

## ROADWAY IMPROVEMENTS IMPACT FEES

### § 36.100 - DEFINITIONS.

When used in this subchapter, these terms shall be defined as follows:

**ASSESSMENT.** The determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this subchapter.

**BUILDING PERMIT.** Written permission issued by the city for the construction, repair, alteration or addition to a structure.

**CAPITAL CONSTRUCTION COST OF SERVICE.** Costs of constructing capital improvements or facility expansions, including and limited to the construction contract price, surveying and engineering fees, land acquisition costs, including easement and land purchases, court awards and costs, attorney's fees, and expert witness fees, interest charges and other finance costs for bonds, notes or other obligations issued to finance capital improvements identified in the capital improvements plan, and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the city.

**CAPITAL IMPROVEMENT.** A facility expansion, improvement or equipment purchase of a roadway, water, wastewater, or stormwater facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the city.

**CAPITAL IMPROVEMENTS ADVISORY COMMITTEE.** The committee appointed by the City Council to perform the duties required by Chapter 395, Local Government Code, as amended.

**CAPITAL IMPROVEMENTS PLAN (CIP).** The adopted plan, as may be amended from time to time, which identifies the capital improvements and their associated costs which are necessitated by and which are attributable to new development, for a period not to exceed ten years, and which are to be furnished in whole or in part through the imposition of impact fees pursuant to this subchapter. The capital improvements plan may be composed of separate plans for water, wastewater, stormwater and roadway improvements.

**CITY.** The City of Corinth, Texas.

**COMPREHENSIVE PLAN or MASTER PLAN.** The comprehensive long-range plan, adopted by the City Council, which is intended to guide the growth and development of the city which includes analysis, recommendations and proposals for the city regarding such topics as population, economy, housing, transportation, community facilities and land use.

**CREDIT.** The amount of the reduction of an impact fee for fees, payments or charges for the same type of capital improvements for which the fee has been assessed.

**DIRECTOR.** The Director of Public Works for the City of Corinth, Texas, or his or her authorized representative.

**EXISTING DEVELOPMENT.** All development within the service area which has a certificate of occupancy as of the date of this subchapter.

**FACILITY EXPANSION.** The expansion of the capacity of an existing facility which services the same function as an otherwise necessary new capital improvement in order that the existing facility may serve new development. FACILITY EXPANSION does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

**FINAL PLAT.** The filing of the final plat with the county following compliance with all conditions of approval pursuant to the city's subdivision regulations.

**GROWTH-RELATED COSTS.** Capital construction costs related to providing additional service units to new development, either from excess capacity in existing facilities, from facility expansions or from new capital facilities, and includes those items specified in Section 395.012, Local Government Code. GROWTH-RELATED COSTS do not include:

- (1) Construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;
- (2) Repair, operation, or maintenance of existing or new capital improvements or facility expansions;
- (3) Upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;
- (4) Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;
- (5) Administrative and operating costs of the city; and
- (6) Principal payments and interest or other finance charges on bonds or other indebtedness, except for such payments for growth-related facilities contained in the capital improvements plan.

**IMPACT FEE.** A fee for water, wastewater, roadway and/or stormwater facilities imposed on new development by the city pursuant to this subchapter in order to generate revenue to fund or recoup the cost of capital improvements or facility expansion necessitated by, and attributable to such new development. IMPACT FEES do not include the dedication of rights-of-way or easements for facilities or the construction of improvements necessitated by and attributable to the new development. IMPACT FEES also do not include any participation or extension agreements for water and/or wastewater improvements imposed; front footage charges for water or wastewater lines imposed, or funds deposited for the construction of roadway improvements imposed pursuant to the city's subdivision regulations.

**INDUSTRIAL USE.** Any new development for an industrial use or any building containing such use(s), as defined in the City's Comprehensive Zoning Ordinance.

**INSTITUTIONAL USE.** New development to be used for a school, camp or church.

**LAND USE ASSUMPTIONS.** The projections of population and employment growth and land use patterns, densities and intensities adopted by the city, as may be amended and updated from time to time.

