

9-13-19

ORDINANCE NO. 31358

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; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the 86th Texas Legislature met between January 8, 2019 and May 27, 2019; and

WHEREAS, S.B. 1510 was filed on March 5, 2019; and

WHEREAS, S.B. 1510 requires municipalities to complete an apportionment determination within 30 days following the developer's application for a determination; and

WHEREAS, S.B. 1510 was approved by both chambers of the Texas Legislature; and

WHEREAS, S.B. 1510 was signed by Governor Greg Abbott on June 10, 2019 and took effect immediately; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 51A-1.109, "Apportionment of Exactions," of Article I, "General Provisions," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"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

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(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[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.

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(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."

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SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 3. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

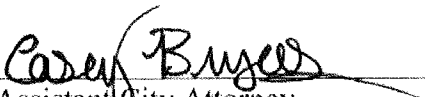
SECTION 4. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 5. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 6. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, Interim City Attorney

By  _____
Assistant City Attorney

Passed OCT 23 2019



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL OCT 23 2019

ORDINANCE NUMBER 31358

DATE PUBLISHED OCT 26 2019

ATTESTED BY: