

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, AMENDING SECTION 10.02.002, "DEFINITIONS," BY AMENDING THE DEFINITION OF "STUDY" CONTAINED THEREIN; AMENDING SECTION 10.02.006, "IMPACT FEES ADOPTED" BY ADOPTING THE EXHIBITS ATTACHED THERETO; BY AMENDING SECTION 10.02.008. "ASSESSMENT OF IMPACT FEES," BY AMENDING THE DATES CONTAINED THEREIN; AMENDING SECTION 10.02.009, "COMPUTATION AND COLLECTION," RELATIVE TO APPROPRIATE LAND USE CATEGORIES AND CONSIDERATION OF ALTERNATIVE LAND USE EQUIVALENCIES; AMENDING SECTION 10.02.016, "IMPACT FEE AS ADDITIONAL AND SUPPLEMENTAL REGULATION," BY REPLACING "TOWN COMPREHENSIVE LAND USE PLAN" WITH "TOWN COMPREHENSIVE PLAN"; AMENDING SECTION 10.02.017, "RELIEF PROCEDURES," BY THE ADDITION OF DETAILED APPEAL PROCEDURES; REPEALING EXISTING SECTION 10.02.018, "CERTIFICATE OF COMPLIANCE STATEMENT," IN ITS ENTIRETY; ALL OF WHICH SECTIONS ARE CONTAINED IN ARTICLE 10.02, "CAPITAL IMPROVEMENTS AND IMPACT FEES," CONTAINED IN CHAPTER 10, "SUBDIVISION REGULATION," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION OF THIS ORDINANCE.

WHEREAS, the Town Council of the Town of Prosper, Texas (the "Town Council") has previously adopted Ordinance Nos. 95-01, 01-24, 02-19, 02-57, 06-91, and 11-71 of the Town of Prosper, Texas ("Town"), establishing impact fees to be assessed by the Town; and

WHEREAS, the Town has fully complied with Chapter 395 of the Texas Local Government Code concerning the notice, adoption, promulgation and methodology necessary to adopt land use assumptions and a capital improvement plan establishing impact fees and has held a public hearing required by Chapter 395 of the Texas Local Government Code relative to the land use assumptions, capital improvement plan and impact fees for water, sewer and roadways; and

WHEREAS, as a result of the most recent study undertaken by the Town, the Town Council desires to amend the land use assumptions and amend the capital improvement plan and the amount of impact fees for water, sewer and roadways; and

WHEREAS, on or before the date of the first publication of the notice of the public hearing on the proposed amendments, including the amount of the proposed impact fee per service unit, such information was made available to the public; and

WHEREAS, the Town Council finds that it is in the best interest of the citizens of the Town to adopt such land use assumptions and capital improvement plan, and amend the impact fees for water, sewer and roadways.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

From and after the effective date of this Ordinance, the definition of "Study" contained in Section 10.02.002, "Definitions," of Article 10.02, "Capital Improvements and Impact Fees," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended to read as follows:

Study. The "Water, Wastewater and Roadway Impact Fee Report" study, dated October 2016 and prepared by Freese & Nichols, Inc., on behalf of the Town, a copy of which is located in the Office of the Town Secretary and incorporated by reference herein, as may be amended from time to time."

SECTION 3

From and after the effective date of this Ordinance, Section 10.02.006, "Impact fees adopted," of Article 10.02, "Capital Improvements and Impact Fees," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended to read as follows:

"Sec. 10.02.006 Impact fees adopted

The previously adopted impact fees for roadways, water and wastewater have been reviewed, evaluated, updated and revised. The Town Council finds that:

- (1) the impact fees for roadways set forth in Exhibit A, "Roadway Impact Fee Schedule," attached hereto and incorporated for all purposes, are hereby adopted and approved; and
- (2) the impact fees for water set forth in Exhibit B, "Water Impact Fee Schedule," attached hereto and incorporated for all purposes, representing fifty percent (50%) of the total projected costs, are hereby adopted and approved; and
- (3) the impact fees for wastewater set forth in Exhibit C, "Wastewater Impact Fee Schedule," attached hereto and incorporated for all purposes, representing fifty percent (50%) of the total projected costs, are hereby adopted and approved."