**MULTI-FAMILY USE.** New development for use as multi-family dwellings under the City's Comprehensive Zoning Ordinance.

**MUNICIPAL USE.** A use which is a city-owned facility or a fire department facility.

**NEW DEVELOPMENT.** A project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which has the effect of increasing the requirements for capital improvements or facility expansions, measured by the number of service units to be generated by such activity, and which requires either the approval of a plat pursuant to the city's subdivision regulations, the issuance of a building permit or certificate of occupancy, or connection to the city's water or wastewater system and which has not been exempted from compliance with these regulations by provisions herein.

**NONRESIDENTIAL DEVELOPMENT.** For purposes of this subchapter, all new development which is not residential development.

**OFFSET.** The amount of the reduction of an impact fee designed to fairly reflect the value of system-related facilities, pursuant to rules herein established or administrative guidelines, provided and funded by a developer pursuant to the city's subdivision regulations or requirements.

**PLATTING.** The act of preparing for approval and processing the plat for the new development.

**PROPERTY OWNER.** Any person, group of persons, firm, corporation, governmental entity or any other legal entity having legal title to or sufficient proprietary interest in the property on which new development is to occur. PROPERTY OWNER includes the developer for the new development.

**RESIDENTIAL DEVELOPMENT.** A lot developed for use and occupancy as a residence or residences, according to the city's zoning ordinance.

**RETAIL/COMMERCIAL/OFFICE USE.** For purposes of calculating stormwater impact fees, a permitted use under the city's C-1, C-2, C-3, IH-35E Corridor Business Overlay District or a retail, commercial or office use within a Planned Development Zoning District under the City's Comprehensive Zoning Ordinance, or an office use on property zoned LI-1 or LI-2 zoning district classification.

**ROADWAY CAPITAL IMPROVEMENTS PLAN.** The capital improvements plan for roadway facilities.

**ROADWAY FACILITY.** An arterial or collector street or road that has been designated on an officially adopted roadway plan of the political subdivision, together with all necessary appurtenances. The term includes the city's share of costs for roadways and associated improvements designated on the federal or Texas highway system, including local matching funds and costs related to utility line relocation and the establishment of curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way.

**ROADWAY FACILITY EXPANSION.** Expansion of the capacity of any existing roadway improvement for the purpose of service new development, not including the repair, maintenance, modernization or expansion of the existing roadway facility to serve existing development.

**SERVICE AREA.** The areas within the boundaries of the city to be served by the improvements or facility expansion specified in the capital improvements plan applicable to the service area.

**SERVICE UNIT.** For the purposes of calculating roadway impact fees, means the applicable standard units of measure shown on the Land Use Vehicle Mile Equivalency Table in the capital improvements plan which can be converted to vehicle miles of travel during the highest one hour peak as measured during the 4:00 p.m. to 6:00 p.m. weekday peak period and which serves as the standard measure of use and generation attributable to the new unit of development.

**SITE-RELATED FACILITY.** Improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of roadway, stormwater, water or wastewater facilities to serve the new development, and which is not included in the capital improvements plan, and for which the developer or property owner is solely responsible under subdivision and other applicable regulations.

**SYSTEM-RELATED FACILITY.** A capital improvement or facility expansion which is designated in the capital improvements plan and which is not a site-related facility.

**UTILITY CONNECTION.** The physical connection of new development to the city's water and/or wastewater system, no matter if such connection is made through or by intermediate lines.

**VEHICLE MILES.** A unit used to express both supply, including the capacity of the roadway, and demand provided by, and placed on, the roadway system. It is a combination of a number of vehicles traveling during a given time period and the distance in which these vehicles travel in miles.

(Ord. 04-12-16-28, passed 12-16-04)

#### § 36.101 - APPLICABILITY OF ROADWAY IMPACT FEES.

- (A) This subchapter shall be uniformly applicable to new development which occurs within the corporate limits of the city.
- (B) No new development shall be exempt from the assessment of roadway impact fees except as otherwise provided by statute.

(Ord. 04-12-16-28, passed 12-16-04)

#### § 36.102 - LAND USE ASSUMPTIONS AND CAPITAL IMPROVEMENTS PLAN.

- (A) The land use assumptions used in the development of the roadway impact fees are those assumptions attached as Exhibit A to Ordinance [17-03-02-03](#) and adopted by reference herein.

