

ST. TAMMANY PARISH COUNCIL
ORDINANCE

ORDINANCE CALENDAR NO. 2928

ORDINANCE COUNCIL SERIES NO. _____

COUNCIL SPONSOR: BRISTER/PRESIDENT

PROVIDED BY: PLANNING DEPARTMENT

INTRODUCED BY: _____

SECONDED BY: _____

ON THE _____ DAY OF _____, 2004

AN ORDINANCE TO AMEND THE ST. TAMMANY PARISH CODE OF ORDINANCES, SECTION 2-009.00 PARISH FEES AND SERVICE CHARGES TO IMPOSE TRANSPORTATION AND DRAINAGE IMPACT FEES

WHEREAS, St. Tammany Parish is the fastest growing Parish within the State of Louisiana and the 45th fastest growing county in the United States; and

WHEREAS, this rapid growth has negatively impacted the capacity of the major street and storm water drainage networks within St. Tammany Parish; and

WHEREAS, it is the desire of the citizens of St. Tammany Parish to maintain adequate roadway capacity and storm water drainage as components in the preservation of the quality of life enjoyed by the citizens of the Parish; and

WHEREAS, the Parish of St. Tammany has determined that it is within the best interest of the citizens of St. Tammany Parish to establish mandatory transportation and drainage impact fees to maintain the capacities of the major street and storm water drainage networks within St. Tammany Parish.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that it amends the St. Tammany Parish Code of Ordinances, Section 2-009.00 Parish Fees and Service Charges, by adding a section, as follows:

(B.) DEVELOPMENT

IV. MANDATORY IMPACT FEES

A. TRANSPORTATION IMPACT FEE

1. Short title, authority and application.

a. *Title.* This Section A: Transportation Impact Fee shall be known and may be cited as the "St. Tammany Parish Transportation Impact Fee Ordinance."

b. *Authority.* The Parish Council has the authority to adopt the ordinance codified herein pursuant to the St. Tammany Parish home rule charter and the Constitution of the State of Louisiana.

c. *Application.* This Transportation Impact Fee Ordinance shall apply to all lands within the unincorporated portion of St. Tammany Parish.

2. Purpose.

The establishment of a system for the imposition of road impact fees within the unincorporated area is intended to assure that new development contributes its proportionate share of the cost of providing, and benefits from the provision of, improvements to the Major Road System.

3. Definitions.

Certain words or phrases unique to this Transportation Impact Fee Ordinance shall be construed as herein set out unless it is apparent from the context that they have a different meaning.

"Building Permit" means that permit required to be issued before any building or construction activity can be initiated on a parcel of land.

"Capacity" means the maximum number of vehicles that have a reasonable expectation of passing over a given section of a road during an hour, expressed in terms of vehicles per hour.

"Existing Traffic-Generating Development" means the most intense use of land within the twelve (12) months prior to the time of commencement of Traffic-Generating Development.

"Expansion" of the capacity of a road includes any widening, intersection improvement, signalization or other capital improvement designed to increase the existing road's capacity to carry vehicles.

"Fee Payer" means a person commencing Traffic-Generating Development who is obligated to pay a road impact fee in accordance with the terms of this Section A.

"Level of Service (LOS)" means the system-wide ratio of vehicle-miles of capacity to vehicle-miles of travel on the Major Road System.

"Major Road System" means the system of major roadways within St. Tammany Parish identified in the Road Impact Fee Study.

"Non-Site-Related Improvements" means Road Capital Improvements and right-of-way dedications for improvements to the Major Road System that are not site-related improvements.

"Person" means an individual, corporation, governmental agency or body, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other entity.

"Road Capital Improvement" includes the transportation planning, preliminary engineering, engineering design studies, land surveys, alignment studies, right-of-way acquisition, engineering, permitting and construction of all necessary features undertaken to accommodate additional traffic resulting from new traffic-generating development, including but not limited to: (a) construction of new through lanes, (b) construction of new bridges, (c) construction of new drainage facilities in conjunction with new road construction, (d) purchase and installation of traffic signals, including new and upgraded signalization, (e) construction of curbs, gutters, sidewalks, medians and shoulders, (f) relocating utilities to accommodate new road construction, (g) the construction and reconstruction of intersections to increase capacity, (h) the widening of existing roads, (i) bus turnouts, (j) acceleration and deceleration lanes, (k) interchanges, and (l) traffic control devices.

"Road Impact Fee Administrator" (R.I.F.A.) means the St. Tammany Parish employee primarily responsible for administering the provisions of this Transportation Impact Fee Ordinance or his or her designee.

"Road Impact Fee Study" means the *Transportation Impact Fee Study* prepared by Duncan Associates in August 2004, or a subsequent similar study.

"Site-Related Improvements" means those road capital improvements and right-of-way dedications that provide direct access to the development. Direct access improvements include, but are not limited to, the following: (a) driveways and streets leading to and from the development; (b) right- and left-turn lanes leading to those driveways and streets; (c) traffic control measures for those driveways; and (d) internal streets. Credit is not provided for site-related improvements.

"Traffic-Generating Development" is land development designed or intended to permit a use of the land that will contain or convert to more dwelling units or floor space than the most intensive use of the land within the twelve (12) months prior to the commencement of Traffic-Generating Development in a manner that increases the generation of vehicular traffic.

"Trip" means a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end).

"Trip Generation" means the attraction or production of trips caused by a certain type of land development.

"Vehicle-Miles of Travel (VMT)" means the combination of the number of vehicles traveling during a given time period and the distance (in miles) that they travel.