SECTION 4

From and after the effective date of this Ordinance, Section 10.02.008, "Assessment," of Article 10.02, "Capital Improvements and Impact Fees," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended to read as follows:

"Sec. 10.02.008 Assessment

- (a) The assessment of the impact fee for any new development shall be calculated and made at the time of final plat approval (as defined in Section 10.02.002); however, for the sole purpose of phasing in the application of this Ordinance, final plats that have been approved by

the Town on or before February 28, 2017, pursuant to the Town's subdivision regulations, or for a final plat deemed approved by the Town on or before February 28, 2017, due to the Town's failure to act, assessment for the new development to which the final plat applies shall be calculated and made in accordance with the impact fees existing on February 27, 2017.

(b) Following initial assessment of the impact fee for a new development pursuant to subsection (a), the amount of the impact fee per service unit for that development cannot be increased, unless the approved final plat expires or lapses under applicable ordinances or law or the owner proposes to change the approved development by the submission of a new development application or application to increase the number of service units, in which case the impact fee will be reassessed for increased meter size or additional meters or service units at the impact fee rate then in effect.

(c) Following the lapse or expiration of a final plat that has been approved or a final plat deemed approved due to the Town's failure to act, pursuant to the Town's subdivision regulations, a new assessment shall be performed at the time of new final plat approval in accordance with this Ordinance."

SECTION 5

From and after the effective date of this Ordinance, Section 10.02.009, "Computation and Collection," of Article 10.02, "Capital Improvements and Impact Fees," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended to read as follows:

"Sec. 10.02.009 Computation and collection

(a) The impact fees due on new development shall be collected at the time of application for a building permit or, in the cases for which no plat is submitted to the town, whether the property is located inside or outside the corporate boundaries of the town, at the time of application for building permit, utility connection or certificate of occupancy, whichever occurs first, unless an agreement between the developer and the town has been executed providing for a different time of payment.

(b) At the time of final plat approval, or the request for a utility connection for an area in the town's extraterritorial jurisdiction for which a final plat was not submitted to the town, for all new developments, the town shall compute the impact fees due for the new development in the following manner:

(1) The amount of each type of impact fee due (roadway, water, and/or wastewater) shall be determined by multiplying the number of each type of service units generated by the new development by the impact fee due for each type of service unit in the applicable service area set forth in Exhibits A, B and/or C to section 10.02.006, respectively. The town shall determine the appropriate land use category set forth in Exhibits A, B and/or C to section 10.02.006 for the computation of the impact fee.

(2) The amount of each impact fee due shall be reduced by any allowable credits for that category of capital improvements in the manner provided by this article.

(c) Whenever a property owner proposes to increase the number of service units for a new development, the additional impact fees collected for such new service units shall be

determined by using the amount of impact fee per service unit in Exhibits A, B and/or C to section 10.02.006, and such additional fee shall be collected at the time of issuance of a new building permit, or for an area in the town's extraterritorial jurisdiction for which a final plat was not required to be submitted to the town, prior to or at the time of enlargement of the connection to the town's water or wastewater system.

(d) The Town Manager, or his/her designee, may consider alternate service unit equivalencies as defined in Exhibits A, B and/or C to section 10.02.006, as presented by the property owner or applicant. All data and appropriate technical support data, consistent with the methodological approach in effect with the town, shall be provided. The applicant bears fully responsibility for the provision of such data at the time of fee determination. The town will make the final determination as to consideration of such data."

SECTION 6

From and after the effective date of this Ordinance, Section 10.02.016, "Impact fee as additional and supplemental regulation," of Article 10.02, "Capital Improvements and Impact Fees," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended to read as follows:

"Sec. 10.02.016 Impact fee as additional and supplemental regulation

Impact fees established by this article are additional and supplemental to, and not in substitution of, any other requirements imposed by the town on the development of land or the issuance of building permits or certificates of occupancy. Such fee is intended to be consistent with and to further the policies of the town's comprehensive plan, the capital improvements plan, the zoning ordinance, subdivision regulation and other town policies, ordinances, codes and resolutions by which the town seeks to ensure the provision of adequate public facilities in conjunction with the development of land."