- (B) The roadway capital improvements plan used in the development of the roadway impact fees is attached as Exhibit A to Ordinance [17-03-02-03](#) and adopted by reference herein.
- (C) The City Council may revise the land use assumptions and capital improvements plan according to the procedures set forth in Chapter 395, Local Government Code. At the time of revision, the City Council shall adopt the updated assumptions and roadway capital improvements plan and direct that they be attached to this subchapter.

(Ord. 04-12-16-28, passed 12-16-04; Am. Ord. 11-12-15-27, passed 12-15-11; Ord. No. [17-03-02-03](#), § 2, 3-2-17)

#### § 36.103 - SERVICE UNITS.

- (A) Service units are established in accordance with generally accepted engineering and planning standards.
- (B) Service units for roadway impact fees are established based upon estimated vehicle miles of demand generated by the development. A single family detached residential dwelling unit will generate 4.00 vehicle miles of demand. Other developments will generate demand based upon size and type of development and the service area where the development is located. The vehicle mile demand factors used for the calculation of roadway impact fees are set forth in the Land Use/Vehicle-Mile Equivalency Table portion of the 2016 Study, attached as Exhibit A to Ordinance 17-03-02-03 and incorporated herein.
- (C) The City Council may revise the service units designations according to the procedures set forth in Chapter 395, Local Government Code, and by the adoption of a new Exhibit B.
- (D) The Director of Public Works or the City Council may approve an alternative calculation of vehicle miles of demand for a particular development based upon an engineering report prepared by a qualified professional engineer licensed to perform such engineering services in the State of Texas which demonstrates that the number of vehicle miles of demand for the development will be different than shown in Exhibit B.

(Ord. 04-12-16-28, passed 12-16-04; Am. Ord. 11-12-15-27, passed 12-15-11; Ord. No. [17-03-02-03](#), § 3, 3-2-17)

#### § 36.104 - ROADWAY IMPACT FEES.

- (A) The maximum roadway impact fee per service unit for each service area shall be computed by dividing the growth-related costs in the service area identified in the roadway capital improvements plan by the total number of projected service units anticipated within the service area which are necessitated by and attributable to new development, based on the land use assumptions for that service area. A credit must be applied against the maximum impact fee credit equal to 50% of the total projected cost of implementing the roadway capital improvements plan. With the credit, the maximum roadway impact fee is \$888 per service unit.
- (B) The City Council may amend the maximum assessable impact fees according to the procedures set forth in Chapter 395, Local Government Code, and its successors.
- (C) Current collected roadway impact fees shall be per service unit of \$500 for residential and \$266 for nonresidential. Current collected fees may be amended by the City Council from time to time, provided they do not exceed the maximum assessable fees.

(Ord. 04-12-16-28, passed 12-16-04; Am. Ord. 11-12-15-27, passed 12-15-11; [Am. Ord. 14-03-06-11](#), passed 3-6-14; Ord. No. [17-03-02-03](#), § 4, 3-2-17)

§ 36.105 - ASSESSMENT OF ROADWAY IMPACT FEES.

- (A) The approval of any subdivision of land or of any new development shall include as a condition the assessment of the roadway impact fees applicable to such development. No final plat shall be signed and released for recording until all impact fees, including roadway impact fees, have been assessed except as provided otherwise by contract.
- (B) Assessment of roadway impact fees for any new development which is submitted for approval pursuant to the city's subdivision ordinance shall be at the time of recordation of the final plat and shall be the maximum roadway impact fee to be collected per service unit then in effect.
- (C) For a development for which a final plat was recorded in the County Real Property Records prior to the effective date of this subchapter, assessment of roadway impact fees shall be at the time of building permit approval for residential development or certificate of occupancy for non-residential development. The city may assess, but shall not collect any roadway impact fees, on any service unit for which a valid building permit is issued for a development for which a final plat was recorded prior to the effective date of this subchapter for one year subsequent to the effective date.
- (D) For land which is not platted or which is not required to be platted as a condition of issuing a building permit, assessment shall occur at the time application is made for the building permit, and shall be the amount of the maximum impact fee per service unit then in effect.
- (E) After a development has been assessed impact fees under this subchapter, no new roadway impact fee shall be assessed against that development unless:
  - (1) The final plat lapses or expires or a new application for final plat approval is submitted on the property; or
  - (2) The number of service units to be developed on the property increases.
- (F) For purposes of this section, a final plat shall include a plat showing and a plat revision, but shall not include an amending plat.