4. *Time of fee obligation and payment.*

a. After the effective date of the ordinance codified herein, any person or government body that causes the commencement of Traffic-Generating Development within unincorporated St. Tammany Parish shall be obligated to pay a road impact fee, pursuant to the terms of this Transportation Impact Fee Ordinance. The fee shall be determined and paid in accordance with the following schedule:

(1) Residential Subdivisions – at the time of Final Plat Approval or within 90 days of recordation of Final Plat if the appropriate security is posted as approved by the Director of Engineering and the Director of Finance;

(2) Commercial Subdivisions – at the time of Final Plat approval if the size of the end user is known, else at the time of the issuance of a building permit. The payment at Final Plat Approval may be deferred for a period of 90 days of recordation of Final Plat if the appropriate is posted as approved by the Director of Engineering and the Director of Finance. If the end user is unknown, or the square footage of the end user is altered, the balance of the fee shall be paid at the time of the issuance of a building permit.

(3) Individual Commercial or Residential Structures - at the time of issuance of a building permit for the development.

b. If any credits are due pursuant to subsection 8, they shall also be determined at the time of payment. The fee shall be computed separately for the amount of construction activity covered by the permit, if the building permit is for less than the entire development. If the fee is imposed for a Traffic-Generating Development that increases traffic impact because of a change in use, the fee shall be determined by computing the difference in the fee schedule between the new Traffic-Generating Development and the Existing Traffic-Generating Development. The obligation to pay the impact fee shall run with the land.

c. Any person who, prior to the effective date of the ordinance codified herein, agreed as a condition of development approval to pay a road impact fee, shall be responsible for the payment of the fee under the terms of any such agreement, and the payment of such fee by the developer will be offset against any impact fees due pursuant to the terms of this Transportation Impact Fee Ordinance.

5. *Exemptions.*

The following shall be exempt from the terms of this Transportation Impact Fee Ordinance. An exemption must be claimed by the Fee Payer at the time of application for a building permit.

- a. Alterations or expansion of an existing building where no additional dwelling units are created, the use is not changed and no additional vehicular trips will be produced over and above that produced by the existing use.
- b. The construction of accessory buildings or structures which will not produce additional vehicular trips over and above that produced by the principal building or use of the land.
- c. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use, provided that no additional trips will be produced over and above that produced by the original use of the land.
- d. Any development for which a completed application for a building permit was submitted prior to the effective date of the ordinance codified herein, provided that the construction proceeds according to the provisions of the permit and the permit does not expire prior to the completion of the construction.
- e. Any development which has an approved voluntary developmental agreement in place as of the effective date of this ordinance.
- f. Structures associated with uses recognized as agricultural by the State of Louisiana.

6. *Establishment of fee schedule.*

- a. Any person who causes the commencement of Traffic-Generating Development, except those persons exempted or preparing an independent fee calculation study pursuant to subsection 7 hereof, shall pay a road impact fee in accordance with the following fee schedule. The descriptions of the land use codes in the most current edition of the report titled *Trip Generation*, prepared by the Institute of Transportation Engineers (ITE), shall be used to determine the appropriate land use type.

Road Impact Fee Schedule

Single Family Detached	Per Dwelling Unit	\$ 1,468.00
Multiple family	Per Dwelling Unit	\$ 902.00
Retail	Per 1000 sq.ft.	\$ 1,833.00
Office/Institutional	Per 1000 sq. ft	\$ 2,173.00
Industrial	Per 1000 sq.ft.	\$ 1,254.00

- b. If the type of Traffic-Generating Development for which a building permit is requested is not specified on the above fee schedule, the Road Impact Fee Administrator (R.I.F.A.) shall determine the fee on the basis of the fee applicable to the most nearly comparable type of land use on the fee schedule. The Road Impact Fee Administrator (R.I.F.A.) shall be guided in the selection of a comparable type of land use by:
 - (1) Using trip generation rates contained in the most current edition of the report titled *Trip Generation*, prepared by the Institute of Transportation Engineers (ITE), articles or reports appearing in the *ITE Journal*, or studies or reports done by the U.S. Department of Transportation, and applying the formula set forth in subsection 7.d; or
 - (2) Computing the fee by use of an independent fee calculation study as provided in subsection 7 of this Transportation Impact Fee Ordinance.

7. *Independent Fee Calculation Study.*

- a. The impact fee may be computed by the use of an Independent Fee Calculation Study at the election of the Fee Payer, or upon the request of the Road Impact Fee Administrator (R.I.F.A.), for any proposed land development activity interpreted as not one of those types listed on the fee schedule or as one that is not comparable to any land use on the fee schedule, and for any proposed land development activity for which the Road Impact Fee Administrator (R.I.F.A.) concludes the nature, timing or location of the proposed development makes it likely to generate impacts costing substantially more to mitigate than the amount of the fee that would be generated by the use of the fee schedule.
- b. The preparation of the Independent Fee Calculation Study shall be the sole responsibility and cost of the Fee Payer.
- c. Any person who requests to perform an Independent Fee Calculation Study shall pay an application fee for administrative costs associated with the review and decision on such Study.
- d. The Independent Fee Calculation Study for the road impact fee shall be calculated by the use of the following formula:

