RULES AND REGULATIONS
FOR
TRAFFIC MITIGATION
IN THE
CITY OF BALTIMORE

PURSUANT TO
ORDINANCE #06-345
AS AMENDED BY
ORDINANCE #11-529 (CCB 11-0658)

October 18, 2012

CITY OF BALTIMORE

DEPARTMENT OF TRANSPORTATION

STEPHANIE
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RULES AND REGULATIONS
FOR TRAFFIC MITIGATION IN THE
CITY OF BALTIMORE

1. Purpose

Pursuant to Ordinance 06-0345 as amended by Ordinance 11-529, development projects of a certain size must be reviewed by the Department of Transportation to determine if traffic impact study and/or mitigation is required. The purpose of traffic mitigation is to provide for certain development projects to mitigate their impacts on the City's intermodal transportation network. The mitigation impacts are evaluated in one of two ways: for projects located inside of a Traffic Mitigation Zone the mitigation is provided by payment of a fee; and, outside of the Traffic Mitigation Zone a Traffic Impact Study may be required in order to evaluate the impact.

2. Definitions

a. "Applicant" means the person or organization applying for a zoning authorization or building permit subject to the Ordinance

b. "BMC" means the Baltimore Metropolitan Council or its successor organization

c. "Development" or "Development Project" means the physical improvement subject to the zoning authorization or building permit applied for

d. "Department" means the Department of Transportation

e. "Director" means the Director of Transportation or his/her designee

f. "ITE" means the Institute of Transportation Engineers or its successor organization

g. "Ordinance" means Ordinance #06-0345 as amended by Ordinance #11-529

h. "Study" or "TIS" means a Traffic Impact Study

3. Authority

a. These Rules and Regulations are established pursuant to: Article – Building, Fire and Related Codes Sections 2-103 (IBC 105.3.1, 105.3.3 and 105.3.4 and IBC Chapter 38); Baltimore City Revised Code (Edition 2000) Article – Zoning Sections 2-305, 2-403(c), 13-704(b), 14-201 (d) and (e), and 16-301

(b); Baltimore City Revised Code (Edition 2000) Article 1 Mayor, City Council and Municipal Agencies Section 40-14(e)(5a) Baltimore City Code (Edition 2000).

b. The Director of the Department of Transportation (DOT) designates the Chief, Transportation Planning Division to implement the requirements of Ordinances 06-345 and 11-529, subject to review by the Director, as appropriate.

c. Unless otherwise provided, all references made to Sections in these Rules and Regulations reference the sections of the Baltimore City Revised Code; Building, Fire and Related Codes Article, Section(s) 2-103 (IBC Chapter 38).

d. Traffic Mitigation Zones (Section 3805)

a. Traffic Management Plans. Before the Planning Commission may adopt a 10-year Traffic Management Plan or approve a Plan update for each Traffic Mitigation Zone pursuant to Section 3805.2:

i. the Plan or update must be published on the Department's website by the Director for at least 30 days prior to the date of the Planning Commission hearing, and

ii. The Director or his/her designee must hold at least one public hearing on the proposed Plan or update during the 30-day period, which must begin between 6 p.m. and 8 p.m.

b. Establishment of Subzones (Section 3803.2)

i. Subzones are established to distinguish the usage of non-single occupant vehicle modes within each traffic mitigation zone.

ii. Subzones are defined geographically based on the most recent available Transportation Analysis Zones (TAZ) prepared by the Baltimore Metropolitan Council, which serves as staff to the metropolitan planning organization, for use by the U.S. Bureau of the Census. TAZ boundaries consist of contiguous census blocks, but generally do not breach census tracts.

iii. Subzones are established as in Appendix 1, where the centerline of each street or alley acts as the dividing line between one subzone and another.

c. Adjustments to Subzone Boundaries

i. Subzone boundaries may be adjusted by the Director after study of updated information provided by the ITE, , Census, BMC and other relevant materials.

ii. Except where a change to a subzone is made in order to conform a traffic mitigation subzone to newly established TAZ boundaries, changes to subzones shall be made only upon public review consistent with Section 3803.3.

e. Traffic Mitigation Fee (Section 3806)

a. In General

i. When an application for a building permit meets the criteria in Section 3802.2, the Applicant shall submit to the Director of Transportation:

1. project information indicating the proposed land use(s),

2. the square footage and/or unit count for the proposed building, and

3. any other information necessary to determine trip generation and credits.