(Ord. 04-12-16-28, passed 12-16-04)

§ 36.106 - CALCULATION OF ROADWAY IMPACT FEES.

- (A) The city is comprised of one roadway service area. The service unit measurement is stated in vehicle miles and the development units are set forth in the 2016 Study. The amount of the roadway impact fee shall be determined by multiplying the number of service units to be generated by the development by the capital cost per service unit set forth in § 36.104 less any applicable credits pursuant to § 36.114.
- (B) Following a request for new development, the city shall identify the service area in which the development is located and then classify the development in one of the land use categories depicted in the Land Use/Vehicle Mile Equivalency Table of the 2016 Study attached to Ordinance [17-03-02-03](#) and incorporated by reference herein, then in effect. Then the current collected roadway impact fee per service unit for the corresponding service area and land use category is multiplied by the total service units of development.
- (C) The number of service units (vehicle-miles of travel during the p.m. peak hour) generated by a development shall be determined from the 2016 Study, subject to the following:
  - (1) When a change of use, redevelopment, or modification of an existing use or building requires the issuance of a building permit or certificate of occupancy, the number of service units generated by the development shall be based on the difference between the service units calculated for the previous use and the service units calculated for the proposed use. However, should the change of use, redevelopment or modification of an existing use or building result in a net decrease, no refund or credits for past roadway impact fees paid shall be made or created.

- (2) In the event of a disagreement between the applicant and the city over the land use category applicable to a development, the applicant may present evidence supporting the appropriateness of a particular land use category, and the final decision shall be made by the City Engineer.
- (D) Based on the adopted land use assumptions and capital improvements plan, the roadway impact fees assessed for the service areas are tabulated such that the net growth-related capital costs required to improve the road system to accommodate an additional service unit is dispersed uniformly within the service area.
- (E) If the roadway impact fee has been calculated and paid based on error or misrepresentation, it shall be recalculated. If the original calculation resulted in a fee that was too high, the difference shall be refunded to the original fee payer. If additional roadway impact fees are owed, no permits of any type shall be issued by the city for the building or use in question, or for any other part of a development project of which the building or use in question is a part, while the fees remain unpaid, and the building official may bring any action permitted by law or equity to collect unpaid fees.
- (F) For purposes of calculations of the roadway impact fee, the gross floor area (GFA) of a building is the sum (in square feet) of the area of each floor level, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores and offices that are within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear head room (six feet, six inches minimum), regardless of their use. If a ground-level area or part thereof within the principal outside faces of the exterior walls is not enclosed, this GFA is considered part of the overall square footage of the building. However, unroofed areas and unenclosed roofed-over spaces, except those contained within the principal outside faces of exterior walls, should be excluded from the area calculations.

(Ord. 04-12-16-28, passed 12-16-04; Am. Ord. 11-12-15-27, passed 12-15-11; Ord. No. [17-03-02-03](#), § 5, 3-2-17)

#### § 36.107 - COLLECTION OF IMPACT FEES.

- (A) No application for new development shall be approved within the city without assessment of roadway impact fees pursuant to this subchapter, and no water and wastewater tap shall be issued and no building permit or certificate of occupancy shall be issued unless the applicant has paid the impact fees imposed by and calculated hereunder unless expressly exempted by a provision of this subchapter or statute.
- (B) No water or wastewater tap shall be issued until all impact fees have been paid to the city except as provided otherwise by contract.
- (C) All roadway impact fees shall be collected for residential development at the time of building permit issuance. All roadway impact fees shall be collected for nonresidential development at either the time of building permit issuance or at the time a certificate of occupancy is requested, in the city's discretion.
- (D) The city may provide for a different date of fee collection under any of the following circumstances:
- (1) The city may collect impact fees at the time of platting for any development which will utilize capital improvements which are subject to pro rata reimbursement.
  - (2) The city may defer collection of impact fees to a later date where service for which the fee is assessed will not be available within a reasonable period of time.
  - (3) The city may, at its sole discretion, enter into contracts to establish a different date of fee collection than those provided in this section.