$\text{FEE} = \text{VMT} \times \text{NET COST/VMT}$
$\text{VMT} = \text{PHT} \times \% \text{ NEW} \times \text{LENGTH} \div 2$
$\text{PHT} = \text{Trip ends during the PM peak hour during an average weekday}$
$\% \text{ NEW} = \text{Percent of trips that are primary trips, as opposed to passby or diverted-link trips}$
$\text{LENGTH} = \text{Average length of a trip on the major roadway system}$
$\div 2 = \text{Avoids double-counting trips for origin and destination}$
$\text{NET COST/VMT} = \text{COST/VMT} - \text{CREDIT/VMT}$
$\text{COST/VMT} = \text{COST/VMC} \times \text{VMC/VMT}$
$\text{COST/VMC} = \text{COST/LANE-MILE} \div \text{AVG LANE CAPACITY}$
$\text{VMC/VMT} = \text{The system-wide ratio of capacity to demand in the major roadway system}$
$\text{COST/LANE-MILE} = \text{Average cost to add a new lane-mile to the major roadway system}$
$\text{AVG LANE CAPACITY} = \text{Average added hourly capacity per new lane}$
$\text{CREDIT/VMT} = \text{Revenue credit per VMT}$

- e. The fee calculation shall be based on data, information or assumptions contained in this Transportation Impact Fee Ordinance or independent sources, provided that:
- (1) The independent source is an accepted standard source of transportation engineering or planning data; or
 - (2) The independent source is a local study on trip characteristics carried out by a qualified traffic planner or engineer pursuant to an accepted methodology of transportation planning or engineering; or
 - (3) The percent new trips factor used in the Independent Fee Calculation Study is based on actual surveys prepared in St. Tammany Parish.

f. *Procedure.*

- (1) An Independent Fee Calculation Study shall be undertaken through the submission of an application for an independent fee calculation. A potential Fee Payer may submit such an application. The Road Impact Fee Administrator (R.I.F.A.) shall submit such an application for any proposed land development activity interpreted as not one of those types listed on the above fee schedule or as one that is not comparable to any land use on the fee schedule, and for any proposed land development activity for which it is concluded the nature, timing or location of the proposed development makes it likely to generate impacts costing substantially more to mitigate than the amount of the fee that would be generated by the use of the fee schedule.
- (2) Within ten (10) days of receipt of an application for Independent Fee Calculation Study, the Road Impact Fee Administrator (R.I.F.A.) shall determine if the application is complete. If the Road Impact Fee Administrator (R.I.F.A.) determines that the application is not complete, a written statement specifying the deficiencies shall be sent by mail to the person submitting the application. The application shall be deemed complete if no deficiencies are specified. The Road Impact Fee Administrator (R.I.F.A.) shall take no further action on the application until it is deemed complete.
- (3) When the Road Impact Fee Administrator (R.I.F.A.) determines that the application is complete, the application shall be reviewed and the Road Impact Fee Administrator (R.I.F.A.) shall render a written decision in thirty (30) days on whether the fee should be modified and, if so, what the amount should be, based on the standards in subsection 7.g. below.

g. *Standards.*

If, on the basis of generally-recognized principles of impact analysis, it is determined that the data, information and assumptions used by the applicant to calculate the Independent Fee Calculation Study satisfy the requirements of this subsection 7, the fee determined in the Independent Fee Calculation Study shall be deemed the fee due and owing for the proposed Traffic-Generating Development. The adjustment shall be set forth in a Fee Agreement. If the Independent Fee Calculation Study fails to satisfy the requirements of this subsection, the fee applied shall be that fee established for the Traffic-Generating Development in subsection 6 above.

h. *Appeal of decision.*

- (1) A Fee Payer affected by the administrative decision of the Road Impact Fee Administrator (R.I.F.A.) on an Independent Fee Calculation Study may appeal such decision to the St. Tammany Parish Council, by filing with the Road Impact Fee Administrator (R.I.F.A.) within ten (10) days of the date of the written decision a written notice stating and specifying briefly the grounds of the appeal. The Road Impact Fee Administrator (R.I.F.A.) shall place the appeal on the Council's agenda for the next regularly scheduled meeting.
- (2) The Parish Council, after hearing, shall have the power to affirm or reverse the decision of the Road Impact Fee Administrator (R.I.F.A.). In making its decision, the Council shall make written findings of fact and conclusions of law, and apply the standards in subsection 7.g. above. If the Council reverses the decision of the Road Impact Fee Administrator (R.I.F.A.), it shall direct the Administrator to recalculate the fee in accordance with its findings. In no case shall the Council have the authority to negotiate the amount of the fee or waive the fee. The decision of the Council shall be final and not subject to further administrative appeal.

8. *Credits.*

a. Any person initiating Traffic-Generating Development may apply for credit against road impact fees otherwise due, up to but not exceeding the full obligation for impact fees proposed to be paid pursuant to the provisions of this Transportation Impact Fee Ordinance, for any contributions, construction or dedication of land accepted or received by St. Tammany Parish for Non-Site-Related Road Capital Improvements on the Major Road System.

b. Credits for contributions, construction or dedication of land for Non-Site-Related Road Capital Improvements on the Major Road System shall be transferable within the same development, but shall not be paid for other public facilities. The credit shall not exceed the amount of the impact fees due and payable for the proposed Traffic-Generating Development.

c. St. Tammany Parish may enter into a Capital Contribution Front-Ending Agreement with any person initiating Traffic-Generating Development who proposes to construct Non-Site-Related Road Capital Improvements on the Major Road System. To the extent that the fair market value of the construction of these Road Capital Improvements exceeds the obligation to pay impact fees for which a credit is provided pursuant to this subsection 8, the Capital Contribution Front-Ending Agreement shall provide proportionate and fair share reimbursement linked to new growth and development's use of the Road Capital Improvement constructed.

d. Credit shall be in an amount equal to fair market value of the land dedicated for right-of-way at the time of dedication, the fair market value of the construction at the time of its completion, or the value of the contribution or payment at the time it is made for construction of a Non-Site-Related Capital Road Improvement on the Major Road System.

e. Credits may include any dedication, construction, or contributions made by outside parties subject to the limitations of this section.

f. *Procedure for credit review.*

(1) The determination of any credit shall be undertaken through the submission of an Application for Credit Agreement, which shall be submitted to the Road Impact Fee Administrator (R.I.F.A.).