4. An application fee, paid by check made payable to "Director of Finance" as follows:

Fee	Criteria
$100	10-25 units or ~~20,001~~ 15,001 sq. ft. to 50,000 sq. ft.
$250	26-100 units or 50,001 sq. ft. to 100,000 sq. ft.
$1,000	101 units or more, or 101,000 sq. ft. or more or any mixed-use development

b. Upon receiving an Application, the Director shall confirm its accuracy, request supplemental information, if necessary, establish the total traffic mitigation payment due and cause an invoice to be issued for same, unless the Applicant has applied for credits or offsets as defined herein.

c. As a condition precedent to the Director's approval of the building permit, the Applicant shall pay to the Director of Finance the total

amount due or enter into payment agreement consistent with Section 3806.6.

d. Where a payment agreement is approved by the Board of Estimates, the Director may approve the building permit only upon receipt of the required initial payment.

e. Upon receipt of traffic mitigation fee payment(s), the Director of Finance shall cause the fees to be deposited into the General Fund and placed in a special revenue account for the zone in which the application is made.

f. Procedures for Determining Trips Attributable to an In-Zone Project (Section 3806.3)

a. Establishment of Trip Generation Rates

i. In developing the number of trips attributable to a particular development, the Department shall consider the following factors: trip generation by land use type and project size, pass-by and internally-captured trips, and trip adjustment factors based on the availability of non-auto modes in the vicinity of the project.

ii. Trip generation rates shall be established from the ITE *Trip Generation 7th Edition,* unless the Director determines that the sample size or characteristics are insufficient for a particular development type. Where it is determined that suitable trip generation rates are not available, the Director shall develop a trip generation rate for the subject application based on research of similar projects in other jurisdictions, commercially available data, or other methods as may be necessary.

b. Establishment of Trip Adjustment Factors

i. Trip adjustment factors are established using data prepared by the BMC for the percentage of trips taken by other than single-occupant vehicle and shall be disaggregated by primary land use type: residential, office and commercial/retail.

ii. Where a mixed-use development is planned, the Director shall disaggregate the trip adjustment factor proportionate to the proposed land uses.

iii. Where proximity to a rail-based form of transit is the basis of a trip adjustment factor, separate adjustments shall be made for applicants within ¼ and ½ mile of the rail transit station.

iv. The Director shall use the most recently available data by the BMC for establishing trip adjustment factors. The updating of data based on newly released data shall not require public review under Section 3803.3.

v. Trip zone adjustment factors are established in Appendix 2.

vi. When considering mixed-use and commercial developments, the Director shall consider as a reduction in the number of trips generated those trips which "pass-by" or are captured internally within the subject development. The Director shall not grant pass-by and internally captured trips at a rate greater than 50% then is recommended by the , the discount factors contained ITE's *Trip Generation Handbook: An ITE Recommended Practice.*

c. Negotiated Trip Generation Credits (Section 3806.4)

i. Where an Applicant proposes to establish, as part of the building program, one or more means of reducing the number of trips generated by the development, the Applicant shall provide in writing:

1. The nature of the project or program to be established,

2. The estimated number of single-occupant vehicles to be reduced as a result of the project or program

3. Research or other evidence supporting the long-term viability of the project or program and its reduction of single-occupant vehicle trips.

ii. The Director shall review each application for negotiated trip credits and may:

1. Recommend to the Board of Estimates the adoption of a binding agreement consistent with 3806.4.2.1; or

2. Reject the application.

d. Offsets to Traffic Mitigation Fees

i. Right-of-Way Dedication (Section 3806.5)

1. If an applicant controls property that the Director determines to be necessary for the construction of a project included in a Traffic Mitigation Plan or necessary for the implementation of an improvement contained in a Traffic Mitigation Agreement, , the Director may accept the dedication of the needed property to the City's use and issue a set-off credit toward the Traffic-Mitigation Fee assessed on the project in exchange. The total amount of the Traffic Mitigation Fee to be paid would then be reduced by the appraised value of the property dedicated to the City. If the land value is greater than the mitigation obligation, it is the intent that the dedication will be made without further costs to the City.

2. The dedication must take place through the normal Department of General Services process, which may include approval of the dedication as part of a Final Subdivision Plan approved by the Planning Commission; or a metes and bounds plat, and legal description accepted by the Department of General Services.

