1085 2. Regarding the revision of the Impact Fee schedule, the maximum annual increase for any one year shall not be more than ten percent (10%) plus any increase in the construction cost Index (as published by the Engineering News Record) for said year.

1090 3. Unless there has been a State or County gas tax increase or decrease, any fee increase or decrease shall become effective on December 1st of the year that the fees are increased or decreased. If there has been a gas tax increase or decrease, the revised fee schedules may be considered by the Transportation Committee at its next regularly scheduled committee meeting and then by the County Board at its next subsequently scheduled County Board meeting and shall be revised to reflect the allocation of such tax funds to transportation capacity improvements.

1100 4. An annual report shall be provided to the County Board that examines the expenditure of the Impact Fees ~~unds~~ collected under the provisions of this Ordinance and analyzes the effectiveness of such expenditures. The first annual report shall be produced on or before June 1, 2005, and a report shall be produced prior to June 1st of every year thereafter.

1105 5. The limitations contained in Paragraphs 1 and 2 of this Section shall not apply to any amendment to this ordinance resulting from a complete update of the Land Use Assumptions and Comprehensive Road Improvement Plan in accordance with the Road Improvement Impact Fee Law.

Section ~~Twenty-one~~two. Effective Date of Ordinance.

1110 This Ordinance shall become effective upon adoption by the County Board on April 1, 2004.

Section Twenty-~~two~~three. **Penalties.**

1115 1. The County Engineer may initiate, through the State's Attorney, judicial proceedings to collect any fee that has become due under this Ordinance.

1120 2. Unless a Fee Payer is currently appealing an Impact Fee, in addition to other remedies provided by other applicable laws, when an Impact Fee required by this Ordinance has not been paid, the County or the County Engineer shall not issue to the violator any subsequent approvals or permits for any other development in the County and shall suspend review of any pending applications or petitions of the violator until the Impact Fee has been paid.

1125 Section Twenty-~~three~~four. **Distribution.**

1130 Certified copies of this Ordinance shall be sent to every ~~each of the twenty-eight (28) municipalities~~ having territory within Kane County, the Illinois Department of Transportation, the Division of Transportation, and the Kane County Council of Mayors through the Division of Transportation, and one copy to the Treasurer, Auditor, Finance Department, Development Department, and State's Attorney's Office.

Section Twenty-~~four~~five. **Severability.**

1135 In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner effect the remaining portions or sections of the Ordinance which shall remain in full force and effect.

1140 Passed by the Kane County Board on _____.

1145 _____
Clerk, County Board
Kane County, Illinois

Chairman, County Board
Kane County, Illinois

1150 Vote:
Yes _____
No _____
Voice _____
Abstentions _____

1155