SECTION 7

From and after the effective date of this Ordinance, Section 10.02.017, "Relief procedures," of Article 10.02, "Capital Improvements and Impact Fees," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby amended to read as follows:

"Sec. 10.02.017 Relief procedures

(a) The property owner or applicant for a new development may appeal the following decisions to the Town Manager, or his/her designee:

- (1) The applicability of an impact fee to the development;
- (2) The amount of an impact fee due;
- (3) The availability or amount of a discount against roadway impact fees; or
- (4) The availability or amount of a refund.

(b) All appeals shall be taken with 30 days of notice of the administrative decision from which the appeal is taken.

(c) The burden of proof shall be on the appellant.

(d) The decision of the Town Manager, or his/her designee, may be appealed to the Town Council by filing a notice of appeal with the Development Services Department within 30 days of the Town Manager, or his/her designees', decision. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the Town Attorney in an amount equal to the original determination of the impact fee due, the development application may be processed while the appeal is pending.

(e) The Town Manager, or his/her designee, or the Town Council on appeal, shall review the evidence presented by the appellant and any reports by the Development Services Department, and determine whether the impact fee regulations have been correctly applied to the availability of a discount or refund, or to the amount of an impact fee, discount or refund applied to the proposed development."

SECTION 8

From and after the effective date of this Ordinance, Section 10.02.018, "Certificate of compliance statement," of Article 10.02, "Capital Improvements and Impact Fees," of Chapter 10, "Subdivision Regulation," of the Code of Ordinances of the Town of Prosper, Texas, is hereby repealed in its entirety.

SECTION 9

Unless otherwise set forth herein, Town Ordinance Nos. 06-91, 02-57, 02-19, 01-24, 95-01, and 11-71 shall remain in full force and effect for final plats that have been approved by the Town on or before February 28, 2017, pursuant to the Town's subdivision regulations, or for a final plat deemed approved by the Town on or before February 28, 2017, due to the Town's failure to act, as set forth in Section 10.02.008, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the appeal prevent a prosecution from being commenced for any violation if occurring prior to the repealing of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 10

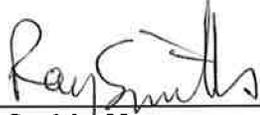
Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 11

This Ordinance shall become effective from and after its adoption and publication as required by law.

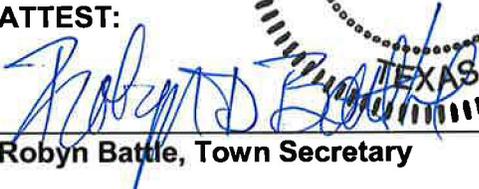
DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 28TH DAY OF FEBRUARY, 2017.





Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney

Exhibit A: Roadway Impact Fee Schedule, Town of Prosper

ITE Land Use	ITE Code	Development Unit	2017 Actual Roadway Impact Fee Per Development Unit			
			Service Area 1 (West of BNSF RR)		Service Area 2 (East of BNSF RR)	
			% of Max		% of Max	
RESIDENTIAL						
Single-Family Detached Housing	210	Dwelling Unit	40%	\$ 6,053	40%	\$ 4,589
Apartment/Multi-family	220	Dwelling Unit	50%	\$ 4,690	50%	\$ 3,556
Residential Condominium/Townhome	230	Dwelling Unit	50%	\$ 3,934	50%	\$ 2,982
Mobile Home Park/Manufactured Housing	240	Dwelling Unit	50%	\$ 4,463	50%	\$ 3,384
Senior Adult Housing-Detached	251	Dwelling Unit	50%	\$ 2,042	50%	\$ 1,548
Senior Adult Housing-Attached	252	Dwelling Unit	50%	\$ 1,891	50%	\$ 1,434
Assisted Living	254	Beds	50%	\$ 1,664	50%	\$ 1,261
OFFICE						
Corporate Headquarters Building	714	1000 sq. ft.	25%	\$ 4,855	25%	\$ 3,681
General Office Building	710	1000 sq. ft.	25%	\$ 5,132	25%	\$ 3,891
Medical-Dental Office Building	720	1000 sq. ft.	25%	\$ 11,910	25%	\$ 9,029
Single Tenant Office Building	715	1000 sq. ft.	25%	\$ 5,990	25%	\$ 4,541
Office Park	750	1000 sq. ft.	25%	\$ 5,094	25%	\$ 3,862
COMMERCIAL						
Automobile Related						
Automobile Care Center	942	1000 sq. ft.	50%	\$ 7,566	50%	\$ 5,736
Automobile Parts Sales	843	1000 sq. ft.	50%	\$ 13,820	50%	\$ 10,477
Gasoline/Service Station	944	Vehicle Fueling Position	50%	\$ 6,090	50%	\$ 4,617
Gasoline/Service Station w/ Conv Market	945	Vehicle Fueling Position	50%	\$ 4,501	50%	\$ 3,412
Gasoline/Service Station w/ Conv Market and Car Wash	946	Vehicle Fueling Position	50%	\$ 4,615	50%	\$ 3,498
New/Used Automobile Sales	841	1000 sq. ft.	50%	\$ 8,499	50%	\$ 6,443
Quick Lubrication Vehicle Stop	941	Servicing Position	50%	\$ 12,622	50%	\$ 9,569
Self-Service Car Wash	947	Stall	50%	\$ 2,509	50%	\$ 1,902
Automated Car Wash	948	1000 sq. ft.	50%	\$ 6,405	50%	\$ 4,856
Tire Store	848	1000 sq. ft.	50%	\$ 12,118	50%	\$ 9,187
Dining						
Fast Food Restaurant w/ Drive-Thru	934	1000 sq. ft.	50%	\$ 49,305	50%	\$ 37,379
Fast Food Restaurant w/o Drive-Thru	933	1000 sq. ft.	50%	\$ 39,481	50%	\$ 29,932
Non-Fast Food Restaurant	931/932	1000 sq. ft.	25%	\$ 7,333	25%	\$ 5,559
Coffee/Donut Shop w/ Drive-Thru	937	1000 sq. ft.	50%	\$ 38,775	50%	\$ 29,397
Other Retail						
Free-Standing Discount Store	815	1000 sq. ft.	50%	\$ 14,135	50%	\$ 10,716
Nursery (Garden Center)	817	1000 sq. ft.	50%	\$ 19,696	50%	\$ 14,932
Home Improvement Superstore	862	1000 sq. ft.	25%	\$ 2,459	25%	\$ 1,864
Pharmacy/Drugstore w/o Drive-Thru	880	1000 sq. ft.	50%	\$ 16,002	50%	\$ 12,131
Pharmacy/Drugstore w/ Drive-Thru	881	1000 sq. ft.	50%	\$ 20,491	50%	\$ 15,535
Shopping Center	820	1000 sq. ft.	25%	\$ 4,962	25%	\$ 3,762
Specialty Retail	826	1000 sq. ft.	50%	\$ 7,250	50%	\$ 5,497
Supermarket	850	1000 sq. ft.	25%	\$ 12,301	25%	\$ 9,326
Toy/Children's Superstore	864	1000 sq. ft.	25%	\$ 7,081	25%	\$ 5,368
Department Store	875	1000 sq. ft.	25%	\$ 2,654	25%	\$ 2,012
SERVICES						
Bank w/o Drive-Thru	911	1000 sq. ft.	50%	\$ 15,560	50%	\$ 11,797
Bank w/ Drive-Thru	912	Drive-In Lanes	50%	\$ 27,527	50%	\$ 20,869
Hair/Nail/Beauty Salon	918	1000 sq. ft.	50%	\$ 2,168	50%	\$ 1,644
LODGING						
Hotel - Full Service	310	Room	25%	\$ 1,217	25%	\$ 923
Hotel - Residence/Extended Stay	311	Room	25%	\$ 1,116	25%	\$ 846
Hotel - Limited Service	312	Room	25%	\$ 1,255	25%	\$ 951
Resort Hotel	330	Room	25%	\$ 996	25%	\$ 755
MEDICAL						
Clinic	630	1000 sq. ft.	50%	\$ 24,652	50%	\$ 18,689
Hospital	610	Beds	50%	\$ 6,758	50%	\$ 5,124
Nursing Home	620	Beds	50%	\$ 1,046	50%	\$ 793
Animal Hospital/Veterinary Clinic	640	1000 sq. ft.	50%	\$ 15,724	50%	\$ 11,921
RECREATIONAL						
Golf Driving Range	432	Tee	50%	\$ 5,069	50%	\$ 3,843
Golf Course	430	Acre	50%	\$ 1,210	50%	\$ 917
Recreational Community Center	495	1000 sq. ft.	50%	\$ 11,109	50%	\$ 8,422
Ice Skating Rink	465	1000 sq. ft.	50%	\$ 9,570	50%	\$ 7,256
Miniature Golf Course	431	Hole	50%	\$ 1,336	50%	\$ 1,013
Multiplex Movie Theater	445	Screens	25%	\$ 27,647	25%	\$ 20,960
Racquet/Tennis Club	491	Court	50%	\$ 13,580	50%	\$ 10,296
Health/Fitness Club	492	1000 sq. ft.	50%	\$ 14,312	50%	\$ 10,850
INDUSTRIAL						
General Light Industrial	110	1000 sq. ft.	50%	\$ 6,128	50%	\$ 4,646
General Heavy Industrial	120	1000 sq. ft.	50%	\$ 4,300	50%	\$ 3,259
Industrial Park	130	1000 sq. ft.	50%	\$ 5,371	50%	\$ 4,072
Warehousing	150	1000 sq. ft.	50%	\$ 2,181	50%	\$ 1,653
Mini Warehouse (Self Storage)	151	1000 sq. ft.	50%	\$ 1,778	50%	\$ 1,347
INSTITUTIONAL						
Church/House of Worship	560	1000 sq. ft.	50%	\$ 1,462	50%	\$ 1,108
Day Care Center	565	1000 sq. ft.	50%	\$ 18,297	50%	\$ 13,871
Primary/Middle School (1-8)	522	Students	50%	\$ 428	50%	\$ 325
High School	530	Students	50%	\$ 340	50%	\$ 258
Junior/Community College	540	Students	50%	\$ 315	50%	\$ 239
University/College	550	Students	50%	\$ 453	50%	\$ 344