(2) If the proposed application involves a credit for any contribution, the following documentation must be provided:

i. A certified copy of the development approval in which the contribution was agreed;

ii. If payment has been made, proof of payment; or

iii. If payment has not been made, the proposed method of payment.

(3) If the proposed application involves credit for the dedication of land:

i. A drawing and legal description of the land;

ii. The appraised fair market value of the land at the date a building permit is proposed to be issued for the traffic-generating land development activity, prepared by a professional Real Estate Appraiser who is a member of the Member Appraisal Institute (MAI) or who is a member of Senior Residential Appraisers (SRA), and if applicable, a certified copy of the development permit in which the land was agreed to be dedicated.

- (4) If the proposed Application for Credit Agreement involves construction:
- i. The proposed plan of the specific construction prepared and certified by a duly qualified and licensed Louisiana engineer or contractor;
 - ii. The projected costs for the suggested improvement, which shall be based on local information for similar improvements, along with the construction timetable for the completion thereof. Such estimated cost shall include the cost of construction or reconstruction, the cost of all labor and materials, the 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, costs of plans and specifications, surveys of estimates of costs and of revenues, costs of professional services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction.
- (5) The Road Impact Fee Administrator (R.I.F.A.) shall notify the Parish Council Chair of any Application for Credit Agreement within three (3) days of receipt of said application.
- (6) Within ten (10) days of receipt of the proposed Application for Credit Agreement, the Road Impact Fee Administrator (R.I.F.A.) shall determine if the application is complete. If it is determined that the proposed Agreement is not complete, the Road Impact Fee Administrator (R.I.F.A.) shall send a written statement to the applicant outlining the deficiencies. The Road Impact Fee Administrator (R.I.F.A.) shall take no further action on the proposed Application for Credit Agreement until all deficiencies have been corrected or otherwise settled.
- (7) Once the Road Impact Fee Administrator (R.I.F.A.) determines that the proposed Application for Credit Agreement is complete, it shall be reviewed within thirty (30) days. The Application for Credit Agreement shall be approved if it complies with the standards in subsections 8.a. through 8.d. above.
- (8) If the Application for Credit Agreement is approved by the Road Impact Fee Administrator (R.I.F.A.), a Credit Agreement shall be prepared and signed by the applicant and St. Tammany Parish. It shall specifically outline the contribution, payment, construction or land dedication, the time by which it shall be completed, dedicated or paid, and any extensions thereof and the dollar credit the applicant shall receive for the contribution, payment or construction.
- g. *Appeal of credit decision.*

A Fee Payer affected by the decision of the Road Impact Fee Administrator (R.I.F.A.) regarding credits may appeal such decision to the Parish Council by filing with the Road Impact Fee Administrator (R.I.F.A.), within ten (10) days of the date of the written decision, a written notice stating and specifying briefly the grounds of the appeal. The Road Impact Fee Administrator (R.I.F.A.) shall place such appeal on the Council's agenda for the next regularly scheduled meeting. The Parish Council, after a hearing, shall affirm or reverse the decision of the Road Impact Fee Administrator (R.I.F.A.) based on the standards in subsections 8.a. through 8.d. above. If the Parish Council reverses the decision, it shall direct the Road Impact Fee Administrator (R.I.F.A.) to readjust the credit in accordance with its findings. The decision of the Parish Council shall be final.

9. *Fee Expenditures.*

- a. St. Tammany Parish shall establish a Road Impact Fee Escrow Account for the purpose of ensuring that Fee Payers receive sufficient benefit for road impact fees paid.
- b. All road impact fees collected by St. Tammany Parish shall be immediately deposited into the Road Impact Fee Escrow Account.
- c. All proceeds shall be invested in an interest-bearing account. All income derived from these investments shall be retained in the Escrow Account until transferred. Record of the Escrow Account account shall be available for public inspection.
- d. All proceeds in the Road Impact Fee Escrow Account not immediately necessary for expenditure shall be invested in an interest-bearing account. All income derived from these investments shall be retained in the Escrow Account. Records of the Road Impact Fee Escrow Account shall be available for public inspection.
- e. Each year, at the time the annual budget is reviewed, the Road Impact Fee Administrator (R.I.F.A.) shall recommend appropriations to be spent from the Escrow Account to the Parish Council. After review of the recommendation, the Council shall approve or modify the recommended expenditures of the Escrow Account monies. Expenditures shall be made from the Escrow Account only for Non-Site-Related Improvements to the Major Road System. Any amounts not appropriated from the Escrow Account, together with any interest earnings, shall be carried over to the following fiscal period.
- f. Each year, the Road Impact Fee Administrator (R.I.F.A.) shall prepare a report to the Parish Council identifying the expenditures of the previous year for the projects for which the Council approved funds.

10. *Refunds.*

- a. *Refund of fees not spent.* Any fees collected shall be returned to the Fee Payer or the Fee Payer's successor in interest if the fees have not been spent within ten (10) years from the date the building permit for the development was issued, along with interest of five percent (5%) a year. Fees shall be deemed to be spent on the basis of the first fee collected shall be the first fee spent.
- b. *Refund procedure.* The refund shall be administered by the Road Impact Fee Administrator (R.I.F.A.), and shall be undertaken through the following process:
 - (1) A Refund Application shall be submitted within one (1) year following the end of the tenth year from the date on which the building permit was issued on the proposed development. The Refund Application shall include the following information:
 - i. A copy of the dated receipt issued for payment of the fee;
 - ii. A copy of the building permit; and
 - iii. Evidence that the applicant is the successor in interest to the fee payer.

