

## TOWNSHIP OF EAST COCALICO

Lancaster County, Pennsylvania

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ORDINANCE NO. 2011-01

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AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF EAST COCALICO, LANCASTER COUNTY, PENNSYLVANIA, ENACTED PURSUANT TO ARTICLE V-A OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE TO AMEND THE CODE OF ORDINANCES TO INSERT A NEW CHAPTER 203, TRANSPORTATION IMPACT FEES, TO ESTABLISH IMPACT FEES AND TO PROVIDE FOR THE CALCULATION AND IMPOSITION OF IMPACT FEES.

BE AND IT IS HEREBY ORDAINED AND ENACTED by Board of Supervisors of the Township of East Cocalico, Lancaster County, Pennsylvania, as follows:

Section 1. The Code of Ordinances of the Township of East Cocalico shall be amended by adding a new Chapter 203, Transportation Impact Fees, which shall provide as follows:

### **Chapter 203** **Transportation Impact Fees**

#### **§203-1. Short Title.**

This Chapter may be known and shall be cited as the East Cocalico Township Impact Fee Ordinance.

#### **§203-2. Legislative Intent.**

The Board of Supervisors enacts this Chapter in accordance with the authority of Article V-A of the MPC, as added by Act 209 of 1990. In 2010 and 2011, pursuant to Act 209, the Township prepared and adopted land use assumptions, a roadway sufficiency analysis, and a transportation capital improvements plan. The Board of Supervisors desires to enact an impact fee ordinance to provide for the calculation and imposition of impact fees.

It is the further intent of the Board that this Chapter impose impact fees to the maximum extent authorized by law, including any retroactivity provisions. If a Project is no longer protected from the

effect of changes to governing ordinances by Article V of the MPC, it is the intent of the Board that such Project shall be subject to payment of impact fees in accordance with this Chapter.

### **§203-3. Definitions and Word Usage.**

All terms defined in Act 209 shall have the meanings set forth in Act 209 except as specifically modified by this Section. In addition, the following words and phrases shall have the meanings set forth in this Section:

ACT 209 - Article V-A of the Pennsylvania Municipalities Planning Code, as added by the Act of December 19, 1990, P.L. 1343, and as subsequently amended, 53 P.S. §10501-A et seq.

ADVISORY COMMITTEE - The East Cocalico Township Impact Fee Advisory Committee, established in accordance with Act 209.

APPLICANT - Any person who submits an Application for Development to the Township.

APPLICATION FOR DEVELOPMENT - An application for approval of a subdivision or land development plan (whether preliminary or final) or for planned residential development approval or for a construction or zoning permit or for a certificate of use and occupancy when no prior application for a construction or zoning permit is required.

BOARD - The Board of Supervisors of the Township.

CONSTRUCTION PERMIT - A permit issued under the East Cocalico Township Uniform Construction Code Ordinance, codified as Chapter 84, Construction Code, Uniform, of the Code of Ordinances..

MPC - The Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, as amended and reenacted, 53 P.S. §10101 et seq.

NEW DEVELOPMENT - Any commercial, industrial, residential or other Project which involves new construction, enlargement, reconstruction, redevelopment, relocation or structural alterations (including change of use) within the Township and which is expected to generate additional vehicular traffic within the applicable Transportation Service Area of the Township.

PERSON - an individual, partnership, limited partnership, corporation, limited liability company, trust, estate, or any other legally recognized entity, and the members of such partnership and the officers, members or managers of such corporation or company.

PROJECT - The New Development proposed in an Application for Development.

TOWNSHIP - The Township of East Cocalico, Lancaster County, Pennsylvania.

ZONING ORDINANCE - The East Cocalico Township Zoning Ordinance of 2003, codified as Chapter 220 of the Code of Ordinances, and as may be amended or reenacted in the future.

**§203-4. Establishment of Transportation Service Areas.**

The Township hereby establishes three transportation service areas, identified as Eastern, Western and Southern as outlined on the map attached hereto as Appendix "A" and incorporated herein by reference. Appendix "A" may hereafter be amended from time to time by ordinance or resolution.

