PENNSYLVANIA STATE
TRANSPORTATION ADVISORY COMMITTEE

# TRANSPORTATION IMPACT FEES

## *DEVELOPMENT IMPACTS ON THE TRANSPORTATION SYSTEM*

**W H I T E   P A P E R**


**December 2021**

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# Acknowledgements

## About the Transportation Advisory Committee

The Pennsylvania Transportation Advisory Committee (TAC) was established in 1970 by Act 120 of the State Legislature, which also created the Pennsylvania Department of Transportation (PennDOT).

TAC has two primary duties. First, it "consults with and advises the State Transportation Commission and the Secretary of Transportation on behalf of all transportation modes in the Commonwealth." In fulfilling this task, TAC assists the Commission and the Secretary "in the determination of goals and the allocation of available resources among and between the alternate modes in the planning, development, and maintenance of programs, and technologies for transportation systems."

TAC's second duty is "to advise the several modes (about) the planning, programs, and goals of the Department and the State Transportation Commission." TAC undertakes in-depth studies on important issues and serves as a liaison between PennDOT and the general public.

TAC consists of the following members: the Secretary of Transportation; the heads (or their designees) of the Department of Agriculture, Department of Education, Department of Community and Economic Development, Public Utility Commission, Department of Environmental Protection, and the Governor's Policy Office; two members of the State House of Representatives; two members of the State Senate; and 18 public members—six appointed by the Governor, six appointed by the President Pro Tempore of the Senate, and six appointed by the Speaker of the House of Representatives.

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SEPTA

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PA Department of Transportation

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Office of the Governor

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Transportation Committee
Alt: Sam Arnold

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Transportation Committee
Alt: Josiah Shelly

**Honorable Mike Carroll**
Pa House of Rep.
Minority Chair of House
Transportation Committee
Alt: Meredith Biggica

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Office of Transportation and Infrastructure Systems
City of Philadelphia

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Director of Planning
York County Planning Commission

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New Enterprise Stone and Lime Co., Inc
Bedford County

**Mr. Thomas C. Geanopulos**
Marketing Consultant (ret.)
Allegheny County

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TAC Vice-Chair
Transportation Planner
Lycoming County

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LaBella Associates
Lackawanna County

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Porter Consulting Engineers, P.C.
Crawford County

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City of Pittsburgh

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Erie County

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JDM Consultants
Union County

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Executive Director, Westmoreland County Transit Authority
Westmoreland County

**Mr. Charles F. Welker, P.E.**
EADS Group, Inc. (ret.)
Blair County

**Larry J. Nulton, Ph.D.**
Nulton Aviation Services, Inc.
Cambria County

**Mr. Elam Herr**
Pennsylvania State Association of Township Supervisors (retired)
Lancaster County

**Mr. Ron G. Wagenmann**
Manager, Upper Merion Township (retired)
Montgomery County

**Joe Butzer**
President & CEO at Advantage Truck Leasing, Inc.
Pennsylvania Motor Truck Association, Interim President
Lancaster County

# Ad Hoc Transportation Impact Fee Committee

The TAC thanks the members of the Ad Hoc Committee formed to guide the direction of this study. Their knowledge of and expertise in navigating the dynamic between land use and transportation and the use and administration of Transportation Impact Fees helped guide the course of the study process.

**Honorable Jody L. Holton, AICP**
Chair, Transportation Advisory Committee
Assistant General Manager
SEPTA

**Mr. Mark Murawski, Ad Hoc Committee Chair/Vice-Chair PA Transportation Advisory Committee**
Lycoming County Transportation Planner
Lycoming County

**Honorable Mike Carroll, PA Transportation Advisory Committee**
Pennsylvania House of Representatives

**Sam Arnold, PA Transportation Advisory Committee Alternate**
Senate of Pennsylvania

**Nolan Ritchie, PA Transportation Advisory Committee Alternate**
Senate of Pennsylvania

**Ms. Felicia Dell, AICP, PA Transportation Advisory Committee**
Director of Planning
York County Planning Commission

**Mr. Elam Herr, PSATS (retired), PA Transportation Advisory Committee**
Pennsylvania State Association of Township Supervisors
Lancaster County

**Mr. Ron G. Wagenmann, PA Transportation Advisory Committee**
Manager, Upper Merion Township (retired)
Montgomery County

**Michael Keiser, PE**
Acting Deputy Secretary
PA Department of Transportation

**Larry Shifflet**
Deputy Secretary
PA Department of Transportation

**Michael Rimer, AICP**
PA Department of Transportation

**Matthew Edmond, AICP**
Asst. Director of Transportation & Long-Range Planning
Montgomery County Planning Commission

# Stakeholders

The TAC acknowledges the contributions of the following stakeholder organizations who helped to broaden and inform our understanding of this topic. Their firsthand local and statewide knowledge proved invaluable.

**PennDOT Central Office Highway Occupancy Permit Program**

**Adams County Alliance**

**Adams County Planning & Development**

**Cranberry Township, Butler County**

**Franklin County Area Development Corporation**

**Herbert, Rowland & Grubic, Inc.**

**Keystone Consulting Engineers**

**Lehigh Valley Planning Commission**

**Mericle Commercial Real Estate Services**

**Pennsylvania State Planning Board**

**Tri-County Regional Planning Commission**

**Upper Dublin Township, Montgomery County**

**York Township, York County**

**White Township, Indiana County**

**Windsor Township, York County**

# Findings

This TAC study includes identification of structural challenges in administering land use and transportation in Pennsylvania and in paying for transportation improvements. Emphasis is on provisions of the Pennsylvania Municipalities Planning Code (MPC) which address Transportation Impact Fees (sections 501-A through 506-A of the MPC) and how impact fees intersect with improvements required by the Highway Occupancy Permit (HOP) process, as well as how this interacts with long-term transportation planning goals.

Early scoping discussions and stakeholder input provided a focus for the study resulting in the following observations:

- Improving the linkage between land use planning and transportation planning is a long-standing topic, a decades long discussion occurring among Pennsylvania state agencies.
- The convergence of land use and transportation in Pennsylvania is determined by a few primary decision makers, each driven by independent land use decision factors.
- County planning agencies provide a supporting role by reviewing of land development plans, while MPOs and RPOs playing an integral role on how transportation dollars are programmed do not.
- The Transportation Impact Fee is just one of several funding sources used to pay for offsite transportation improvements.
- As of 2007 just 61 of Pennsylvania's 2,560 municipalities had adopted or were in the process of adopting an impact fee ordinance.
- The success of the impact fee program is highly variable and market driven with success found in municipalities in population centers in and near Philadelphia, Pittsburgh, and the Lehigh Valley.
- Transportation impact fees are a reliable funding tool for muncipalities with predictable growth and not as effective for municpalities with unpredictable growth.
- Amendments to the MPC combined with continued intergovermental cooperation and updating tools and processes would improve both the connection between land use and transportation and the transportation impact fee program.

  MPC amendments recommended by stakeholders as part of this study are listed below. Amendments to the MPC would require detailed discussion and cooperation with the state legislature, the development community, municipal associations, municipalities, state agencies, and the State Planning Board.

  - Article V Section 502 (b) to include MPOs/RPOs, PennDOT, and transit agencies as reviewers in the land development process and MPC Section 501-A (c)(3) in review of developments of regional significance and impact.
  - Article V-A to include one or more of several provisions such as:

  - Require impact fee document review by counties, PennDOT, MPOs/RPOs, and transit agencies
  - Expand eligible costs beyond roadway improvements to address corridor and multi-modal or transit improvements
  - Allow fee flexibility and make the process less cumbersome, similar to MPC recreation fees
  - Incorporate base fee contribution for all development, with added Act 209 fees for projects of regional or local significance
  - Increase the amount of impact fees allocated to a transportation project on a state road above 50%
  - Increase the impact fee service area above 7 square miles
  - Increase the length of time required to expend impact fee funds
  - Consider pass through traffic and existing traffic in impact fee calculations
- Article V-A Section 503-A to provide municipalities an additional way to fund local road improvements necessitated by larger land development projects.

The issues identified by stakeholders, as well as identified solutions, are summarized in the following tables, and supplemented with additional details included in this study report.

# Land Use and Transportation Planning

| Issues | Identified Solutions |
| --- | --- |
| **1.** Local land development lacks coordinated input from transportation planning partners<br>**2.** Many municipalities control land use in Pennsylvania sometimes resulting in unintended transportation consequences<br>**3.** Private sector timeframes are not in sync with public sector planning<br>**4.** Lack of proactive planning reduces positive transportation outcomes<br>**5.** An inability to effectively mitigate traffic volume and congestion<br>**6.** Increased environmental impacts and associated costs<br>**7.** Safety is not always optimized when larger developments are constructed | *Modify the MPC to require planning partner input during local review*<br>Consider modifying the MPC to include MPOs/RPOs, PennDOT, and transit agencies as reviewers in the land development process with a role similar to the review currently conducted by county planning departments for developments of regional significance.<br><br>*Encourage MPO/RPO review in multi-municipal transportation projects*<br>The MPO/RPO can act as an advocate for multi-municipal transportation planning and authorities where appropriate and provide technical support, promoting consistency with growth projections and transportation needs.<br><br>*Continue local government cooperation*<br>The MPC and Pennsylvania's municipal authority statutes allow municipal resource sharing. Multi-municipal planning efforts should continue to be encouraged to jointly plan for needed transportation improvements.<br><br>*Develop a land use and transportation toolbox*<br>Over the years PennDOT and agency partners have developed several handbooks and publications focused on land use, transportation, and economic development. Combine and update resources into one 'toolbox' to benefit municipalities.<br><br>*Encourage municipalities to require Traffic Impact Studies (TIS)*<br>While transportation improvements are often required on local roads, the TIS will permit a municipality to thoroughly analyze traffic impacts, particularly for large projects. Ordinance amendments to require traffic impact studies would be beneficial for certain projects.<br><br>*Modify ITE Standards*<br>Work with Institute of Transportation Engineers to refine ITE to account for different vehicle types. This would help accurately reflect actual impact of trucks versus car versus delivery vans. |

# Transportation Impact Fees

| Issues | Identified Solutions |
| --- | --- |
| **1.** Viewed as costly and time consuming to enact and effectively administer<br>**2.** Complex upfront planning studies with several restrictive requirements<br>**3.** Impact fee revenue is highly influenced by market conditions<br>**4.** Traffic impact fees take time to accumulate to a sufficient level to fund improvements while the municipality has a time limit to expend them<br>**5.** Impact fee implementation can stifle small business and low-moderate income housing<br>**6.** HOP decisions sometimes made independently of impact fee planning/ implementation<br>**7.** Transportation planning partners not involved in the impact fee process | *Consider MPC amendments to Transportation Impact Fee language*<br>This could include provisions such as: **1**. Require impact fee document review by counties, PennDOT, MPOs/RPOs, and transit agencies **2**. Expand eligible costs beyond roadway improvements to address corridor and multi-modal or transit improvements **3**. Allow fee flexibility and make the process less cumbersome, similar to MPC recreation fees **4**. Incorporate base fee contribution for all development, with added Act 209 fees for projects of regional or local significance **5.** Increase the amount of impact fees allocated to a transportation project on a state road above 50% **6**. Increase the impact fee service area above 7 square miles **7.** Increase the length of time required to expend impact fee funds **8**. Consider pass through traffic and existing traffic in impact fee calculations<br><br>*Expand funding for preparation of Transportation Impact Fee studies*<br>Expand the amount of DCED Municipal Assistance Program funding available to prepare a municipal Transportation Capital Improvements Plan and impact fee ordinance. Expand other agency funding sources to make Transportation Capital Improvements Plan and impact fee ordinance an eligible use.<br><br>*Create an authority to implement Transportation Impact Fees*<br>A separate authority can work will all parties prior to land use decisions are made and permits such as an HOP are issued.<br><br>*Encourage preparation of Multi-Municipal Transportation Capital Improvements Plans*<br>Municipalities participating in multi- municipal planning and implementation agreements should consider adopting multi-municipal Capital Improvements Plan. The municipalities could consider adopting a joint authority or implementing their own Capital Improvements Plan consistent with the multi municipal plan.<br><br>*Assess existing funding tools and consider new to ensure a viable set of funding options are available across Pennsylvania's municipalities*<br>Assessing the benefits of funding transportation improvements in advance of development or maximizing opportunities for value capture would be beneficial to make certain that viable funding options are available across to meet the diverse needs of Pennsylvania's municipalities. |

# HOP Process

| Issues | Identified Solutions |
|---|---|
| **1.** The HOP process is reactive and improvements are viewed with narrow focus related to the project impacts.<br>**2.** HOP only addresses impacts on PennDOT roads, so improvements to local roads are not included.<br>**3.** For large projects, offsite improvements costs can be significant and result in credits to Traffic Impact Fees, reducing TIF revenue.<br>**4.** HOP decisions sometimes made independent of impact fee planning/ implementation<br>**5.** Transportation planning partners not involved in the HOP process<br>**6.** Required improvements are often limited to driveway access and intersections and do not include multimodal corridor improvements | *Involve partners in the HOP process.*<br>Including members of the local municipality, MPO/RPO and PennDOT planners in the scoping and review sessions of projects of regional significance can help align the required improvements with longer term goals of the community and region.<br><br>*Amend the MPC to permit municipalities to address offsite impacts on local roads.*<br>Currently municipalities are limited by the MPC to addressing on site impact on local streets.<br><br>*PennDOT Connects planning staff should be include in the HOP process.*<br>Planning Staff involvement with reviews of projects of regional significance can ensure that improvements are consistent with longer-term transportation and land use goals.<br><br>*Involve the PennDOT District staff in the Transportation Impact fee studies and capital improvements planning.*<br>Early coordination with PennDOT District staff will help in their understanding of the goals and vision of each municipality and can ensure that those goals are aligned with individual projects. Also, PennDOT involvement can assure that realistic projects are identified in the Capital Improvement Plan.<br><br>*Involve PennDOT Municipal Service Representatives in outreach and coordination.*<br>Municipal Service Representatives work with municipal public works agencies for the programming of liquid fuels funds for road repair and maintenance. The Municipal Service Representative interaction with municipalities can be expanded to help in coordinating municipal land use and transportation goals.<br><br>*Consider revisions to the HOP process.*<br>Consider a corridor approach to HOP issuance rather than driveway-by-driveway. This would limit or control access points and ensure multimodal design is incorporated. This would ensure that HOP issuance improves safety outcomes. |

# Introduction

Improving the linkage between land use planning and transportation planning is a long-standing topic, a decades long discussion occurring among Pennsylvania state agencies. The interconnection is complex and is not easy to address. The topic was most recently discussed at the July 2021 Pennsylvania Transportation Advisory Committee (TAC) meeting. At that meeting it was noted that many transportation decisions are made at the state level, while land use decisions are made at the local level across the Commonwealth's 2,560 municipalities. Local land use decisions are often made independently of the knowledge of state investments in transportation infrastructure.

Prior to the July 2021 TAC meeting, TAC member Felicia Dell proposed a TAC study to examine the establishment of a process or mechanism to ensure that transportation improvements driven by land development are coordinated with the Transportation Improvement Program (TIP) process, as administered by the state's Metropolitan Planning Organizations (MPOs) and Rural Planning Organizations (RPOs).

With that background, the focus of this study is to delineate the structural problems that presently exist statewide in how land use planning and transportation planning are being administered. The study assesses the statutory authority municipalities have for managing land use at the local level through the state's enabling legislation, the Pennsylvania Municipalities Planning Code (MPC). It also documents present-day challenges in the local decision-making process, including the provisions of Act 209 (Pennsylvania's Transportation Impact Fee) and how impact fees interact with developer improvement required by the Highway Occupancy Permit (HOP) process and complement the TIP.

The study methodology included telephone interviews with the stakeholder organizations, representing municipalities, developers, consulting engineers, and other entities involved in transportation planning as identified in the Acknowledgments section and online research.

Issues identified by stakeholders and the reasons why the issue is of concern are detailed. While this report does not suggest recommendations to identified issues, recommended solutions as noted by stakeholders are acknowledged and described.

Finally, the report considers funding sources and tools that have been used to leverage or as an alternate to Transportation Impact Fees, both in Pennsylvania and examples from around the country.

# Land Use and Transportation Planning

## Background

The Pennsylvania Municipalities Planning Code (Act 247 of 1968 as reenacted and amended) (MPC) is Pennsylvania's legal framework for local land use and comprehensive planning. It specifies the content for comprehensive plans and land use ordinances such as zoning, subdivision and land development, and official maps as well as the process for conducting planning in Pennsylvania's 67 counties and 2,560 municipalities. While the MPC is an enabling law it is not regulatory. As such local governments are authorized to conduct planning in Pennsylvania and no state agency has regulatory oversight.

As stated in PennDOT's Transportation and Land Use Toolkit (Publication 616), "*Every local land use decision has a transportation consequence.*" Constructing new homes or commercial and industrial development often requires off site roadway improvements to ensure efficient ingress/egress. If the development is large enough in scale, the roadway(s) will need new turning lanes and/or traffic signals to facilitate efficient and safe traffic flow, and will likely impact a neighboring municipality.

Changing land from one type of use to another permanently alters a municipality's landscape. Careful consideration to land use plans, while meeting required MPC requirements and deadlines, should ensure the best outcomes for citizens over the long term. Not carefully considering and proactively coordinating land use and the associated transportation consequences could potentially result in outcomes a community had not considered.

# Structural Framework

This section provides a high-level synopsis of the structural framework between land use and transportation decision making at the local level. It includes an overview of the land development process, the main decision makers involved, and the level that support partners like County planning and MPOs/RPOs currently play in the process. As this study focuses on the intersection of transportation and land use, the synopsis does not discuss the roles that other state agencies such as the Pennsylvania Department of Transportation or county conservation districts, etc. have in the land development process.

## Land Development Approval Process

The current land development approval process in Pennsylvania is guided through the MPC and requires about 6 months to several years to complete, depending on specific municipal requirements and the complexity of the project. The following timeline was modified from one developed by Franklin County Area Development Corporation and includes major milestones and sequencing for Pennsylvania's land development process. While this timeline is not specific and detailed for all Pennsylvania municipalities it provides a high level, general overview of the land development process and identifies entities with primary responsibility for shepherding a land development project from concept to construction.

Summary of Pennsylvania's Land Development Approval Process

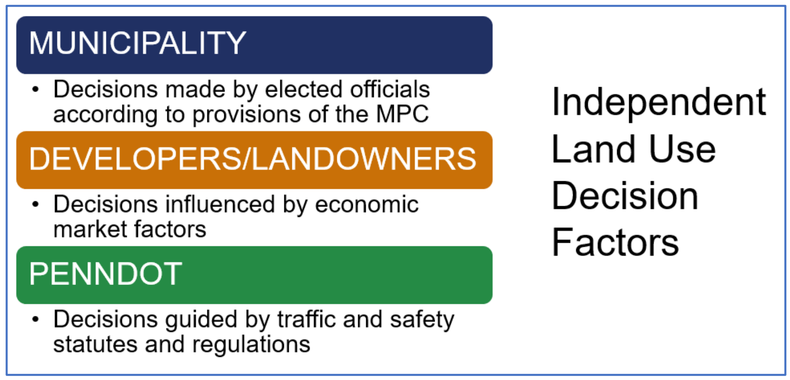
| Key Steps | Participating Parties |
|---|---|
| Site Selection (2 months)<br>Prior to final site selection | Local Government, Landowner/Developer/Tenant, Zoning Hearing Board (if required) |
| Sketch Plan (2 months) Preparation & filing of sketch land/site development plans | Local Government, Landowner/Developer/Tenant, PADEP/USACOE, PHMC, PennDOT, Utilities |
| Preliminary Plans (4 months)<br>Preparation & filing of preliminary land/site development plans | Local Government, Landowner/Developer/Tenant, PADEP, County Conservation District, Utilities |
| Post Plan Submittal (3 months)<br>Preliminary Plan Review Phase | Local Government, County Planning Commission |
| Final Plan (4 months)<br>Final Plan Review Phase | Local Government, Landowner/Developer/Tenant, County Planning Commission, Utilities |
| Bonding (1 month) | Local Government, Landowner/Developer/Tenant |

## Primary Decision Makers

The convergence of land use and transportation in Pennsylvania is determined by the decision making of a few main players, primarily a municipality, a landowner (or developer), and PennDOT. Other entities and agencies like County government and MPOs/RPOs provide technical expertise, funding, and strategic direction but a municipality, landowner, and PennDOT determine how land use and transportation decisions are made.

Each of the main players enter the land use and transportation decision making process from a different vantage point – their decisions are based on independent factors.

- A **municipality** through its elected officials makes land use decisions according to the provisions of the MPC. The location and intensity of individual uses are determined by a community, but the need to account for all types of land uses and time frames for decisions are prescribed by the MPC and approvals are valid for a specified period of time.




- **Developers and landowners** are influenced by economic market factors such as cost and time. Land development projects are driven by costs which are typically variable, not fixed. The price of land, building materials, labor, and professional fees change over time and in many instances fluctuate quickly. “Time is money” and the amount of money needed for a project is dictated by varying costs.

- **PennDOT** makes decisions on transportation right-of-way under the Commonwealth’s ownership. PennDOT is guided by transportation and safety requirements determined by the state and federal government. Like timeframe requirements established in the MPC, PennDOT is required to make determinations on use of right-of-way under timeframes established and permits are valid for a specified period of time.

## Support Partners

County planning agencies provide support during the land development process and are required by the MPC to review municipal land development applications.

While funding agencies, or agencies that influence how state and federal public funding dollars are spent like MPOs/RPOs, do not make land use decisions they significantly impact land development, particularly the timing of projects.

MPOs and RPOs are assigned responsibility for regional planning and programming for all modes of transportation. The planning organizations evaluate performance of regional transportation systems and determine resources required to maintain, improve, and expand regional transportation facilities, working closely with PennDOT.

MPOs/RPOs are responsible for updating their respective regional long-range transportation plan (LRTP), and their regional Transportation Improvement Plan (TIP) every two years. MPOs/RPOs do not have a required role in the land development process, but several due their co-location with their county planning agency or due to strong partnerships with local governments are aware of land development plans. For MPOs covering a single county, like the Erie County MPO, the MPO is often housed with but functions independently of the county planning agency.

For the Transportation Impact Fee process, MPOs/RPOs maintain regional data used to prepare Land Use Assumptions Reports and traffic counts in Roadway Sufficiency Analysis. As documented in this study, MPOs/RPOs typically have limited knowledge about municipal land development projects that necessitate offsite transportation improvements.

# Issues

Stakeholders identified the following issues to administering land use and transportation planning in Pennsylvania.

## Local land development lacks coordinated input from transportation planning partners

Currently, MPOs and RPOs are not required to provide comment on land development plans considered and approved by local municipalities. For MPOs and RPOs this is a concern because transportation improvements identified in a region's LRTP or on a regional TIP or the state's Twelve-year Program (TYP) are likely not considered as part of local land development plan review.

During local review a land development plan may necessitate the modification of a planned MPO or RPO transportation project, a disconnect between regional planning and local ordinance implementation.

For MPOs covering a single county, like York County, county planning staff and MPO staff work close together. In these instances, the MPO is often made aware of land developments through county planning staff and can sometimes incorporate comments as part of the county's land development review per the MPC.

## Many municipalities control land use in Pennsylvania sometimes resulting in unintended transportation consequences

### *Each municipality controls its own land use*

Pennsylvania has 2,560 municipalities, ranking third in the nation in the total number of local governments behind Illinois and Minnesota, according to the U.S. Census Bureau 2017 Census of Governments. Having so many local governments in Pennsylvania was not necessarily an issue in previous centuries when families generally lived and worked in their own community with little travel elsewhere. The advent of motor vehicles and roads changed the parochial climate. With today's 2,560 municipalities, 500 school districts, 1,532 active authorities, and 67 counties that means a changing, often overlapping level of land use regulation that is often confusing, sometimes outdated, and nearly always understaffed to manage.

> ***With today's 2,560 municipalities, 500 school districts, 1,532 active authorities, and 67 counties… land use regulation…is often confusing, sometimes outdated, and nearly always understaffed to manage.***

This also leads to a lack of consistency in how land use is administered between municipalities.

Because of the authority given to municipalities through Pennsylvania's constitution, the issue of fragmented responsibilities is not likely to change; however, sharing of municipal services, regionalizing some services, and a small number of voluntary municipal consolidations has led to improvements.

### *Increased tax burdens*

As new developments, particularly residential developments, are approved and constructed the impacts on providing municipal services beyond transportation can be significant. Infrastructure and service costs required to support new development including schools, sewer, water, and emergency services can put financial strain on municipalities. Even if improvements are completed by a developer, long term maintenance costs fall to the municipality. Not understanding the implications of cumulative land development can impact a municipality's fiscal capacity.

### *Municipal competition for tax revenue*

Municipalities often compete for tax revenue in the form of siting new development. Because municipal revenue is primarily generated by real estate taxes and earned income taxes, more development opportunity means greater revenues to pay for expenses such as salaries, infrastructure, and programs and services. The competition for revenue may lead to transportation decisions that could negatively impact the municipality and neighboring municipalities in terms of increased traffic congestion, safety concerns, and the need for more improvements, resulting in the need for more revenue.

## Private sector timeframes are not in sync with public sector planning

### *Planning and timing are not in sync*

Even though local planning might be working well, the timing of land development might not be in sync with long term transportation planning. Municipalities are required to react to developer proposals and zoning requests. Developers are responding to market conditions.

Market conditions tend to be fast paced and ever changing while planning requires thoughtful consideration and enough time to consider public concerns. The existing process leads to reactionary decisions where planning is not in sync with, or out of timing with the market.

### *LRTP and TIP Timeframes limit planning for and funding projects as they arise*

The LRTP identifies projects over a 20-year period and the amount of revenue the MPO region can reasonably expect to receive over that timeframe. The TIP has a four-year horizon. These long range and medium-range transportation programs do not work well with the short development review timeline of municipalities.

## Lack of proactive planning reduces positive transportation outcomes

### *Lack of future, proactive planning*

Municipalities may not be doing enough to guide development and the related transportation system. Instead, many are focused on current planning. Rather than being proactive, some municipalities are reacting to developer-initiated projects. Often development required improvements are tied to an HOPand are not linked to any coordinated transportation plan. Also, these developments may not have been anticipated when transportation plans are put in place, so their impact is not considered during the planning stages.

For smaller municipalities, this could be due to the lack of staff capacity to focus on guiding development and transportation. In addition, for smaller municipalities, traffic impacts may be generated by development in nearby municipalities where there is no opportunity to negotiate improvements outside their boundaries.

### *Missed opportunity to address developments of regional significance and impact*

Large development projects often have regional traffic impacts that cross several municipal and even county boundaries. The MPC also requires county comprehensive plans identify current and proposed land uses that have a regional significance and impact. The MPC defines a development of regional significance and impact as "*any land development that, because of its character, magnitude, or location will have substantial effect upon the health, safety, or welfare of citizens in more than one municipality.*" The definition is somewhat vague and left to interpretation.

While the MPC allows municipalities to enter into implementation agreements to establish a process for review and approval of developments of regional significance and impact that are proposed within a participating municipality, this does not always occur. While implementation agreements are limited to multi-municipal plan participants, the County planning agencies usually review them.

York County has established criteria for what constitutes a development of regional significance and impact in the York County Growth Management Plan, most recently updated in 2017. The criteria focused on both the magnitude of the land use and character.

If a municipality identifies a development of regional significance and impact, the growth management plan requires the land development proposal be carefully reviewed to plan for needed services and mitigate any possible adverse impacts. The host municipalities and York County Planning Commission staff also inform adjacent municipalities about a proposed development of regional significance and impact early in the review process to not only promote good working relationships but also provide an opportunity for intermunicipal solutions in resolving potential issues.

**Figure 1: York County: Criteria for Development of Regional Significance and Impact**

**Proposed Development of Regional Significance and Impact**

**Proposed Development of Regional Significance and Impact due to <u>Magnitude</u> of the Land Use**

- Residential development with 50 or more lots or units
- Office development with greater than 20,000 square feet of building floor area
- Commercial development with greater than 50,000 square feet of building floor area OR any commercial center with 10 or more spaces/units
- Industrial development with greater than 100,000 square feet of building area
- Any development causing more than 100 acres of earth disturbance
- Any development projected to generate more than 1,000 vehicle trips/day or more than 100 truck trips/day
- Any development with 300 or more parking spaces

**Proposed Development of Regional Significance and Impact due to Character of the Land Use**

- Airport, truck, and rail terminals
- Hospitals
- Post-Secondary Schools
- Power generating stations
- Waste handling facilities (ex. sanitary landfill, incinerator, recycling center)

Source: York County Growth Management Plan (2017), page 70

### *Lack of addressing transportation issues on a corridor basis*

Except for planning associated with Interstates or major roadways, transportation corridor planning is not typical in Pennsylvania. Transportation improvements are typically assessed on a project-by-project, municipality by municipality basis and focused on intersection upgrades and signaling rather than assessing how an entire corridor is impacted in one or multiple municipalities.

This often leads to disjointed transportation solutions and disjointed land use patterns among municipalities. Corridor planning is useful in that it can help link land use and transportation, connect infrastructure to land development decisions, and coordinate development along a corridor through public-private partnerships.

### *Restrictive zoning around transit stations and public resistance to upzoning*

Local zoning regulations often restrict increased people-oriented density near transit stations, relying instead on traditional industrial zoning districts surrounding rail rights-of-way. Further, the public is often resistant to upzoning - increasing the density of an area to allow for more development.

Increased density surrounding transit stations is beneficial in reducing walk times to transit stops, allowing a greater number of residents to be served by public transportation. By zoning for multi-family or mixed used development near transit stations, a municipality can create a more walkable environment, particularly for transit users.

## Inability to effectively mitigate traffic volume and congestion

### *Increased traffic congestion*

As new development is approved and constructed, the increasing volume of traffic at peak hours may result in unanticipated delays or safety issues. Roads with extra capacity may open land to new development, generating increased traffic and possibly higher levels of congestion. New business development may seek another municipality for location as traffic congestion could hinder ability to access markets efficiently.

### *Inability to deny development due to increased traffic volume*

Land development applications are subject to the municipal zoning and subdivision and land development ordinances in place at the time an application is submitted. If a municipality does not have adequate transportation review requirements in place to check increasing traffic volumes that might be generated by a development, it cannot deny the application. This can result in current and future traffic congestion.

### *ITE standards used to determine future trips is limiting*

The ITE categories have been expanded to better reflect the variety of logistics users. However, a vehicle trip of a tractor trailer is counted as one trip, the same as a vehicle, while the time for the truck through an intersection and its impact are much different. This can lead to misleading traffic conditions especially for communities with large amounts of warehouse development.

### *Local Roads in rural areas are not served by PennDOT*

With further development of rural areas, municipally owned road improvements may not receive adequate funding for needed improvements. No PennDOT jurisdiction to ensure offsite improvement on local roads are made.

## Increased environmental impacts and associated costs

### *Paying for stormwater management requirements*

Major road or intersection improvements increase impervious coverage and require storm water management. The required land area and associated time and for the design, permitting and installation are not often factored into the improvements plan or funding.

An additional stormwater cost municipalities face is addressing municipal separate storm sewer system (MS4) requirements. Municipalities that own and operate an MS4 and are located in an urbanized area as defined by the U.S. Census Bureau are required to obtain an NPDES permit coverage for stormwater discharges. Permit requirements include: public education; identifying improper discharges to the stormwater system; regulating stormwater discharge from new construction; and implementing best management practices (BMPs). For municipalities discharging to impaired waters or waters within the Chesapeake Bay watershed, additional stormwater BMP are required.

Implementing stormwater management BMPs can be costly. While a municipality's general funds can be used to pay for BMPs, competing demands for services make this option unattainable for many. Bonds and loans can also be used for stormwater management but require repayment. Many municipalities are turning to user fees collected by municipal authorities. Pennsylvania Act 68 of 2013 authorizes authorities to collect fees for financing stormwater planning, management, and implementation, providing a revenue source other than tax for stormwater management.

### *Increasing farmland and environmental impacts*

Conversion of farmland or open space to large residential development or warehouse distribution centers can result not only in increased traffic volumes but in decreased air quality and loss of community character.

The local and rural roads serving some warehouse distribution facilities are normally not constructed for the weight and volume of the associated traffic impacts. Often these local roads not eligible for funding or regulation by PennDOT.

## Safety is not always optimized when larger developments are constructed

Municipalities facing land development pressure do not always consider the long-term safety implications from development. Working with municipalities to revise ordinances to make large scale development like distribution centers a conditional use would benefit local transportation safety. A suggested approach would be revising municipal ordinances to make distribution centers a conditional use and 1) if traffic does not access a state road require a traffic impact study to follow state procedures and 2) conduct a review of the five-year crash history and demonstrate that appropriate crash mitigation measures so safety is not degraded.

A traffic impact study should be completed by a registered professional engineer in accordance with standards established by PennDOT and the Institute of Transportation Engineers and identify improvements/facilities to be installed or actions to be undertaken by the applicant.

White Township in Indiana County is an example of a municipality that has incorporated this requirement into its Subdivision and Land Development Ordinance (SALDO).

It was also noted that PennDOT should not limit its HOP review to volume and level of service but to also consider transportation safety.

# Identified Solutions

## Modify the MPC to require planning partner input during local review

Consider amending the MPC Article V Section 502 (b) to include MPOs/RPOs, PennDOT, and transit agencies as reviewers in the land development process, particularly in review of developments of regional significance and impact. The role would be similar to the review currently conducted by county planning departments.

## Encourage MPO/RPO review in multi-municipal transportation projects

The MPO/RPO can act as an advocate for multi-municipal transportation planning and authorities where appropriate and provide technical support by reviewing multi-municipal transportation projects. The partnership will allow consistency with growth projections and transportation needs.

## Continue local government cooperation

The MPC and Pennsylvania's municipal authority statutes allow for the sharing of municipal services and regionalization of some services. Multi-municipal planning efforts should continue to be encouraged as a way to jointly plan for needed transportation improvements.

## Develop a land use and transportation toolbox

Over the years PennDOT and agency partners have developed several handbooks and publications focused on land use, transportation, and economic development. Combining and updating available resources into one 'toolbox' would assist municipalities facing different levels of growth pressure identify financial resources, plan for transportation infrastructure needs, and detail the timeframe and implications of the land development approval process.

## Encourage municipalities to require Traffic Impact Studies

While transportation improvements are often required on local roads, a municipality might thoroughly analyze traffic impacts, particularly for large projects. A concerted outreach effort could be made to inform municipalities of the benefits of requiring a Traffic Impact Study. Ordinance amendments to require traffic impact studies would be beneficial for certain projects should the municipality feel it necessary to provide adequate and safe ingress/egress to subdivisions and land developments.

## Modify ITE Standards

Work with Institute of Transportation Engineers to refine ITE standards to account for different vehicle types. This would help accurately reflect actual impact of trucks versus car versus delivery vans.

# Transportation Impact Fees

## Background

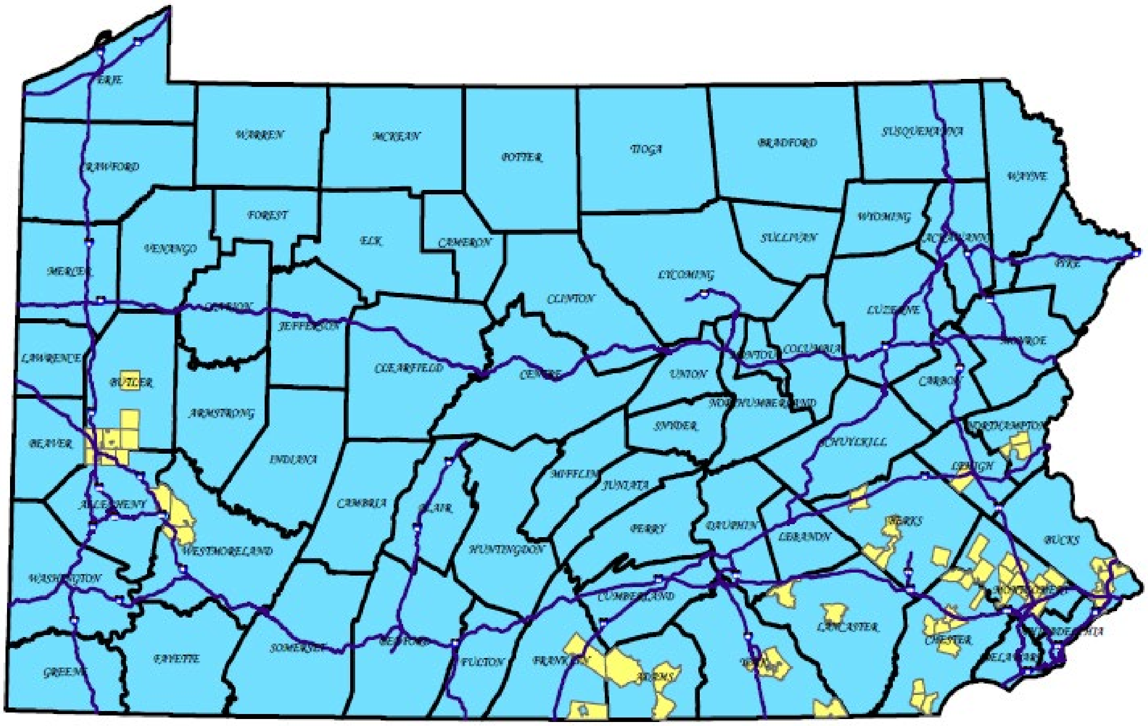
To address the impacts of development on traffic and roadways in Pennsylvania, MPC Article V-A Municipal Capital Improvements sets forth the ability and procedures for municipalities to establish a Transportation Capital Improvement Program. A transportation impact fee is then established to offset costs for transportation improvements associated with new development. Through Act 209 of 1990, the MPC authorizes municipalities to enact, amend, and repeal impact transportation impact fee ordinances and to charge transportation impact fees to cover the cost of off-site road improvements necessitated by new land development (Sections 501-A through 506-A).

The purpose is to ensure the cost needed for capital improvements necessitated by increasing development can applied to equitably allocate the cost of improvements among property owners, alleviating the increasing difficulty which municipalities experience in developing revenue sources to fund new capital infrastructure. Act 209 was amended by Act 68 of 2000 to allow municipalities to enact joint transportation impact fee ordinances, provided participating municipalities have a joint comprehensive in place. PennDOT PUB 630 Transportation Impact Fees Handbook (2009) provided a detailed overview of requirements municipalities can consult to establish and administer a transportation impact fee. It also included a table listing municipalities with an impact fee ordinance and the amount of the fee by service area as well as a map locating municipalities with an impact fee ordinance.

While a current accounting of municipalities using a Transportation Impact Fee was not available for this study, the impact fee handbook documents 61 municipalities either having or in the process of adopting an impact fee ordinance as of November 2007. Based on stakeholder discussions, at least two municipalities have rescinded their impact fee ordinance and a few more were in the process of considering or adopting an impact fee ordinance.

While the following map is outdated it clearly demonstrates that municipalities with impact fees are primarily concentrated in and around Pennsylvania’s larger metropolitan areas.

*Figure 2: Municipalities with Transportation Impact Fees (2007)*




Source: PennDOT Transportation Impact Fee Handbook, 2009, p.56

## Establishing a Transportation Impact Fee

Establishing a transportation impact fee requires time and upfront costs. The general steps are summarized below. Public hearings and county review are also required throughout the process.

- *Impact Advisory Fee Committee* - Municipal governing body establishes Impact Fee Advisory Committee to oversee process and establish service area(s) for future impact fees.
- *Land Use Assumptions Report* - Impact Advisory Fee Committee/Engineer prepare Land Use Assumptions Report detailing existing land uses and projecting land use changes over the next 5 years.
- *Roadway Sufficiency Analysis* - Engineer prepares Roadway Sufficiency Analysis establishing existing level of infrastructure sufficiency and preferred levels of service within any designated service area(s).
- *Capital Improvements Plan and Impact Fee Ordinance* - Impact Advisory Fee Committee/Engineer prepare Capital Improvements Plan based on approved Land Use Assumptions Report and Roadway Sufficiency Analysis and prepares Impact Fee Ordinance.
- *Adoption* - Municipal government body adopts Capital Improvements Plan and Impact Fee Ordinance.