- (2) Within ten (10) days of receipt of the Refund Application, the Road Impact Fee Administrator (R.I.F.A.) shall determine if it is complete. If the Road Impact Fee Administrator (R.I.F.A.) determines that the application is not complete, a written statement specifying the deficiencies shall be forwarded by mail to the person submitting the application. Unless the deficiencies are corrected, the Road Impact Fee Administrator (R.I.F.A.) shall take no further action on the Refund Application.
- (3) When the Road Impact Fee Administrator (R.I.F.A.) determines that the Refund Application is complete, it shall be reviewed within thirty (30) days, and shall be approved if it is determined that the Fee Payer or a successor in interest has paid a fee which has not been spent within the period of time permitted under this Transportation Impact Fee Ordinance. The refund shall include the fee paid plus interest.

c. *Appeal of refund decision.* A Fee Payer affected by a decision of the Road Impact Fee Administrator (R.I.F.A.) may appeal such decision to the Parish Council by filing with the Road Impact Fee Administrator (R.I.F.A.), within ten (10) days of the date of the written decision, a written notice stating and specifying briefly the grounds of the appeal. The Road Impact Fee Administrator (R.I.F.A.) shall place such appeal on the Council's agenda. The Council, after a hearing, shall affirm or reverse the decision of the Road Impact Fee Administrator (R.I.F.A.) based on the standards in this subsection 10. If the Parish Council reverses the decision of the Road Impact Fee Administrator (R.I.F.A.), it shall direct the Administrator to readjust the refund in accordance with its findings. In no case shall the Council have the authority to negotiate the amount of the refund. The decision of the Parish Council shall be final.

11. *Periodic Review.*

At least once every five (5) years, the Road Impact Fee Administrator (R.I.F.A.) shall recommend to the Parish Council whether any changes should be made to the Road Impact Fee Study and the ordinance codified herein. The purpose of this review is to analyze the effects of inflation on actual costs, to assess potential changes in needs, to assess any changes in the characteristics of land uses, and to ensure that the road impact fees will not exceed a proportionate share of the costs attributable to new development.

B. *DRAINAGE IMPACT FEE*

1. *Short title, authority and application.*

a. *Title.* This Section B: Drainage Impact Fee shall be known and may be cited as the "St. Tammany Parish Drainage Impact Fee Ordinance."

b. *Authority.* The Parish Council has the authority to adopt the ordinance codified herein pursuant to the St. Tammany Parish home rule charter and the Constitution of the State of Louisiana.

c. *Application.* This Drainage Impact Fee Ordinance shall apply to all lands within the unincorporated portion of St. Tammany Parish.

2. *Purpose.*

The establishment of a system for the imposition of drainage impact fees within the unincorporated area is intended to assure that new development contributes its proportionate share of the cost of providing, and benefits from the provision of, improvements to the Major Drainage System.

3. *Definitions.*

Certain words or phrases unique to this Drainage Impact Fee Ordinance shall be construed as herein set out unless it is apparent from the context that they have a different meaning.

“Building Permit” means that permit required to be issued before any building or construction activity can be initiated on a parcel of land.

“*Drainage Capital Improvement*” includes the preliminary engineering, engineering design studies, land surveys, land acquisition, engineering, permitting and construction of all necessary features of storm water retention ponds.

“*Drainage Impact Fee Administrator*” (*D.I.F.A.*) means the St. Tammany Parish employee primarily responsible for administering the provisions of this Drainage Impact Fee Ordinance or his or her designee.

“*Drainage Impact Fee Study*” means the *Drainage Impact Fee Study* prepared by Duncan Associates in August 2004, or a subsequent similar study.

“*Fee Payer*” means a person who is obligated to pay a drainage impact fee in accordance with the terms of this Section B.

“*Major Drainage System*” means the system of storm water retention ponds within St. Tammany Parish required to prevent flooding.

“*Person*” means an individual, corporation, governmental agency or body, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other entity.

4. *Time of fee obligation and payment.*

a. After the effective date of the ordinance codified herein, any person or government body who undertakes development requiring a building permit within unincorporated St. Tammany Parish shall be obligated to pay a drainage impact fee, pursuant to the terms of this Drainage Impact Fee Ordinance. The fee shall be determined and paid *in accordance with the following schedule*:

(1) Residential Subdivisions – at the time of Final Plat Approval or within 90 days of recordation of Final Plat if the appropriate security is posted as approved by the Director of Engineering and the Director of Finance;

(2) Commercial Subdivisions – at the time of Final Plat approval if the size of the end user is known, else at the time of the issuance of a building permit. The payment at Final Plat Approval may be deferred for a period of 90 days of recordation of Final Plat if the appropriate security is posted as approved by the Director of Engineering and the Director of Finance. If the end user is unknown, or the square footage of the end user is altered the balance of the fee shall be paid at the time of the issuance of a building permit.;

(3) Individual Commercial or Residential Structures - at the time of issuance of a building permit for the development.

b. If any credits are due pursuant to subsection 8, they shall also be determined at that time. The fee shall be computed separately for the amount of construction activity covered by the permit, if the building permit is for less than the entire development. If the fee is imposed for a change in use, the fee shall be determined by computing the difference in the fee schedule between the new development and the existing development. The obligation to pay the impact fee shall run with the land.

c. Any person who, prior to the effective date of the ordinance codified herein, agreed as a condition of development approval to pay a drainage impact fee, shall be responsible for the payment of the fee under the terms of any such agreement, and the payment of such fee by the developer will be offset against any impact fees due pursuant to the terms of this Drainage Impact Fee Ordinance.