**§203-5. Imposition of Impact Fee.**

The Township hereby imposes and establishes an impact fee to generate revenues for funding the costs of transportation capital improvements within the Township necessitated by and attributable to New Development to the maximum extent authorized by the laws of the Commonwealth, except as exempted, credited or limited by this Chapter. The amount of the impact fee shall be determined by following the calculations and methodology set forth in Appendix "B" to this Chapter which is attached hereto and incorporated herein by reference. All New Development for which an Application for Development is filed after the effective date of this Chapter shall pay impact fees calculated in accordance with Appendix "B". The Township, pursuant to Section 505-A(c)(2) of Act 209, specifically imposes impact fees in the amount of \$1,000.00 per peak hour trip on all New Development which Act 209 limits to such impact fee, i.e. New Development proposed by an Application for Development first filed with the Township after the advertisement of notice of intent to enact an impact fee ordinance and prior to the date of enactment of this Chapter. Appendix "B" may hereafter be amended from time to time by ordinance or by resolution.

**§203-6. Calculation of Impact Fees.**

- A. Before submitting or simultaneously with the submission of an Application for Development, each Applicant shall complete and submit on a form obtained from the Township the information necessary to calculate the impact fee pursuant to Appendix "B". If an Applicant is submitting a second or subsequent Application for Development relating to a Project for which the Township has previously established the amount of the impact fee, the Applicant shall submit a copy of the determination of the impact fee and a statement that the Applicant has not changed the scope of the Project in the Application for Development with the second or subsequent Application for Development.
- B. The Township, or where deemed necessary by the Township, the Township Solicitor or the Township Engineer or both, shall review the form submitted by the Applicant within thirty (30) days of receipt by the Township and shall calculate the impact fee due for the Project. The Township shall promptly notify the Applicant of the amount of the impact fee required for the Project proposed in the Application for Development.

An Applicant may calculate the impact fees due for a Project and submit that calculation with the form required by this Section. The Applicant's calculation shall be subject to review

by the Township and, where deemed necessary by the Township, the Township Solicitor or the Township Engineer or both, who or which shall verify the accuracy or inaccuracy of the calculation. If the Township determines that the Applicant's calculation is inaccurate, the Township shall calculate the proper amount of the impact fee for the Project and so inform the Applicant.

- C. If the Applicant shall disagree with the calculation of the impact fee for the Project, the Applicant may request that the Board consider the calculation of the impact fee at a public meeting of the Board. The Applicant shall submit such request in writing to the Township Secretary within thirty (30) days of the date of the calculation of the impact fee and shall specify, in detail, the reasons for the disagreement.
- D. Where a Project will result in increased density, intensity or trip generation as compared to the land use assumptions prepared by the Advisory Committee, the Township may require that the Applicant prepare a special transportation study at the Applicant's expense in order to determine traffic generation or circulation for such Project to assist in the determination of the amount of the impact fee for such Project.

An Applicant may, at any time authorized by Act 209, voluntarily prepare and submit a traffic study for a Project for use in calculating the impact fee for the Project or for use in any appeal as provided for under Act 209 or this Chapter. An Applicant which has elected to prepare and submit a traffic study for a Project shall not have the right to prepare or submit a second or subsequent traffic study for the same Project.

Any special transportation study, whether required by the Township or prepared voluntarily by the Applicant, shall be prepared by a qualified traffic or transportation engineer using procedures and methods established by the Township and shall be based on generally accepted transportation planning and engineering standards. The study, where required by the Township, shall be submitted prior to the imposition of an impact fee and shall be taken into consideration by the Township in increasing or reducing the amount of the impact fee for the Project as calculated in accordance with the impact fee schedule adopted by the Township as set forth in Appendix "B".

- E. An Applicant shall be entitled to credits against the impact fee as set forth in the following Paragraphs. No Applicant shall be entitled to any credit for any on-site improvement required by the Subdivision and Land Development Ordinance or other applicable Township Ordinance or required by another governmental entity including, but not limited to, the Pennsylvania Department of Transportation. If the Applicant will not pay the impact fees attributable to the Project in a single payment, the Township shall grant the credit proportionally as the Applicant pays the impact fees. By way of example, if the Project is comprised of 100 dwelling units, the Applicant shall be entitled to one percent of the credit when the Applicant pays the impact fee attributable to each dwelling unit.
  - 1. The Township shall grant a credit in the amount of the fair market value of any land the Applicant dedicates to the Township for future right-of-way, realignment or

widening of any existing roadways or for the value of any construction of road improvements contained in the transportation capital improvement program which is performed at Applicant's expense; provided, however, that such improvement does not constitute an on-site improvement. The amount of such credit for any capital improvement the Applicant constructs shall be the amount allocated in the capital improvement program, including contingency factors, for such work. The fair market value of any land the Applicant dedicates to the Township shall be determined as of the date of the submission of the Application for Development to the Township. The Applicant who requests a credit for the value of right-of-way or other interest in land shall have the burden to present evidence to the Township to demonstrate the fair market value of the interest in land dedicated to the Township.