## Impact Fee Amounts

The amount or cost of impact fees are derived based on a prescriptive formula outlined in the MPC. The dollar amount of transportation improvements within a given transportation service area is divided by anticipated peak hour trips resulting in a per trip impact fee cost. Impact fees are payable at the time of building permit issuance for development projects located within a given transportation service area subject to an impact fee ordinance at a rate of the per trip impact fee cost multiplied by the number of peak hour trips generated by the development project.

With overall transportation costs and peak hour trips being the major variables in calculating an impact fee, fee amounts vary across Pennsylvania. Based on a 1999 DVRPC study impact fees in the Delaware Valley average around $3,000 per peak hour trip, consistent with regional stakeholders contacted for this study. The fee amount in western Pennsylvania municipalities on the outskirts of Pittsburgh averages between $1,200 and $2,000.

## Impact Fee Uses

As currently set forth in the MPC Section 503-A, transportation impact fees can be used for costs incurred by municipalities identified in the transportation capital improvement plan attributable to new development including:

- Construction
- Acquisition of land and rights-of-way
- Engineering
- Legal costs for activities such as right-of-way acquisition
- Planning costs such as traffic studies and conceptual plans for design engineering
- Debt service
- Pro-rata share by service area for preparing a Roadway Sufficiency Analysis

Impact fees cannot be used for the following costs:

- Construction acquisition or expansion of municipal facilities other than capital improvements identified in the Capital Improvements Plan
- Repair, operation, or maintenance of existing or new capital improvements
- Upgrading, updating, expanding, or replacing capital improvements to serve existing land uses to meet stricter safety, efficiency, environmental, or regulatory standards
- Preparing the land use assumptions and Capital Improvements Plan required for the adoption of a transportation impact fee ordinance

# Benefits

Transportation impact fees are one of many funding sources used available to pay for offsite transportation infrastructure. For several Pennsylvania municipalities transportation impact fees are a reliable public funding tool frequently leveraged with other funding sources to construct offsite transportation improvements. Several municipalities across Pennsylvania have successfully used transportation impact fees to fund their ongoing program of transportation improvements and find it to be an available, reliable funding source provided development occurs as planned. Cranberry Township in

Butler County is a good example generating $30M over the past 30 years to leverage over $150M in transportation improvements. Most recently, the Township has partnered with Butler County to seek federal BUILD Grant funds using transportation impact fees as match.

Impact fees have also been leveraged with funding sources from PennDOT and Commonwealth Financing Authority to help fund right-of-way and planning studies.

A few stakeholders noted that while a Land Use Assumptions Report is specific to establishing a transportation impact fee, it is a valuable planning tool for municipalities to analyze their current zoning framework. As the Capital Improvements Plan specifies the costs of transportation improvements, it was also identified as a valuable tool to use in negotiating with developers.

## Other Available Funding Sources and Tools

Transportation Impact Fees are one of several funding sources available to cover the costs for offsite transportation improvements. While some municipalities use impact fees to leverage other funding sources, some municipal officials find that rather than taking the time and expense to pass an impact fee ordinance, it is easier to finance transportation improvements using other available public funding sources.

Obtaining these funding sources requires less time and upfront costs than required to develop and implement an impact fee ordinance. Available grants such as multi-modal transportation funds through both PennDOT and DCED, Redevelopment Capital Assistance Program (RACP), DCNR recreation funds through the Community Conservation Partnerships Program, or other state or federal funds can be relatively easily obtained by municipalities and most application requirements can be completed in house.

## Cranberry Township Impact Fee Program

Cranberry Township's growth over the last several decades is due in large part to its location ½ hour north of downtown Pittsburgh with direct access to I-79 and the Pennsylvania Turnpike. As the Township increasingly became a desirable bedroom community of Pittsburgh, it has been aggressive in improving and expanding roads. In 1991 it developed an infrastructure plan and began to develop partnerships with local, state, and federal partners to leverage tax dollars and grant funds.

For the Township, strategically using impact fees to pay for road improvements by developers of a business or housing development lifts the tax the burden off taxpayers and ensures the Township's infrastructure grows to meet demand. The impact fees along with sidewalk and other pedestrian requirements, have improved the Township's roadways.

The Township knows that impact fees cannot be relied on for projects on state roads; therefore, the cultivation of partnerships has been beneficial. *"Cranberry will stick to the plan – in the same aggressive yet cordial way that has happened for 30 years."* - Cranberry Today, Fall 2021

Tools such as Transportation Development Districts and LERTA or TIF districts can also be used in place of impact fees. Some municipalities find that developers agreements are just as effective and that cooperation between the local government, property owners, and developers can lead to successful transportation outcomes. These value capture tools take advantage of the increase in property values, economic activity, and growth linked to infrastructure investments to help fund current or future improvements.

Often funding a Capital Improvement Program relies on a split between developer, the municipality and state. Therefore, the Transportation Impact Fee will be leveraged with funds from other sources.

*Appendix A* includes a table listing different types of funding sources that have been used to pay for the costs of offsite transportation improvements.

## Issues

Issues associated with using Transportation Impact Fees have been long standing for over two decades. Issues addressed during stakeholder outreach for this study were identified in a 1999 Delaware Valley Regional Planning Commission (DVRPC) study report. That study references a 1997 TAC assessment on the impediments to using impact fees, again noting the same barriers.

### Viewed as costly and time consuming to enact and effectively administer

#### *Upfront costs*

Based on stakeholders contacted, the necessary upfront costs and studies required to prepare and adopt a Transportation Impact Fee ordinance requires between $50,000 to $100,000. This is an investment some municipalities cannot afford to make.

#### *Lack of matching funds*

Upfront costs are especially high for rural communities and smaller communities with limited fiscal resources. Lack of municipal matching funds impacts poor and vulnerable communities from implementing necessary improvements and

## DVRPC Impact Fee Study (1999)

*"An assessment of impact fees conducted by Pennsylvania's Transportation Advisory Committee in 1997 found similar impediments to the usage of impact fees, particularly the costs associated with implementing the fee under the requirements of Act 209 and confusion regarding the law itself. That assessment also noted that Act 209 lacks flexibility; that developers are concerned about being singled out by municipalities; that it is difficult to fund state road projects, given that the law requires that only 50% of the cost of those projects be funded with impact fees; and that it is difficult to plan for and finance large scale improvements, since the law restricts impact fee usage to a defined area measuring no more than seven square miles and requires that they be refunded if construction is not initiated within three years of the date on which the fee is collected."* - DVRPC, Transportation Impact Fees: Panacea or Problem?, 1999

use of impact fees. If the matching funds are not available from government sources, the Capital Improvement Plan projects may be underfunded.

### *Local political apprehension*

Municipal elected officials are required to approve Transportation Impact Fee documents and make decisions on which projects to fund and execute. This subjects the process to political considerations which can change based on local elections and citizen priorities.

If a municipality faces potential issues associated with acquiring land for an Act 209 project and needs to resort to eminent domain, the elected officials may abandon the effort or delay out of worry of political retribution. Further, some local chambers may look at the process for establishing impact fees as business unfriendly and may dissuade a municipality from pursuing.

### *Administration costs and staff capacity*

Municipalities do not always have the staff capacity available to conduct pre-impact fee ordinance adoption tasks such as forming the Impact Fee Advisory Committee and post-impact fee ordinance adoption tasks like administering collected impact fees. This is especially true for smaller municipalities.

### *Multi-municipal approaches are not being leveraged*

The MPC, through Act 68 of 2000, allows municipalities participating in a multi-municipal land use plan to jointly administer a Transportation Capital Improvements Program through a Joint Authority. For example, Montgomery County has four planning regions that share a comprehensive plan. The multi-municipal comprehensive plan enables those communities to adopt a multi-municipal Transportation Impact Fee Ordinance, yet this has not been accomplished. If the municipalities worked together to develop a joint impact fee ordinance, transportation development could be coordinated proactively.

### *Limits the ability to negotiate other improvements*

The impact fee process defines a specific set of transportation improvements through a Capital Improvements Plan and a developer pays that fee at the time of building permit issuance. Once the impact fee payment is made, the developer has satisfied its obligation for completing transportation improvements. Some municipalities view this as a limiting factor in negotiating with a developer for other needed improvements, transportation, or other types of improvements.

### *Outdated Capital Improvements Plans*

Some municipalities do not routinely update their Capital Improvements Plans. This results in outdated transportation projects that do not reflect current market conditions.

## Complex upfront planning studies with several restrictive requirements

### *Complex, time-consuming planning studies*

Establishing a Transportation Impact Fee requires upfront planning and studies. Only after these documents are completed and publicly reviewed can a Capital Improvements Program and Impact Fee Ordinance be prepared. Once prepared, the documents are subject to public and county review.

An average time to complete the planning studies, from establishment of an Impact Advisory Fee Committee to adoption of a Capital Improvements Program and Impact Fee Ordinance was reported as eighteen months. This is consistent with the 1999 DVRPC study which noted that an impact fee ordinance can take up to a year or more to implement.

Overall, the process to establish an impact fee is often viewed as both complex and time consuming. Some stakeholders noted that funding transportation projects using a developer's agreement with an official map to help guide discussions or applying for and obtaining state or federal public funding sources took less time and was a more economical way to fund offsite transportation improvements.

### *Impact fees limited to roadway improvements*

The Act 209 process does not allow Transportation Impact Fees to cover the cost of public transportation improvements or multimodal improvements. Allowing impact fees to be used for multimodal infrastructure such as transit stops and bus stops and sidewalk improvements would help fund needed improvements, particularly in Pennsylvania communities with high walkability. Using fees to support a new bus or van service for a senior community could also be considered as part of multimodal infrastructure.

### *Impact fees on state roads limited to 50% of project cost*

Act 209 stipulates that no more than 50 percent of the costs of roads designated as a state highway or part of the rural state highway system can be funded using transportation impact fees.