5. *Exemptions.*

The following shall be exempt from the terms of this Drainage Impact Fee Ordinance. An exemption must be claimed by the Fee Payer at the time of application for a building permit.

a. Alterations or expansion of an existing building where no additional dwelling units are created, the use is not changed and no additional impervious cover is created.

b. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use provided that no additional impervious cover is created.

c. Any development for which a completed application for a building permit was submitted prior to the effective date of the ordinance codified herein, provided that the construction proceeds according to the provisions of the permit and the permit does not expire prior to the completion of the construction.

d. Any development which has an approved voluntary developmental agreement in place as of the effective date of this ordinance.

e. Structures associated with uses recognized as agricultural by the State of Louisiana.

6. *Establishment of fee schedule.*

a. Any person who causes the development of land, except those persons exempted or preparing an independent fee calculation study pursuant to subsection 7 hereof, shall pay a drainage impact fee in accordance with the following fee schedule:

Drainage Impact Fee Schedule

<i>Land Use Type</i>	<i>Unit</i>	<i>Fee</i>
Single-Family Detached	Per Dwelling Unit	\$1,609
Multi-Family	Per Dwelling Unit	\$585
Mobile Home Park	Per Pad	\$573
Commercial	Per 1000 sq. ft.	\$1,170
Industrial	Per 1000 sq. ft.	\$878

b. If the type of development for which a building permit is requested is not specified on the above fee schedule, the Drainage Impact Fee Administrator (D.I.F.A.) shall determine the fee on the basis of the fee applicable to the most nearly comparable type of land use on the fee schedule.

7. *Independent Fee Calculation Study.*

- a. The impact fee may be computed by the use of an Independent Fee Calculation Study at the election of the Fee Payer, or upon the request of the Drainage Impact Fee Administrator (D.I.F.A.), for any proposed land development activity interpreted as not one of those types listed on the fee schedule or as one that is not comparable to any land use on the fee schedule, and for any proposed land development activity for which the Drainage Impact Fee Administrator (D.I.F.A.) concludes the nature, timing or location of the proposed development makes it likely to generate impacts costing substantially more to mitigate than the amount of the fee that would be generated by the use of the fee schedule.
- b. The preparation of the Independent Fee Calculation Study shall be the sole responsibility and cost of the Fee Payer.
- c. Any person who requests to perform an Independent Fee Calculation Study shall pay an application fee for administrative costs associated with the review and decision on such Study.
- d. The Independent Fee Calculation Study for the drainage impact fee shall be calculated by the use of the following formula:

FEE =	SF x NET COST/SF
SF =	Square feet of impervious cover
NET COST/SF =	COST/SF - GRANT/SF - REV/SF
COST/SF =	Cost per square foot of impervious cover, calculated to be \$0.633 in the Drainage Impact Fee Study
GRANT/SF =	Grant funding credit per square foot of impervious cover, calculated to be \$0.048 in the Drainage Impact Fee Study
REV/SF =	Revenue credit per square foot for drainage district or other taxes or fees used for improvements to the Major Drainage System, calculated as the net present value of future payments over a 20-year period

- e. The fee calculation shall be based on data, information or assumptions contained in this Drainage Impact Fee Ordinance or independent sources.
- f. *Procedure.*
- (1) An Independent Fee Calculation Study shall be undertaken through the submission of an application for an independent fee calculation. A potential Fee Payer may submit such an application. The Drainage Impact Fee Administrator (D.I.F.A.) shall submit such an application for any proposed land development activity interpreted as not one of those types listed on the above fee schedule or as one that is not comparable to any land use on the fee schedule, and for any proposed land development activity for which it is concluded the nature, timing or location of the proposed development makes it likely to generate impacts costing substantially more to mitigate than the amount of the fee that would be generated by the use of the fee schedule.

- (2) Within ten (10) days of receipt of an application for Independent Fee Calculation Study, the Drainage Impact Fee Administrator (D.I.F.A.) shall determine if the application is complete. If the Drainage Impact Fee Administrator (D.I.F.A.) determines that the application is not complete, a written statement specifying the deficiencies shall be sent by mail to the person submitting the application. The application shall be deemed complete if no deficiencies are specified. The Drainage Impact Fee Administrator (D.I.F.A.) shall take no further action on the application until it is deemed complete.
- (3) When the Drainage Impact Fee Administrator (D.I.F.A.) determines that the application is complete, the application shall be reviewed and the Drainage Impact Fee Administrator (D.I.F.A.) shall render a written decision in thirty (30) days on whether the fee should be modified and, if so, what the amount should be, based on the standards in subsection 7.g. below.

g. *Standards.*

If, on the basis of generally-recognized principles of impact analysis, it is determined that the data, information and assumptions used by the applicant to calculate the Independent Fee Calculation Study satisfy the requirements of this subsection 7, the fee determined in the Independent Fee Calculation Study shall be deemed the fee due and owing for the proposed development. The adjustment shall be set forth in a Fee Agreement. If the Independent Fee Calculation Study fails to satisfy the requirements of this subsection, the fee applied shall be that fee established for the development in subsection 6 above.