2. The Township shall grant a credit against the applicable impact fee for Projects that involve the reuse of a building which is vacant on the effective date of this Chapter which shall be based upon the number of p.m. peak hour trips for the use which existed prior to the existing building becoming vacant. By way of example, if a building which is vacant on the effective date of this Chapter was used for retail sales in 2009, the number of p.m. peak hour trips for such retail sales usage would be subtracted from the number of p.m. peak hour trips anticipated to be generated by the Project.

#### **§203-7. Payment of Impact Fees.**

The Applicant shall pay the impact fee calculated in accordance with this Chapter, less any credits specifically authorized by this Chapter, prior to the issuance of a construction permit for the structure to which the impact fee relates. Where no construction permit is required, the Applicant shall pay the applicable impact fee prior to the issuance of a certificate of use and occupancy for the structure or land. If the Applicant fails or refuses to pay the impact fee in full, the Township shall deny the application for a construction permit or certificate of use and occupancy.

#### **§203-8. Disposition of Impact Fees.**

The Township shall place all impact fees collected under this Chapter in a Capital Improvement Account in accordance with the requirements of Act 209. The Township shall expend impact fees in accordance with the requirements of Act 209 or in accordance with any waivers to which a payor of impact fees may agree.

#### **§203-9. Refunds.**

An Applicant who has paid an impact fee may make an application for a refund of such impact fee where Act 209 requires the Township to refund an impact fee. The Applicant desiring a refund of the impact fee shall file a written application with the Township requesting such a refund no later than thirty (30) days after the event which gives rise to the right to claim a refund unless a different procedure is required by Act 209. The written request for a refund shall contain all of the following information:

- A. The name, address and telephone number of the person requesting the refund and, if different, the full name, address and telephone number of the person who paid the impact fee. If the person requesting a refund is different from the person who paid the impact fee, the request shall clearly identify the right of the person making the request to receive the refund.
- B. The address and Lancaster County Tax Account Number of the property for which the impact fee was paid and, if applicable, the name and recording reference of the subdivision and/or land development plan creating the lot or authorizing the development.
- C. The amount of the impact fee paid and the date upon which it was paid.
- D. The specific provision of Act 209 granting the right to a refund and all facts applicable to a determination of why Applicant qualifies for a refund of impact fees under such Section of Act 209. Failure to provide all required information shall result in the denial of the refund request.

The Board shall act upon a request for a refund within ninety (90) days. The Board may, in its discretion, conduct a hearing in a request for a refund of impact fees. Should the Board conduct a hearing, the costs relating to the attendance of the court reporter and preparation of the transcript shall be allocated as set forth in MPC Section 908.

#### **§203-10. Exemptions.**

The following types of Projects are exempt from the requirements of this Chapter:

- A. Projects constructed and/or owned by the federal government, state government, county government, the Township, or East Cocalico Township Authority to be used by such entity in the exercise of its governmental functions.
- B. The addition to or construction of buildings for agricultural use on properties devoted to farming. The establishment of a new dwelling unit, home occupation, rural occupation or farm occupation on such property shall be subject to impact fees under this Chapter.
- C. Additions to single family dwellings and residential accessory structures which do not add additional dwelling units or which will not contain a home occupation or a rural occupation. The establishment of a new dwelling unit, home occupation or rural occupation shall be subject to impact fees under this Chapter.

#### **§203-11. Waivers.**

An Applicant who believes that its Project is subject to unreasonable hardship not of the Applicant's making which results in a manifest injustice may file a request to the Board for a waiver of one or more of the provisions of this Chapter. An Applicant seeking a waiver shall file the written request together with the calculation of the impact fee provided in §203-5 of this Chapter. The written request for a waiver shall contain the following information:

- A. The name, address and telephone number of the Applicant and, if different, the name, address and telephone number of the landowner.
- B. The address and Lancaster County Tax Account Number of the property which is the subject of the request.
- C. A brief description of the Project.
- D. The section or sections of this Chapter which Applicant requests the Board to waive.
- E. The reasons for the waiver including, if applicable, improvements to the Township's highway system proposed as part of the Project.

**§203-12. Appeals.**

Any appeal from a determination under this Chapter shall be made in accordance with Section 506-A of Act 209.