(Ord. 04-12-16-28, passed 12-16-04; Ord. No. [17-03-02-03](#), § 6, 3-2-17)

§ 36.108 - ESTABLISHMENT OF ACCOUNTS AND RECORDS.

- (A) The city shall establish separate interest-bearing accounts, in a bank authorized to receive deposits of city funds, for each major category of capital improvements or facility expansion for which an impact fee is imposed pursuant to this subchapter.
- (B) Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds authorized in § 36.110.
- (C) The city shall establish adequate financial and accounting controls to ensure that impact fees disbursed from each account are utilized solely for the purposes authorized in § 36.110. Disbursement of funds shall be authorized by the city at such times as are reasonably necessary to carry out the purposes and intent of this subchapter; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten years from the date the fee is deposited into the account. The City Finance Department shall also maintain such records as are necessary to ensure that refunds are appropriately made under the provision in § 36.110, and such other information as may be necessary for the proper implementation of this subchapter.
- (D) The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours.

(Ord. 04-12-16-28, passed 12-16-04)

§ 36.109 - OFFSETS AND CREDITS AGAINST IMPACT FEES.

- (A) The city shall offset the present value of any system-related facilities, pursuant to rules established in this section, which have been dedicated to and have been received by the city, including the value of capital improvements constructed pursuant to an agreement with the city, against the value of the impact fee due for that category of capital improvement.
- (B) All offsets and credits against impact fees shall be subject to the following limitations and shall be granted based on this subchapter and additional standards promulgated by the city, which may be adopted by resolution or ordinance of the City Council.
  - (1) No offset or credit shall be given for the dedication or construction of site-related facilities.
  - (2) The unit costs used to calculate the offsets shall not exceed those assumed for the capital improvements included in the capital improvements plan for the category of facility within the service area for which the impact fee is imposed.
  - (3) If an offset or credit applicable to a plat has not been exhausted within ten years from the date of plat filing or within such period as may be otherwise designated by contract, such offset or credit shall expire.
  - (4) The city will not reimburse the property owner or developer for an offset or credit when no impact fees for the new development can be collected pursuant to this subchapter or for any value exceeding the total impact fees due for the development for that category of capital improvement, unless otherwise agreed to by the city.
- (C) An applicant for new development must apply for an offset or credit against impact fees due for the development either at or before the time of fee payment, unless the city agrees to a different time. The applicant shall file a petition for offsets or credits with the city on a form provided for such purpose. The city must provide the applicant, in writing, with a decision on the offset or credit request, including the reasons for the decision. The decision shall specify the maximum value of the offset or credit which may be applied against an impact fee, which value and the date of the determination shall be associated with the plat for the new development.
- (D) The available offset or credit associated with a plat shall be applied against an impact fee in the following manner:

- (1) Such offset collection or credit shall be prorated equally among all service units, as calculated in § 36.106 and remain applicable to such service units, to be applied at time of filing and acceptance of an application for a building permit or tap purchase, as appropriate, against impact fees due.
  - (2) If the total number of service units used by the city in the original offset or credit calculation described in division (D)(1) of this section is eventually exceeded by the number of total service units realized by the actual development, the city may, at its sole discretion, collect the full impact fee exclusive of any associated offset or credits for the excess service units.
- (E) Any construction of, contributions to, or dedications of off-site roadway facilities agreed to or required by the city as a condition of development approval shall be credited against roadway impact fees otherwise due from the development.

(Ord. 04-12-16-28, passed 12-16-04)

§ 36.110 - USE OF PROCEEDS OF IMPACT FEE ACCOUNTS.

- (A) The roadway impact fees collected pursuant to this subchapter may be used to finance or to recoup capital improvements or facilities expenses identified in the applicable capital improvements plan for the service area, including the construction contract price, surveying and engineering fees, land acquisition costs, including purchase costs, court awards and cost, attorney's fees and expert witness fees, and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the city. Impact fees may also be used to pay the principal and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such capital improvements or facilities expansions.
- (B) Impact fees collected pursuant to this subchapter shall not be used to pay for any of the following expenses:
- (1) Construction, acquisition or expansion of capital improvements or assets other than those identified for the appropriate facility in the capital improvements plan;
  - (2) Repair, operation, or maintenance of existing or new capital improvements or facilities expansions;
  - (3) Upgrading, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
  - (4) Upgrading, expanding or replacing existing capital improvements to provide better service to existing development; provided however, that impact fees may be used to pay the costs of upgrading, expanding or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or
  - (5) Administrative and operating costs of the city.