h. *Appeal of decision.*

- (1) A Fee Payer affected by the administrative decision of the Drainage Impact Fee Administrator (D.I.F.A.) on an Independent Fee Calculation Study may appeal such decision to the St. Tammany Parish Council, by filing with the Drainage Impact Fee Administrator (D.I.F.A.) within ten (10) days of the date of the written decision a written notice stating and specifying briefly the grounds of the appeal. The Drainage Impact Fee Administrator (D.I.F.A.) shall place the appeal on the Council's agenda for the next regularly scheduled meeting.
- (2) The Parish Council, after hearing, shall have the power to affirm or reverse the decision of the Drainage Impact Fee Administrator (D.I.F.A.). In making its decision, the Council shall make written findings of fact and conclusions of law, and apply the standards in subsection 7.g. above. If the Council reverses the decision of the Drainage Impact Fee Administrator (D.I.F.A.), it shall direct the Administrator to recalculate the fee in accordance with its findings. In no case shall the Council have the authority to negotiate the amount of the fee or waive the fee. The decision of the Council shall be final and not subject to further administrative appeal.

8. *Credits.*

- a. Any person subject to the Drainage Impact Fee Ordinance may apply for credit against drainage impact fees otherwise due, up to but not exceeding the full obligation for impact fees proposed to be paid pursuant to the provisions of this Drainage Impact Fee Ordinance, for any contributions, construction or dedication of land accepted or received by St. Tammany Parish for improvements to the Major Drainage System, and for the cost of installing on-site storm water retention ponds.

b. Credits for contributions, construction or dedication of land for improvements on the Major Drainage System shall be transferable within the same development, but shall not be paid for other public facilities. The credit shall not exceed the amount of the impact fees due and payable for the proposed development.

c. St. Tammany Parish may enter into a Capital Contribution Front-Ending Agreement with any person who proposes to construct improvements to the Major Drainage System. To the extent that the fair market value of the construction of these Drainage Capital Improvements exceeds the obligation to pay impact fees for which a credit is provided pursuant to this subsection 8, the Capital Contribution Front-Ending Agreement shall provide proportionate and fair share reimbursement linked to new growth and development's use of the Drainage Capital Improvement constructed.

d. Credit shall be in an amount equal to fair market value of the land dedicated for right-of-way at the time of dedication, the fair market value of the construction at the time of its completion, or the value of the contribution or payment at the time it is made for construction of an improvement to the Major Drainage System.

e. Credits may include any dedication, construction, or contributions made by outside parties subject to the limitations of this section.

f. *Procedure for credit review.*

(1) The determination of any credit shall be undertaken through the submission of an Application for Credit Agreement, which shall be submitted to the Drainage Impact Fee Administrator (D.I.F.A.).

(2) If the proposed application involves a credit for any contribution, the following documentation must be provided:

i. A certified copy of the development approval in which the contribution was agreed;

ii. If payment has been made, proof of payment; or

iii. If payment has not been made, the proposed method of payment.

(3) If the proposed application involves credit for the dedication of land:

i. A drawing and legal description of the land;

ii. The appraised fair market value of the land at the date a building permit is proposed to be issued for the land development activity, prepared by a professional Real Estate Appraiser who is a member of the Member Appraisal Institute (MAI) or who is a member of Senior Residential Appraisers (SRA), and if applicable, a certified copy of the development permit in which the land was agreed to be dedicated.

(4) If the proposed Application for Credit Agreement involves construction:

i. The proposed plan of the specific construction prepared and certified by a duly qualified and licensed Louisiana engineer or contractor;

ii. The projected costs for the suggested improvement, which shall be based on local information for similar improvements, along with the construction timetable for the completion thereof. Such estimated cost shall include the cost of construction or reconstruction, the cost of all labor and materials, the 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, costs of plans and specifications, surveys of estimates of costs and of revenues, costs of professional services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction.

- (5) The Drainage Impact Fee Administrator (D.I.F.A.) shall notify the Parish Council Chair of any Application for Credit Agreement within three (3) days of receipt of said application.
- (6) Within ten (10) days of receipt of the proposed Application for Credit Agreement, the Drainage Impact Fee Administrator (D.I.F.A.) shall determine if the application is complete. If it is determined that the proposed Agreement is not complete, the Drainage Impact Fee Administrator (D.I.F.A.) shall send a written statement to the applicant outlining the deficiencies. The Drainage Impact Fee Administrator (D.I.F.A.) shall take no further action on the proposed Application for Credit Agreement until all deficiencies have been corrected or otherwise settled.
- (7) Once the Drainage Impact Fee Administrator (D.I.F.A.) determines that the proposed Application for Credit Agreement is complete, it shall be reviewed within thirty (30) days. The Application for Credit Agreement shall be approved if it complies with the standards in subsections 8.a. through 8.d. above.
- (8) If the Application for Credit Agreement is approved by the Drainage Impact Fee Administrator (D.I.F.A.), a Credit Agreement shall be prepared and signed by the applicant and St. Tammany Parish. It shall specifically outline the contribution, payment, construction or land dedication, the time by which it shall be completed, dedicated or paid, and any extensions thereof and the dollar credit the applicant shall receive for the contribution, payment or construction.

g. *Appeal of credit decision.*

A Fee Payer affected by the decision of the Drainage Impact Fee Administrator (D.I.F.A.) regarding credits may appeal such decision to the Parish Council by filing with the Drainage Impact Fee Administrator (D.I.F.A.), within ten (10) days of the date of the written decision, a written notice stating and specifying briefly the grounds of the appeal. The Drainage Impact Fee Administrator (D.I.F.A.) shall place such appeal on the Council's agenda for the next regularly scheduled meeting. The Parish Council, after a hearing, shall affirm or reverse the decision of the Drainage Impact Fee Administrator (D.I.F.A.) based on the standards in subsections 8.a. through 8.d. above. If the Parish Council reverses the decision, it shall direct the Drainage Impact Fee Administrator (D.I.F.A.) to readjust the credit in accordance with its findings. The decision of the Parish Council shall be final.