**§203-13. Violations and Penalties.**

- A. It shall be a violation of this Chapter to commit or permit any other Person to commit any of the following acts:
  - 1. To commence construction of any improvement for which an impact fee is required prior to payment of the impact fee.
  - 2. To place false information on or omit relevant information from an Application for Development or an application for a permit or an application requesting calculation of impact fees for a Project under this Chapter or any other document filed with the Township pursuant to this Chapter.
  - 3. To fail to comply with any other provisions of this Chapter.
- B. For each violation of this Chapter, any Person who commits, takes part in, or assists in any such violation shall be liable upon conviction thereof in a summary proceeding to pay a fine of not less than two hundred (\$200.00) dollars nor more than six hundred (\$600.00) dollars for each offense, together with the costs of prosecution. Each day or portion thereof in which a violation exists shall be considered a separate violation of this Chapter, and each Section of this Chapter which is violated shall be considered a separate violation.

**§203-14. Remedies.**

In addition to any other penalty or remedy provided by this Chapter and by applicable statutes and regulations, the Township may institute proceedings in equity to restrain any violation of this Chapter or to require compliance with this Chapter.

**§203-15. Review.**

The Township reserves the right to review and, if appropriate, to revise the land use assumptions, roadway sufficiency analysis, transportation capital improvements plan, and/or any other study or data upon which the Township based this Chapter. The Township reserves the right to review and, if appropriate, to revise this Chapter should circumstances warrant. The Board directs the Advisory Committee and the Township Planning Commission to annually examine such matters and make recommendations to the Board.

Section 2. Nothing in this Chapter shall be construed to affect any rights acquired by the Township or any agreements concerning the payment of impact fees or road improvement contributions entered into prior to the enactment of this Chapter. Nothing contained in this Chapter shall be construed to affect other Chapters of the Code of Ordinances of this Township. The impact fee imposed herein is in addition to any existing or future fees, charges or taxes imposed by the Township.

Section 3. All other sections, parts and provisions of the Code of Ordinances of the Township of East Cocalico shall remain in full force and effect as previously enacted and amended.

Section 4. In the event any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of this Ordinance, it being the intent of the Board of Supervisors that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 5. This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of the Township of East Cocalico as provided by law.

DULY ORDAINED AND ENACTED this 6th day of April, 2011, by the Board of Supervisors of the Township of East Cocalico, Lancaster County, Pennsylvania, in lawful session duly assembled.

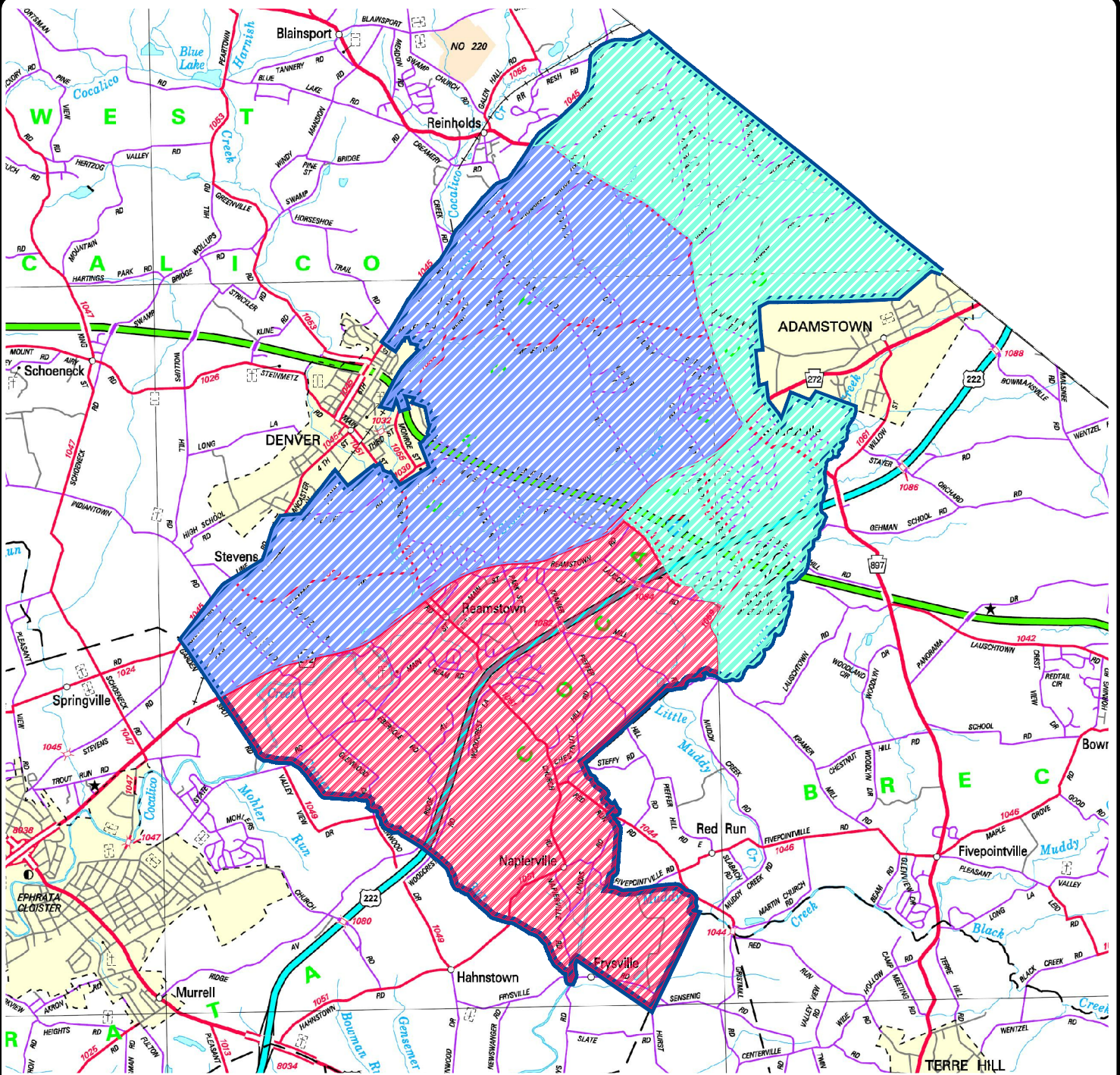
TOWNSHIP OF EAST COCALICO  
Lancaster County, Pennsylvania