For example, if a lane widening project on a state road costs $5M, only $2.5M could be funded using impact fees. The remaining $2.5M would need to be funded through other sources. As most capital improvement projects are on state roads, the limited ability to pay for improvements with impact fees is a concern.

### *Expenditure/timing of impact fees*

Impact fees take time to accumulate to a sufficient level to fund improvements while the municipality has a time limit to expend them. Impact fees are collected one building permit at a time, at the time building permits are issued for the new development within the transportation service area. If a municipality does not start construction within three years in a transportation service area on projects as identified in its Capital Improvements Plan, the impact fees could be refunded. Several factors could influence the start date of a transportation project - availability of additional funding sources, market conditions, environmental approvals, etc. Lengthening the time to expend impact fees would remove this barrier, perhaps using one three-year extension.

***If a municipality does not start construction within three years in a transportation service area on projects as identified in its Capital Improvements Plan, the impact fees could be refunded.***

From a developer's perspective, allowing the impact fee to be paid over a longer period of time would help spread out the cost of the impact fee. This would help reduce upfront development costs and improve cash flow.

### *Average Industrial lease is 7-8 years*

Many projects are speculative, and the transportation impact of some projects are difficult to predict until tenants or users are identified. With the average industrial lease between 7-8 years in length, the ability to address the impacts in real time is not practical.

### *Pass through traffic not considered*

A roadway sufficiency analysis cannot consider pass through traffic – or traffic that does not originate or stop in a transportation service area. This is problematic if a transportation service area is in the middle of an area with many trip generators throughout. Accounting for pass through volume would increase the amount of impact fees generated.

### *Existing traffic volume not considered*

Per the MPC, a Roadway Sufficiency Analysis cannot consider existing traffic volume; therefore, a municipality cannot require impact fee funding to upgrade a project from the existing level of traffic. To result in a higher level of traffic volume in a Roadway Sufficiency Analysis, the municipality needs to upgrade the existing roadway before new funding is obtained. This is a particular issue for communities that are largely built out yet still have transportation improvement needs and little future development to fund it.

Transportation service areas are a geographically defined portion of a municipality that cannot exceed seven square miles in size. This limits impact fee generation for those municipalities with sizable amounts of development activity and large-scale projects.

### *Municipalities forecast for growth are not utilizing impact fees*

A few stakeholders noted that the opportune time for a municipality to consider implementing an impact fee is before significant development occurs. This is consistent with the 1999 DVRPC study which concluded that municipalities already experiencing growth or those that experienced significant growth in the past are more likely to adopt an impact fee requirement than are communities forecast to grow significantly in the future. The report concluded that since an impact fee can take up to a year or more to implement, municipalities that are forecast to experience increased growth in the future should consider adopting an impact fee.

***The opportune time for a municipality to consider implementing an impact fee is before significant development occurs.***

## Impact fee revenue is highly influenced by market conditions

### *Land Use Assumptions Report does not capture changing market conditions*

The Act 209 process requires completion of the Land Use Assumptions Report using the best available pre-planning estimates, but it does not always accurately predict future market conditions. The impact fee ordinances can only rely on the Land Use Assumptions Report and does not address unanticipated development; therefore, new development is not always considered. In some municipalities the Land Use Assumptions report projected growth, but that growth was not realized.

Economic fluctuations, like the U.S. 2008 - 2009 recession, resulted in a halt to impact fee revenue in some municipalities, leaving municipal shortfalls in transportation funding. In some cases, municipalities rescinded their impact fee ordinances.

In summary, in municipalities where growth is not as predictable, projecting future build out is much more speculative resulting in a shortfall of impact fees collected.

### *Not beneficial for all municipalities*

Smaller and built out communities or those that do not attract development will not find transportation impact fees useful. However, they still may have transportation infrastructure needs and are impacted from surrounding development without any jurisdiction to address.

## Impact fee implementation can stifle small business and low-moderate income housing

### *High-cost impact fees could stifle development, particularly for smaller businesses*

Higher priced transportation improvements, combined with a large number of anticipated peak hour trips results in a higher per trip impact fee. As noted above per trip impact fees in the DVRPC region average around $3,000 and between $1,200 and $2,000 in municipalities in proximity to Pittsburgh. The DVRPC’s 1999 study noted that the region’s impact fees were not stifling development at that time and that fees were generally passed along to homeowners for residential developers and tenants of commercial and industrial development.

However, in some areas a larger impact fee could result in development moving to another location, potentially stifling development and slowing growth. This was the case in Franklin County where a small business owner proposed an expansion, and the amount of the impact fee was so large that the business owner will need to sell their property and relocate elsewhere. In this case, the high-cost impact fee is essentially pricing a small business out of a municipality.

It was reported that some municipalities use impact fees as a tool to slow growth. The impact fees add additional cost to a project and developers choose to locate in adjacent municipalities without impact fees.

### *May discourage low-moderate income housing*

According to the 1999 DVRPC study, residential developers usually opt to recoup the cost of impact fees through increased sales prices. The results of the study indicated that the impact fees have not significantly affected housing affordability. However, the study found that impact fees may have the adverse effect of encouraging developers of residential projects "*to build mainly higher-cost housing, neglecting the production of low or moderate cost units, since the fees are unit-based and can be recovered more easily from the sale of higher cost units.in communities they are imposed*."

## HOP decisions are sometimes made independent of impact fee planning/ implementation

### *Reliance on HOP process to fund improvements*

Rather than completing steps required to adopt an impact fee ordinance including fees, some municipalities find it easier for PennDOT to review needed transportation projects on state roads through the HOP process. The HOP process will regulate the developers and the municipality hopes required offsite improvements will be sufficient to address transportation needs. Some stakeholders viewed this as a 'free ride approach' - rather than investing in the Transportation Impact Fee process, a municipality relies on PennDOT review/regulation to address transportation needs.

Often the transportation impact fee can be leveraged or credited toward significant offsite improvements required by the HOP. Instead of going toward its programmed use per the Capital Improvements Plan and paid for by the developer, a portion of the developer's impact fee is going toward paying towards offsite improvements required by the HOP that were not considered in when the Capital Improvements Plan was developed and approved. This results in HOP required improvements reducing the amount of impact fees available to complete programmed improvements.

### *HOP disconnect with Transportation Impact Fees*

Flexibility is needed to work within the HOP process and Act 209 study and funding. An HOP and Act 209 impact studies and associated improvements may not always align due to market changing market conditions. A land development might be proposed that is not included in the Act 209 planning studies;

therefore, PennDOT is required to make an HOP decision on a land development that might not be included as part of the Act 209 process.

See the *HOP Process* section for additional details.

### Transportation planning partners are not involved in the impact fee process

Per the MPC, counties are required to review the Land Use Assumptions Report, but no other impact fee studies. The MPC does not require MPOs/RPOs and PennDOT to review impact fee studies or be involved in the Impact Fee Advisory Committee discussion. This results in a disconnect as transportation planning organizations are developing long range plans without the benefit of understanding future local road needs. This was a concern expressed for transit planning partners as well. Requiring additional agency review of the Land Use Assumptions Report, Roadway Sufficiency Analysis, and Capital Improvements Plan would ensure consistency and provide coordination with the MPO/RPO TIPs.

***Transportation planning organizations are developing long range plans without the benefit of understanding future local road needs***

## Identified Solutions

### Consider MPC amendments to Transportation Impact Fee language

Amendments to MPC Article V-A could include several provisions such as:

1. Require review of the Land Use Assumptions Report, Roadway Sufficiency Analysis, and Capital Improvement Plan by counties, PennDOT, MPOs/RPOs, and transit agencies. This would ensure long range transportation planning and the STIP, TIP, and TYP are coordinated and considered in review.
2. Expand eligible costs beyond roadway improvements to address corridor and multi-modal or transit improvements.
3. Allow flexibility in the use of impact fees and make the process less cumbersome, similar to how the MPC handles recreation fees.
4. Incorporate a base fee contribution for all development, with added Act 209 fees for projects of regional or local significance.
5. Increase the amount of impact fees allocated to a transportation project on a state road above 50 percent.
6. Increase the impact fee service area above 7 square miles.
7. Increase the length of time required to expend impact fee funds.
8. Consider pass through traffic and existing traffic in impact fee calculations.

## Expand funding for preparation of Transportation Impact Fee studies

Expand the amount of DCED Municipal Assistance Program funding available to prepare a municipal Transportation Capital Improvements Plan and impact fee ordinance. Expand other agency funding sources to make Transportation Capital Improvements Plan and impact fee ordinance an eligible use.

## Create an authority to implement Transportation Impact Fees

A separate authority can work with all parties prior to land use decisions being made and permits such as an HOP are issued.

## Encourage preparation of Multi-Municipal Transportation Capital Improvements Plans

Municipalities participating in multi-municipal planning and implementation agreements should consider adopting multi-municipal Capital Improvements Plan. The municipalities could consider adopting a joint authority or implementing their own Capital Improvements Plan consistent with the multi municipal plan.

## Assess existing funding tools and consider new to ensure a viable set of funding options are available across Pennsylvania's municipalities

Assessing the benefits of funding transportation improvements in advance of development or maximizing opportunities for value capture would be beneficial to make certain that viable funding options are available across to meet the diverse needs of Pennsylvania's municipalities.

Value capture refers to a set of techniques that take advantage of increases in property values, economic activity, and growth linked to infrastructure investments to help fund current or future improvements. FHWA developed a 2019 Value Capture Implementation Manual which provides guidance on maximizing value capture as a tool. The manual groups value capture techniques into six categories, many of which are deployed in Pennsylvania: developer contributions, transportation utility fees, special taxes and fees, tax increment financing, joint development, and naming rights.

To fund transportation improvements in advance of development, Maryland began using Adequate Public Facilities Ordinances (APFOs) in the 1990s. An APFO phases in public facilities - like roads, schools, emergency services, water, sewer - consistent with a locally adopted comprehensive plan. The ordinance is designed to slow the pace of development until adequate service levels are in place or reasonably assured through a funding source. An APFO differs from an impact fee in that an impact fee provides a way to raise, but not guarantee, additional funds for capital projects. Unlike an APFO, it has no impact on the pace of development.