9. *Fee Expenditures.*

- a. St. Tammany Parish shall establish a Drainage Impact Fee Escrow Account for the purpose of ensuring that Fee Payers receive sufficient benefit for drainage impact fees paid.
- b. All drainage impact fees collected by St. Tammany Parish shall be immediately deposited into the Drainage Impact Fee Escrow Account.
- c. All proceeds shall be invested in an interest-bearing account. All income derived from these investments shall be retained in the Escrow Account until transferred. Record of the Escrow Account account shall be available for public inspection.
- d. All proceeds in the Drainage Impact Fee Escrow Account not immediately necessary for expenditure shall be invested in an interest-bearing account. All income derived from these investments shall be retained in the Escrow Account. Records of the Drainage Impact Fee Escrow Account shall be available for public inspection.
- e. Each year, at the time the annual budget is reviewed, the Drainage Impact Fee Administrator (D.I.F.A.) shall recommend appropriations to be spent from the Escrow Account to the Parish Council. After review of the recommendation, the Council shall approve or modify the recommended expenditures of the Escrow Account monies. Expenditures shall be made from the Escrow Account only for improvements to the Major Drainage System. Any amounts not appropriated from the Escrow Account, together with any interest earnings, shall be carried over to the following fiscal period.
- f. Each year, the Drainage Impact Fee Administrator (D.I.F.A.) shall prepare a report to the Parish Council identifying the expenditures of the previous year for the projects for which the Council approved funds.

10. *Refunds.*

- a. *Refund of fees not spent.* Any fees collected shall be returned to the Fee Payer or the Fee Payer's successor in interest if the fees have not been spent within ten (10) years from the date the building permit for the development was issued, along with interest of five percent (5%) a year. Fees shall be deemed to be spent on the basis of the first fee collected shall be the first fee spent.
- b. *Refund procedure.* The refund shall be administered by the Drainage Impact Fee Administrator (D.I.F.A.), and shall be undertaken through the following process:
 - (1) A Refund Application shall be submitted within one (1) year following the end of the tenth year from the date on which the building permit was issued on the proposed development. The Refund Application shall include the following information:
 - i. A copy of the dated receipt issued for payment of the fee;
 - ii. A copy of the building permit; and
 - iii. Evidence that the applicant is the successor in interest to the fee payer.

- (2) Within ten (10) days of receipt of the Refund Application, the Drainage Impact Fee Administrator (D.I.F.A.) shall determine if it is complete. If the Drainage Impact Fee Administrator (D.I.F.A.) determines that the application is not complete, a written statement specifying the deficiencies shall be forwarded by mail to the person submitting the application. Unless the deficiencies are corrected, the Drainage Impact Fee Administrator (D.I.F.A.) shall take no further action on the Refund Application.
- (3) When the Drainage Impact Fee Administrator (D.I.F.A.) determines that the Refund Application is complete, it shall be reviewed within thirty (30) days, and shall be approved if it is determined that the Fee Payer or a successor in interest has paid a fee which has not been spent within the period of time permitted under this Drainage Impact Fee Ordinance. The refund shall include the fee paid plus interest of five percent (5%) a year.

c. *Appeal of refund decision.* A Fee Payer affected by a decision of the Drainage Impact Fee Administrator (D.I.F.A.) may appeal such decision to the Parish Council by filing with the Drainage Impact Fee Administrator (D.I.F.A.), within ten (10) days of the date of the written decision, a written notice stating and specifying briefly the grounds of the appeal. The Drainage Impact Fee Administrator (D.I.F.A.) shall place such appeal on the Council's agenda. The Council, after a hearing, shall affirm or reverse the decision of the Drainage Impact Fee Administrator (D.I.F.A.) based on the standards in this subsection 10. If the Parish Council reverses the decision of the Drainage Impact Fee Administrator (D.I.F.A.), it shall direct the Administrator to readjust the refund in accordance with its findings. In no case shall the Council have the authority to negotiate the amount of the refund. The decision of the Parish Council shall be final.

11. *Periodic Review.*

At least once every five (5) years, the Drainage Impact Fee Administrator (D.I.F.A.) shall recommend to the Parish Council whether any changes should be made to the Drainage Impact Fee Study and the ordinance codified herein. The purpose of this review is to analyze the effects of inflation on actual costs, to assess potential changes in needs, to assess any changes in the characteristics of land uses, and to ensure that the drainage impact fees will not exceed a proportionate share of the costs attributable to new development.

REPEAL: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SEVERABILITY: If any provision of this Ordinance shall be held to be invalid, such invalidity shall not affect other provisions herein which can be given effect without the invalid provision and to this end the provisions of this Ordinance are hereby declared to be severable.

EFFECTIVE DATE: This Ordinance shall become effective _____, 2004.

MOVED FOR ADOPTION BY: _____, SECONDED BY: _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS:

NAYS:

ABSTAIN:

ABSENT:

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE ____ DAY OF _____, 2004; AND BECOMES ORDINANCE COUNCIL SERIES NO. 04-_____.

PATRICIA BRISTER, COUNCIL CHAIRMAN

ATTEST:

DIANE HUESCHEN, COUNCIL CLERK

KEVIN DAVIS, PARISH PRESIDENT

Published Introduction: _____, 2004
Published Adoption: _____, 2004
Delivered to Parish President: _____, 2004 @ _____
Returned to Council Clerk: _____, 2004 @ _____