Attest: \_\_\_\_\_  
(Assistant) Secretary

By: \_\_\_\_\_  
(Vice) Chairman  
Board of Supervisors

[TOWNSHIP SEAL]





# **LEGEND**

- EASTERN TSA
- WESTERN TSA
- SOUTHERN TSA

**HRG**  
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Engineering & Related Services

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## **TRANSPORTATION SERVICE AREAS FOR EAST COCALICO TOWNSHIP CIP**

EAST COCALICO TOWNSHIP LANCASTER COUNTY PENNSYLVANIA

PROJ. MGR. - MJR
DESIGN - BDE
CADD - BDE
CHECKED - MJR
SCALE - NTS
DATE - NOV. 2010

DRAWING NO.
<b>1</b>
SHEET NO.
<b>1 OF 9</b>
PROJECT R000866.0431

## APPENDIX B

### CALCULATION OF IMPACT FEES

#### A. Per Trip Cost with the Transportation Service Area.

The per trip cost for the transportation service area has been calculated as follows:

Total cost of road improvements attributable to  
and necessitated by New Development \_\_\_\_\_ = Impact fee per p.m. peak hour trip  
Anticipated p.m. peak hour trips generated by New  
Development consistent with Land Use Assumptions

In accordance with the adopted Capital Improvements Plan, the Impact Fee per p.m. peak hour trip is as follows:

Eastern Transportation Service Area .....	\$1,512.00
Western Transportation Service Area .....	\$1,507.00
Southern Transportation Service Area .....	\$1,510.00

The Township reserves the right to amend this Appendix B in the future by ordinance or resolution to revise the per trip cost for each transportation service area.

#### B. Calculation of Impact Fee.

1. Determine the Transportation Service Area within which the Project is located.
2. Determine the number of p.m. peak hour trips attributable to the Project. The Applicant shall use the latest edition of the Trip Generation Manual published by the Institute of Transportation Engineers to determine the number of p.m. peak hours trips. Where a Project contains mixed uses, the p.m. peak hour trips for each use shall be determined and added together to obtain the number of p.m. peak hour trips for the Project.
3. Multiply the per trip cost for the applicable transportation service area by the total number of p.m. peak hours trips for the Project. This figure represents the gross total impact fee due for the Project.
4. If the Project qualifies for any credits under §203-6.E, calculate the amount of the credit or credits, and subtract the total credits from the gross impact fee to determine the net total impact fee for the Project.
5. If the Applicant will not obtain a single construction permit for the entire Project and,

therefore, will pay the impact fee attributable to the structure or structures proposed in each construction permit application separately, Applicant shall calculate the impact fee attributable to the construction permit application as follows:

$$\frac{\text{Net total impact fee for Project}}{\text{Total peak hour trips for Project}} \times \text{Number of peak hour trips for use proposed in construction permit application}$$

6. The Township reserves the right to amend this Appendix B in the future by ordinance or resolution and to change the method of calculating the specific impact fee for a specific new development.