(Ord. 04-12-16-28, passed 12-16-04)

§ 36.111 - APPEALS.

- (A) The property owner or applicant for new development may appeal the following decisions of the Director of Public Works to the City Council:
- (1) The applicability of an impact fee to the development;
  - (2) The calculation of applicable service units attributable to the development;
  - (3) The value of the impact fee due;



- (4) The availability or the value of an offset or credit;
  - (5) The application of an offset or credit against an impact fee due; and
  - (6) The amount of the refund due, if any.
- (B) An appeal to the City Council must be filed by the applicant with the City Secretary within 30 days following the Director of Public Work's decision. The City Council shall hear the appeal within 30 days of receipt by the City Secretary. Notice of the hearing shall be mailed to the applicant at least seven days prior to the hearing.
- (C) At the hearing, the City Council shall consider all relevant evidence and shall allow testimony from the applicant, city staff and other interested persons relevant to the appeal. The hearing may be continued from time to time.
- (D) The burden of proof shall be on the appellant to demonstrate that the fee is not applicable or that the determination of service units or the value of the fee or of the offset or credit was not calculated according to the applicable impact fee schedule or the guidelines established in this subchapter. The applicant shall submit an engineering report prepared by a qualified professional engineer licensed to perform such engineering services in the State of Texas, which demonstrates that the applicant's burden has been met.
- (E) Following the hearing, the City Council shall consider all evidence and determine whether the appeal should be granted (in whole or in part) or denied.
- (F) If the appeal is accompanied by a bond or other sufficient security satisfactory to the City Attorney in an amount equal to the original determination of the impact fee due, the development application plat or tap purchase or building permit issuance may be processed while the appeal is pending.

(Ord. 04-12-16-28, passed 12-16-04)

#### § 36.112 - REFUNDS.

- (A) Any impact fee, or portion thereof, collected pursuant to this subchapter which has not been expended within ten years from the date of payment, shall be refunded, upon application, to the record owner of the property at the time the refund is paid.
- (B) If a refund is due pursuant to division (A) of this section, the city shall pro-rate the same by dividing the difference between the amount of expenditures and the amount of the fees collected by the total number of service units assumed within the service area for the period to determine the refund due per service unit. The refund to the record owner shall be calculated by multiplying the refund due per service unit by the number of service units for the development for which the fee was paid, and interest due shall be calculated upon that amount.
- (C) Any refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 302.002, Finance Code or its successor statute.
- (D) A petition for a refund shall be submitted to the Director of Public Works on a form provided by the city for such purpose. Within one month of the date of receipt of a petition for refund, the Director of Public Works must provide the petitioner, in writing, with a decision on the refund request, including the reasons for the decision. If a refund is due to the petitioner, the Director of Public Works shall notify the Finance Director and request that a refund payment be made to the petitioner. The petitioner may appeal the Director's determination to the Council, as set forth in § 36.111.

(Ord. 04-12-16-28, passed 12-16-04)

#### § 36.113 - UPDATES TO PLAN AND REVISION OF ROADWAY IMPACT FEES.

The city shall review the land use assumptions and roadway capital improvements plan at least every five years, the first five year period to commence from the date of adoption of the roadway capital improvements plan. The City Council shall accordingly then make a determination of whether changes to the land use assumptions, capital improvements plan or roadway impact fees are needed and shall, in accordance with the procedures set forth in Chapter 395, Local Government Code either update the fees or make a determination that no update is necessary.

(Ord. 04-12-16-28, passed 12-16-04)

§ 36.114 - AGREEMENT FOR CAPITAL IMPROVEMENTS.