Exhibit B: Water Impact Fee Schedule

Meter Size	Meter Type	Water Impact Fee (50% of the Maximum)
5/8"	Displacement	\$1,528
1"	Displacement	\$3,821
1-1/2"	Displacement	\$7,641
1-1/2"	Turbine	\$12,226
2"	Displacement	\$12,226
2"	Turbine	\$15,282
3"	Compound	\$34,385
3"	Turbine	\$34,385
4"	Compound	\$76,410
4"	Turbine	\$91,692
6"	Compound	\$152,820
6"	Turbine	\$191,025
8"	Turbine	\$305,640
10"	Turbine	\$496,665

Exhibit C: Wastewater Impact Fee Schedule

Meter Size	Meter Type	Wastewater Impact Fee (50% of the Maximum)
5/8"	Displacement	\$1,129
1"	Displacement	\$2,822
1-1/2"	Displacement	\$5,644
1-1/2"	Turbine	\$9,030
2"	Displacement	\$9,030
2"	Turbine	\$11,288
3"	Compound	\$25,398
3"	Turbine	\$25,398
4"	Compound	\$56,440
4"	Turbine	\$67,728
6"	Compound	\$112,880
6"	Turbine	\$141,100
8"	Turbine	\$225,760
10"	Turbine	\$366,860