The applicability of using an APFO as a tool in Pennsylvania should be carefully examined as a University of Maryland 2006 study found that in some instances an APFO can result in a development moratorium that can deflect growth to rural areas or to other states.

# HOP Process

## Background

PennDOT's decision making authority in the land development process lies through issuance of a Highway Occupancy Permit (HOP). An HOP applicant, typically a property owner or utility seeking to access a state road or right-of way, applies for one of three types of permits: 1) Utility permit covering installation, repair, connection, or removal of utilities. 2) Driveway or local road permit covering installation, alteration, or removal of access to a property's ingress/egress. 3) Miscellaneous permit allowing for activities such as but not including curbs, sidewalks, and drainage.

Permits are regulated under PA Code Title 67, Chapter 441 for driveways and local roads and PA Code Title 67, Chapter 459 for utilities. PennDOT publication 282, Highway Occupancy Permit Operations Manual provides the regulatory and technical knowledge, policy, process, and procedure for obtaining an HOP.

An HOP is valid for a 6-month period, or multiple 6-month periods based on specific permit conditions. Permit extensions may be requested if construction time frame exceeds the permit expiration date.

## Issues

### The HOP process is reactive and improvements are viewed with narrow focus related to the project impacts.

Transportation improvements are typically assessed on a project-by-project basis and focused on intersection upgrades and signaling rather than assessing how an entire corridor is impacted in one or multiple municipalities. This often leads to disjointed transportation solutions and disjointed land use patterns among municipalities.

### HOP only addresses impacts on PennDOT roads, so improvements to local roads are not included.

With further development of rural areas, municipally owned road improvements may not receive adequate funding for needed improvements.

### For large projects, offsite improvements costs can be significant and result in credits to Traffic Impact Fees, reducing Transportation Impact Fee revenue.

Often the transportation impact fee can be leveraged or credited toward significant offsite improvements required by the HOP. Instead of going towards its programmed use per the Capital Improvements Plan and paid for by the developer, a portion of developer's impact fee is going towards paying towards offsite improvements required by the HOP that were not considered in when the Capital Improvements Plan was developed and approved. This results in HOP required improvements reducing the amount of impact fees available to complete programmed improvements.

### HOP decisions sometimes made independent of impact fee planning/ implementation

A land development might be proposed that is not included in the Act 209 planning studies; therefore, PennDOT is required to make an HOP decision on a land development that might not be included as part of the Act 209 process.

### Transportation planning partners not involved in the HOP process

Currently, the MPO/RPO and not involved in HOP scoping and review. This results in a disconnect between local projects and long-term community goals.

### Required improvements are often limited to driveway access and intersections and do not include multimodal corridor improvements

Transportation improvements are typically assessed on a project-by-project, municipality by municipality basis and focused on intersection upgrades and signaling rather than assessing how an entire corridor is impacted in one or multiple municipalities. This often leads to disjointed transportation solutions and disjointed land use patterns among municipalities.

## Identified Solutions

### Involve partners in the HOP process

Including members of the local municipality, MPO/RPO and PennDOT planners in the scoping and review sessions of projects of regional significance can help align the required improvements with longer term goals of the community and region.

### Amend the MPC to permit municipalities to address offsite impacts on local roads

Currently municipalities are limited by the MPC to addressing on site impact on local streets. Amending the MPC Articles V 507 and V-A Section 503-A would provide municipalities an additional way to fund local road improvements necessitated by larger land development projects.

### PennDOT Connects planning staff should be include in the HOP process

Planning staff involvement with reviews of projects of regional significance can ensure that improvements are consistent with longer-term transportation and land use goals.

### Involve the PennDOT District staff in the Transportation Impact fee studies and capital improvements planning

Early coordination with PennDOT District staff will help in their understanding of the goals and vision of each municipality and can ensure that those goals are aligned with individual projects. Also, PennDOT involvement can assure that realistic projects are identified in the Capital Improvement Plan.

### Involve PennDOT Municipal Service Representatives in outreach and coordination

Municipal Service Representatives work with municipal public works agencies for the programming of liquid fuels funds for road repair and maintenance. The Municipal Service Representative interaction with municipalities can be expanded to help in coordinating municipal land use and transportation goals.

## Consider revisions to the HOP process

Consider a corridor approach to HOP issuance rather than driveway-by-driveway. This would limit or control access points and ensure multi-modal design is incorporated. This would ensure that HOP issuance improves safety outcomes.

# Documents & Studies Evaluated

| Title | Purpose | Findings and Recommendations |
|---|---|---|
| Delaware Valley Regional Planning Commission Impact Fee Study | This 1999 study considers the extent to which municipalities in the DVRPC region are using transportation impact fees. | The study indicated that communities already experiencing growth or that experienced significant growth in the past are more likely to adopt an impact fee requirement than are communities forecast to grow significantly in the future.<br><br>Impediments that discouraged communities from adopting a transportation impact fee include the following: a lack of flexibility in the kinds of improvements that can be funded using impact fees; the time limits within which municipalities must begin construction of the improvement or initiate the necessary service once a fee has been collected from a developer; the high costs of the initial studies and plans required before implementing a fee; the rule limiting Pennsylvania municipalities to a seven square mile area for collecting impact fees, making it difficult to plan for and finance large scale projects; confusion over the language in the existing state impact fee legislation; and concern on the part of developers over being singled out to defray municipal expenses.<br><br>Identified advantages and disadvantages of current impact fee legislation. Recommended changes to the MPC include: Expanding the allowable service area beyond 7 miles; Allowing municipalities to recover 100% of the cost improvements; Allowing for joint plans across multi-jurisdictional districts; and Allowing developers to pay the required fee over a longer period of time. The recommendation to prepare joint plans across multi-jurisdictional districts was addressed in the MPC through Act 68 of 2000. |
| Maryland Adequate Public Facilities Guide | Primarily an update to the Model and Guideline issued by the Maryland Department of Planning in the 1990s to address issues and opportunities associated with adequate public facilities ordinances. | The intent of an Adequate Public Facilities Ordinance (APFO) is to phase in public facilities consistent with a locally adopted comprehensive plan. An APFO ties development approval under zoning and subdivision ordinances to specifically defined public facility standards. The ordinance is designed to slow the pace of development or in extreme cases to delay development approvals until adequate service levels are in place or reasonably assured.<br><br>"In plain English, an APFO says that if the roads are too congested, if the school classrooms are too crowded, if the water system cannot provide enough water, if the sewer pipes or treatment plant are full, or if there are not enough playing fields for recreational use, then development cannot be approved until the problem is corrected." The APFO cannot be used to stop growth that is otherwise consistent with local zoning. |

| Title | Purpose | Findings and Recommendations |
|---|---|---|
| | | The application of an APFO must be associated with a funding source to remedy whatever the constraint on growth approval might be.<br>An APFO differs from an impact fee in that an impact fee provides a way to raise, but not guarantee, additional funds for capital projects. Unlike an APFO, it has no impact on the pace of development like an APFO.<br><br>Some disadvantages include the misuse of an APFO as a substitute for a coherent growth management plan based upon a comprehensive plan, the adequacy of facilities can be affected by factors other than the growth subjected to the APFO, and the standards can vary from jurisdiction to jurisdiction sometimes drawing growth away from planned areas. |
| **Adequate Public Facilities Ordinances in Maryland** | This 2006 study by the University of Maryland National Center for Smart Growth examined the implementation and effects of APFOs and the relationship between APFOs and Maryland's Smart Growth policy. | The study finds that APFOs in Maryland are often poorly linked to capital improvement plans and rather than slowing growth can result on development moratoria that deflect growth to rural areas or to other states. The resultant impacts were noted as often contrary to the goals of local comprehensive plans and the smart growth goals of the state.<br><br>When roads, schools or other infrastructure are determined to be inadequate to meet the standards established within APFOs, the result is often a moratorium on building until the infrastructure is ready to come online. The study notes that often the only way development moves forward is through payment of impact fees by developers which are in turn passed on to new home buyers. APFOs in many counties are being used as more of a development delay or prevention device than a timing tool.<br><br>The study included several recommendations to amend the APFO enabling legislation including the use of Tax Increment Financing Districts (TIFs) and using infrastructure funding banking programs. |
| **AASHTO Handbook: Integrating Land Use into Transportation Projects** | Describes concepts, resources, methods and approaches that agencies can use to understand the link of transportation investment and land development. | The National Environmental Policy Act (NEPA) requires that agencies analyze land use impacts in advance of building transportation infrastructure projects. This creates challenges, including NEPA analysis coming late in the transportation decision process, NEPA narrowly focusing the dialogue, and many solutions require broad-based cooperation among agencies and different levels of government. Solutions to increase the strength of the relationship between transportation and land use include engagement in local planning, improving analysis methods, and developing mitigation strategies. |

| Title | Purpose | Findings and Recommendations |
|---|---|---|
| PA Transportation Impact Fee Handbook (PUB 639) | PennDOT developed this handbook in 2009 to assist municipalities in understanding the transportation impact fee use in Pennsylvania. | This handbook outlines the guiding legislation for the adoption of transportation impact fees in Pennsylvania. It details which costs transportation impact fees can and cannot be used for. It also presents the required steps to establish a fee: 1) Establish Traffic Impact Fee Advisory Committee; 2) Complete Land Use Assumptions Report; 3) Complete Roadway Sufficiency Analysis; 4) Complete Capital Improvements Plan; and 5) Adopt Fee. |
| Tri-County Regional Planning Commission Planning Toolkit | Presents background information, benefits, drawbacks, tips, and examples of transportation impact fees in Pennsylvania. | Benefits include shifting costs of new construction to new users, providing a clear schedule of fees to the development community instead of uncertainty, dedicated funding for future projects can indicate lower expected tax rates in the future. Drawbacks are stated to be the significant costs associated with preliminary studies, and perceptions that impact fees will stifle development by increasing costs. Practical tips include using experiences consultants, performing a cost/benefit analysis, engaging, and educating the development community, and working with solicitors to ensure MPC compliance. |
| FHWA FAQ – Impact Fees | General information on impact fees as part of FHWA's Value Capture: Capitalizing on Value Created by Transportation. | Highlights key components of impact fees, including general information, structure and application of impact fees, payment of fees, and use of impact fee receipts. Other important factors outlined include the likely stipulations of public involvement, the general process for impact fee calculations, fluidity of fees, and impacts on cost of housing or property taxes.<br>29 states had enabling legislation for impact fees as of 2015. Impact fees began to be used as a tool across the nation in the 1990s. Texas was the first state to enact impact fee legislation in 1987. |
| FHWA Value Capture Implementation Manual | This 2019 manual (Report No.FHWA-HIN-19-004) was developed by the FHWA Center for Innovative Finance Support and focuses on using value capture solutions to create an overall funding strategy for projects. | Value capture refers to a set of techniques that take advantage of increases in property values, economic activity, and growth linked to infrastructure investments to help fund current or future improvements. Some benefits include offering significant advantages for some projects, helping fund maintenance and improvements, accelerating project delivery, encouraging smarter land use, inducing private development, and facilitating projects that are tailored to maximize community benefits.<br>The manual groups value capture techniques into six categories: developer contributions, transportation utility fees, special taxes and fees, tax increment financing, joint development, and naming rights. |

