



Legislation Text

File #: 19-1548, **Version:** 1

STRATEGIC PRIORITY: Mobility Solutions, Infrastructure, and Sustainability
AGENDA DATE: October 23, 2019
COUNCIL DISTRICT(S): All
DEPARTMENT: Department of Sustainable Development and Construction
EXECUTIVE: Majed Al-Ghafry

SUBJECT

An ordinance amending Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code by amending Section 51A-1.109; providing that the director must complete an apportionment determination within 30 days of receiving a complete application - Financing: No cost consideration to the City

BACKGROUND

On June 10, 2019, Governor Greg Abbott signed into law Senate Bill (SB) 1510 which is an amendment to Section 212 of the State Local Government Code. This section of the Local Government Code includes provisions that exactions a municipality makes as a condition of approval of a development must be roughly proportionate to the proposed development. Exactions may be in the form of dedications, payment of fees, or payment of construction costs. The developer's portion of the costs required for infrastructure improvements must be roughly proportionate to the needs created by the development. SB 1510 requires that a municipality's determination shall be completed within 30 days following the submission of the developer's application for an apportionment determination. The proposed amendment to Section 51A-1.109 brings the City's code requirements in line with this section of the Local Government Code.

The proposed code amendment would adopt a provision stating that any request for an apportionment determination would have to be responded to within 30 days after a complete application for an apportionment determination was received. In addition, the code amendment would require that a request of apportionment determination must be submitted on an application form provided by the city. The updated section of the code would be as follows (changes noted by underlines and strikethroughs):

“SEC. 51A-1.109. APPORTIONMENT OF EXACTIONS.

- (a) Exactions must be related and proportionate.
 - (1) No exactions may be imposed unless the exactions are:
 - (A) related to the needs created by the property development project; and
 - (B) roughly proportionate to the impact of the property development project.
 - (2) No precise mathematical calculation is required, but the city must make an individualized determination that the required exaction is related both in nature and extent to the impact of the property development.
- (b) Request for apportionment determination. Except as provided in this section, a request for an apportionment determination will not be processed until the developer submits an application on a form provided by the director including a complete developer report.
- (c) Developer report. ~~[If the director determines that a developer report is necessary,]~~ T[t]he developer shall submit a report prepared by a professional engineer licensed to practice in Texas to the director containing an analysis of existing municipal infrastructure, including streets capacity and condition, alleys, street lighting, street signals, water service, wastewater service, fire hydrants, storm water drainage system, solid waste collection, and sanitary sewer; an analysis of the need for municipal infrastructure additions or improvements; and any other information related to the property development project that the director deems necessary.
- (d[e]) Waiver. The director may waive the developer report if:
 - (1) The developer will bear the total cost of the exactions, such as infrastructure improvement necessitated solely by, and internal to, the property development project.
 - (2) The developer has volunteered to pay a greater proportion of the costs of the exactions.
 - (3) The director determines that the developer report is unnecessary.
- (e[d]) Apportionment determination.
 - (1) Within 15 [30] days after submission of the developer report, the director shall notify the developer that the report is complete or notify the developer in writing of any deficiencies in the report and of any additional documentation required.
 - (2) A professional engineer licensed to practice in Texas and retained by the city shall evaluate the complete developer report and make the apportionment determination.

- (3) The apportionment determination is a determination of the proportion of exactions to be borne by the developer. For example, if the total cost of the municipal infrastructure additions or improvements is \$10,000, and the need for the municipal infrastructure additions or improvements is related to the needs created by the property development project, and the property development project accounts for 80 percent of the impact on the municipal infrastructure additions or improvements, then the developer's portion is 80 percent of the cost of the municipal infrastructure additions or improvements, or \$8,000.
- (4) The director shall notify the developer of the apportionment determination within 30 [60] days after deeming the application and developer report complete, prior to approval of any related zoning district classification or boundary change, prior to final release of any related plat, or prior to execution of any related private development contract, whichever is earliest.
- (5) Cost sharing of municipal infrastructure additions or improvements between the developer and the city shall be documented in a cost sharing contract pursuant to Section 51A-8.614.

(f[e]) Appeal

- (1) No waiver. A developer shall not be required to waive the right of appeal as a condition for approval of a development project.
- (2) City plan commission. A developer may appeal the director's apportionment determination to the city plan commission by filing written notice with the director within 30 days after the date of the determination. If an appeal is filed, the city plan commission shall hear the appeal within 60 days after the date of its filing. The director shall forward to the city plan commission the complete record of the matter being appealed, including the developer report, if any, and the apportionment determination. The city plan commission shall hold a public hearing where the developer and director may present evidence and testimony under procedures adopted by the city plan commission. The developer shall have the burden of proof at the public hearing. The city plan commission shall have the same authority as the director and may affirm, in whole or in part, modify the apportionment determination, or remand the apportionment determination back to the director for further consideration. In reviewing the apportionment determination, the city plan commission shall use the standard in Subsection (a). The city plan commission shall make its determination within 30 days after the hearing.
- (3) City council. A developer may appeal the city plan commission's decision to the city council by filing a written notice with the director within 30 days after the date of the city plan commission's decision. If an appeal is filed, the city council shall hear the appeal within 60 days after the date of its filing. The director shall forward to the city council the complete record of the matter being appealed, including the developer report, if any, the apportionment determination, and the record of the city plan commission hearing. City council shall hold a public hearing where the developer and the director may present evidence and testimony under procedures

adopted by city council. The developer shall have the burden of proof at the public hearing. The city council shall have the same authority as the director and may affirm, in whole or in part, modify the apportionment determination, or remand the apportionment determination back to the director for further consideration. In reviewing the apportionment determination, the city council shall use the standard in Subsection (a). The city council shall make its determination within 30 days after the hearing.

- (4) County or district court. A developer may appeal the city council's decision to a county or district court of the county where the development project is located within 30 days after the date of the city council's final determination. The sole issue on appeal is whether the city council erred in its review of the city plan commission determination."

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

This item has no prior action.

FISCAL INFORMATION

No cost consideration to the City.