- (A) The City Council may authorize the owner of a new development to construct or finance some of the public improvements identified in the capital improvements plan. In the case of such approval, the property owner must enter into an agreement with the city prior to collection of impact fees. The agreement shall be on a form approved by the city, and shall establish the estimated cost of the improvements, the schedule for initiation and completion of the improvements, a requirement that the improvements shall be completed to city standards, and any other terms and conditions the city deems necessary. The Director of Public Works shall review the improvements plan, verify costs and time schedules, determine if the improvements are contained in the capital improvements plan, and determine the method and timing of reimbursing the owner for construction costs from impact fee or other revenues.
- (B) If the city requires as a condition of development approval, or otherwise enters into an agreement with a developer, to have the developer construct, fund or otherwise contribute toward the cost of a roadway facility that is necessary to serve the developer's development and which is included in the adopted road capital improvements plan, the city shall provide for reimbursement in the form of credits against impact fees that would otherwise be due from the development. Such credits shall run with the land and shall be used to reduce the amount of the impact fee that would otherwise be owed at the time of collection of impact fees.
- (C) In determining the amount of such credits, the developer shall submit evidence of the actual, fair market cost of the required improvements. The actual, fair-market cost shall then be reduced in the same manner and proportion as the actual assessed impact fee amounts charged by the city are reduced from the projected actual costs of impact fee capital projects of the roadway facility in the same service area (the "reduced cost values"). Credits shall then be granted to the developer in an amount equal to such reduced cost values.
- (D) The city may also enter into an agreement with a developer to have the developer construct, fund or otherwise contribute toward the cost of a roadway improvement or roadway expansion that is included in the adopted roadway capital improvements plan and which is not necessary to serve the developer's development such as additional lanes, appurtenances and warranted signalization beyond the minimum standards required by the city's ordinances to serve the developer's development. The city may provide for reimbursement in the form of credits against impact fees that would otherwise be due from the development. Such credits shall run with the land and shall be used to reduce the amount of the impact fee that would otherwise be owed at the time of collection of impact fees.
- (E) In determining the amount of such credits, the developer shall submit evidence of the actual, fair-market cost of the roadway improvements. If the amount of such credits would be insufficient to reimburse the developer for the cost of such extra improvements beyond the minimum standards required by the city's ordinances to serve the developer's development, the city may provide for reimbursement to the developer up to the balance of the cost of such oversized required improvements from road impact fees collected from other new development within the same service area.

(Ord. 04-12-16-28, passed 12-16-04; Am. Ord. 11-12-15-27, passed 12-15-11)

§ 36.115 - USE OF OTHER FINANCING MECHANISMS.

The city may finance roadway capital improvements or facilities expansions designated in the capital improvements plan through the issuance of bonds, through the formation of public improvement districts or other assessment districts, or through any other authorized mechanism, in such manner and subject to such limitations as may be provided by law, in addition to the use of impact fees.

(Ord. 04-12-16-28, passed 12-16-04)

§ 36.116 - IMPACT FEES AS ADDITIONAL AND SUPPLEMENTAL REGULATION.

Roadway impact fees established by this subchapter are additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits or the sale of water or wastewater taps or the issuance of certificates of occupancy. Such fees are intended to be consistent with and to further the policies of City's Comprehensive Plan, capital improvements plan, zoning ordinance, subdivision regulations and other city policies, ordinances and resolutions by which the city seeks to ensure the provision of adequate public facilities in conjunction with the development of land.

(Ord. 04-12-16-28, passed 12-16-04)

§ 36.117 - RELIEF PROCEDURES.

- (A) Any person who has paid an impact fee or an owner of land upon which an impact fee has been paid may petition the City Council to determine whether any duty required by this subchapter has not been performed within the time so prescribed.
- (B) The petition shall be in writing and shall state the nature of the unperformed duty and request that the act be performed within 60 days of the request. If the City Council determines that the duty is required pursuant to this subchapter and is late in being performed, it shall cause the performance of the duty to commence within 60 days of the date of the request and to continue until completion.

(Ord. 04-12-16-28, passed 12-16-04)

§ 36.118 - GENERALLY.

- (A) This subchapter shall be cumulative of all provisions of ordinances of the City of Corinth, Texas, except where the provisions of this subchapter are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Furthermore, this subchapter shall not repeal any ordinance relating to water and wastewater impact fees, including Ordinance No. 90-06-14-52.
- (B) It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this subchapter are severable, and if any phrase, clause, sentence, paragraph or section of this subchapter shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this subchapter, since the same would have been enacted by the City Council without the incorporation in this subchapter of any such unconstitutional phrase, clause, sentence, paragraph or section.

(Ord. 04-12-16-28, passed 12-16-04)