# Appendix A - Additional Funding Sources

| Funding Sources | Description | Requirements | Benefits | Barriers |
|---|---|---|---|---|
| Transportation Development District (TDD)<br><br>Transportation Partnership Act (P.L. 287, No. 47) | Allows a governing body of a municipality or municipal authority to designate a Transportation Development District (TDD) to finance a program of transportation projects. | Comprehensive study to determine the program of project to be financed within the district. The study identifies the beneficiaries of all projects in the transportation improvement program and includes an analysis of the cost allocation among beneficiaries prorated according to the benefits received. | A TDD can help streamline delivery of what otherwise would be a challenging project to implement by only one local entity within the district. Districts may be in a better position to respond to projected growth in their regions and often promote selected transportation system improvements as drivers of economic development. It provides a forum for cooperation and the pooling and targeted management of transportation funding resources to carry out specific system improvements. This type of special assessment district often adopts a larger, areawide approach that generally considers benefits on a programmatic basis rather than more targeted "special benefits" on a project-specific basis. The district generally functions as a separate governmental entity with authority granted by state legislation. | The designated zone may cross jurisdictional boundaries among several local or regional government entities and, as with any special assessment district, requires a majority vote or petition by property owners to establish. These improvements must originate from an adopted land use or development plan. |

| Funding Sources | Description | Requirements | Benefits | Barriers |
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| LERTA (Local Economic Revitalization Tax Assistance)<br><br>Local Economic Revitalization Tax Assistance Law (72 P.S. § 4722 et seq.) | Provides a mechanism for local government in "economically depressed communities" (undefined) to encourage new construction and improvements to deteriorated industrial, commercial, and business properties by allowing a reduction in real property taxes over a period of up to 10 years on all or a portion of the assessment attributable to such new construction and improvements. | Requires improvement to be built and approved and assessed by local taxing authorities before exemption request is filed and abatement is issued. Preparation of a municipal ordinance or resolution designating the deteriorated area (LERTA district) in which tax exemptions may be granted which includes description of the boundaries of the deteriorated area, sets forth whether the exemption is for the assessed valuation of the actual cost of new construction or improvements or a specified, maximum cost, and includes a schedule of taxes exempted by the municipality. | All properties listed in the LERTA District are assessed and taxed. When one of the eligible properties is improved the property is reassessed and a new value is placed on the property. Once the improvement value is established, LERTA allows property owners to pay abated property taxes for a period of 10 years. | Eligible projects must have a proposed improvement in excess of a certain defined amount in value, and there are typically limits to the number of applications accepted for LERTA tax abatement per year. Improvements may only be applied to certain land uses and may only be applied to rehabilitation or adaptive reuse (not demolition). |

| Funding Sources | Description | Requirements | Benefits | Barriers |
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| Transportation Impact Fee<br><br>Municipalities Planning Code (Act 247 of 1968) | Funding mechanism that allows municipalities to assess fees on new development in proportion to its impact on transportation (the traffic the development is expected to generate during peak commuter periods). Funds collected are used to improve roadways used by development related traffic. | Required steps to establish a fee: 1) Establish Traffic Impact Fee Advisory Committee; 2) Complete Land Use Assumptions Report; 3) Complete Roadway Sufficiency Analysis; 4) Complete Capital Improvements Plan; and 5) Adopt Fee. | Upon adoption provides a clear schedule of fees. Fees are collected at the time of building permit issuance. Municipalities may jointly adopt an impact fee ordinance provided they have a pre-existing joint comprehensive plan. | High costs of implementation steps, limited application of uses, and perceptions that fees will discourage development. |
| TIF (Tax Increment Financing)<br><br>Tax Increment Financing Act of July 11, 1990 (53 P.S. § 6930.1 et seq.) | Mechanism for funding public works or improvements for private residential, commercial, or industrial development or revitalization through the allocation and dedication of all or a portion of the additional taxes resulting from increases in property values or from the increase in commercial activity because of the development or revitalization project. | Preparation of the proposed tax increment district and its boundaries and preparation of a tentative project plan are presented to all local taxing bodies. Representatives of the taxing bodies meet with the designation municipal authority to discuss the project plan, including the extent of each taxing body's participation and allocation of tax increments. | The TIF creates funding for public or private projects by borrowing against the future increase in these property-tax revenues. The intent is for the improvement to enhance the value of existing properties and encourage new development in the district. All incremental real estate tax revenues above the base rate at the time the district is established flow into the TIF.<br>The proceeds from the TIF can be used to repay bonds issued to cover upfront project development costs. In many states, areas must | Implementing TIF financing is complicated and involves the creation of a special district and a public agency to administer it. This includes the establishment of a redevelopment agency, a development plan, a declaration of a base year, and soliciting developer agreements to implement the improvements. Additionally, there is a complicated first step which involves a finding of necessity that establishes the need for the TIF and formalizes the boundaries of the district. This finding is |

| Funding Sources | Description | Requirements | Benefits | Barriers |
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| | | | be blighted in order to establish TIF districts. The intent is for the TIF to be used to channel funding toward improvements in distressed, underdeveloped, or underutilized areas where development might not otherwise occur. | normally a detailed study that demonstrates that the district meets the criteria contained in the state's enabling legislation. |
| PA DCED Multimodal Transportation Fund | The Multimodal Transportation Fund provides grants to encourage economic development and ensure that a safe and reliable system of transportation is available to the residents of the commonwealth. | Financial assistance under the Multimodal Transportation Fund shall be matched by local funding in an amount not less than 30% of the non-federal share of the project costs. Grants are available for projects with a total eligible cost of $100,000 or more. Grant requests shall not exceed $3,000,000 for any project. Eligible projects must (1) coordinate local land use with transportation assets to enhance existing communities, (2) relate to streetscape, lighting, sidewalk enhancement and pedestrian safety, (3) improve connectivity or | The program is intended to provide financial assistance to municipalities, councils of governments, businesses, economic development organizations, public transportation agencies and rail and freight ports in order to improve public transportation assets that enhance communities, pedestrian safety, and transit revitalization. | In order to be eligible for a Multimodal Transportation Fund grant, all other funding must be committed for the proposed project by the application deadline. Commencement of work prior to receiving CFA approval will result in the project being ineligible for funding consideration. Limited scope of applicable projects, costs, and uses. |

| Funding Sources | Description | Requirements | Benefits | Barriers |
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| | | utilization of existing transportation assets, or (4) relate to transportation aspects of transit-oriented development. | | |
| PennDOT Multimodal Transportation Fund | The Multimodal Transportation Fund provides grants to ensure that a safe and reliable system of transportation is available to the residents of this commonwealth. | Financial assistance under the Multimodal Transportation Fund shall be matched by local funding in an amount not less than 30% of the non-federal share of the project costs. Grants are available for projects with a total eligible cost of $100,000 or more. Grant requests shall not exceed $3,000,000 for any project. Eligible projects must (1) coordinate local land use with transportation assets to enhance existing communities, (2) relate to streetscape, lighting, sidewalk enhancement and pedestrian safety, (3) improve connectivity or utilization of existing transportation assets, or (4) relate to transportation aspects of transit-oriented development. | The program is intended to provide financial assistance to municipalities, councils of governments, businesses, economic development organizations, public transportation agencies, rail freight, passenger rail, and ports in order to improve transportation assets that enhance communities, pedestrian safety, and transit revitalization. | In order to be eligible for a Multimodal Transportation Fund grant, all other funding must be committed for the proposed project by the application deadline. Commencement of work prior to receiving CFA approval will result in the project being ineligible for funding consideration. Limited scope of applicable projects, costs, and uses. Any project receiving PennDOT MTF funding must use prequalified construction contractor(s) to perform the construction work, whether the grant recipient is following Publication 9 or Publication 740 to bid and advertise the work. If the contractor is using subcontractors, the subcontractors must also be prequalified subcontractors. The requirement also |

| Funding Sources | Description | Requirements | Benefits | Barriers |
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| | | | | applies to work planned to be performed under a highway occupancy permit. |
| PA Redevelopment Capital Assistance Program | The Redevelopment Assistance Capital Program (RACP) is a Commonwealth grant program administered by the Office of the Budget for the acquisition and construction of regional economic, cultural, civic, recreational, and historical improvement projects. | A project is eligible for RACP funding only if that project has been itemized in a PA Capital Budget Project Itemization Act, such itemizations have remaining "Project Allocation" amounts, and have not been statutorily "sunset" according to Act 77 of 2013. There is a 30-day "public comment period" after the closing of an RACP Application window until an award can be made. The statutes governing the RACP program require a minimum threshold of $1 million for each project before it can be funded. | Projects have a regional or multi-jurisdictional impact and generate substantial increases or maintain current levels of improvement, tax revenues, or other measures of economic activity. | RACP projects are authorized in the Redevelopment Assistance section of a Capital Budget Itemization Act, have a regional or multi-jurisdictional impact, and generate substantial increases or maintain current levels of employment, tax revenues, or other measures of economic activity. RACP projects are state-funded projects that cannot obtain primary funding under other state programs. |