3. The value of the property will be based on a real estate appraisal in accordance with the City's Appraisal Policy, as approved and updated by the Board of Estimates from time-to-time. The appraisal process is overseen by the Department of Real Estate.

4. The cost of the appraisal shall be borne equally by the Applicant and the City. Where the Department declines to accept the donation following the appraisal, the Department shall reimburse the Applicant; where the Applicant declines to make the donation following the appraisal, the Applicant shall reimburse the Department.

ii. Use of Fees for Site Access Improvements (Section 3807.3)

1. An applicant requesting to have improvements made pursuant to Section 3807.3 shall have the burden of demonstrating to the satisfaction of the Department that the request has a beneficial impact on traffic safety or operations.

2. The demonstration of a beneficial impact shall be based on generally accepted traffic engineering standards such as warrants for signal controls, the use of Synchro or other traffic engineering software, etc.

3. When the Department approves, subject to the approval of the Board of Estimates, the rebate of fees to an Applicant for the purpose of constructing improvements allowed under this Section, the Applicant shall provide a construction cost estimate which shall be verified by the Director. Said estimate shall be the basis for fees rebated to the Applicant. Alternatively, the Department may retain such funds as may be necessary to construct the improvements, provided further that should the total cost of said improvements exceed the limitation on use of fees for site access improvements, the Applicant shall reimburse the City for the excess amount..

4. Upon completion of the construction of the improvement, the Applicant shall provide sufficient documentation to substantiate the actual cost of the improvement. If the actual cost of the improvement is less than the rebated amount, the Applicant shall pay to the Department the difference within 30 days of request by the Department.

g. Allocation and Accounting of Fees to Specific Projects Contained in a Traffic Management Zone Plan (Section 3807.4)

a. The Director shall cause to be established a Capital Improvement Program account for each of the subzones, subject to approval of the Planning Commission and the Board of Estimates. Appropriations to these accounts may be made in the annual Ordinance of Estimates or by supplemental appropriation in an amount that the Director reasonably projects to be paid in traffic mitigation fees over the course of the fiscal year.

b. In preparing the annual Capital Improvement Program, the Director shall propose appropriation of traffic mitigation funds to any project within the adopted plan for a traffic mitigation zone.

c. By September 30th of each calendar year, the Director, in consultation with the Director of Finance, shall publish on the Department's website an accounting of all funds obligated and expended over the prior six fiscal years from fees collected under the Ordinance.

h. Requirements for Traffic Impact Studies Conducted for Out-of-Zone Projects Exceeding Thresholds (Section 3802.2)

a. When a project meets the criteria established in Section 3802.2 or other applicable sections, the Applicant shall submit to the Director the following:

i. A project information form noting the square footage, unit count, and other information necessary to determine trip generation;

ii. A copy of the site plan; and

iii. A non-refundable application fee of $250, which shall be credited against study costs established herein, if a study is required or Finding of No Significant Impact is established.

b. Scope of Study & Contents of Report

i. Upon receipt of the Application to conduct a Traffic Impact Study, the Director shall convene a panel of agency representatives to determine the scope of the Traffic Impact Study. The Scope of the study may, at the Director's discretion, include participation by the Applicant and proximate community organizations.

ii. The Scope of Study shall include:

1. The limits of the area to be studied, not to exceed ½ mile from the property line of the subject project, except as provided herein; and

2. The traffic related issues to be studied, such as:

a. Arterial Travel Time and Delay, including intersection level of service;

b. Site access & on-site circulation to the extent that it affects off-site traffic impacts;

c. Parking Demand, Utilization and Turnover to the extent that such analysis impacts the total number of trips generated by the site;

d. Queuing analysis;

e. Sight distance analysis;

f. Gap and Speed studies;

g. Traffic signal timing optimization;

h. Signal warrant analysis per Manual on Uniform Traffic Control Devices guidelines;

i. Left turn phasing analysis for signalized intersections;

j. Safety analysis and review of historical accident data;

k. Pedestrian and Bicycle Level of Service;

l. Transit Boarding, Alighting and Level of Service; and

m. Intersection geometry including turning radii, particularly related to freight movement.

iii. Upon determination of the Scope of Study, the Director shall inform the Applicant of the estimated cost of the study and cause to be issued an invoice for 50% of the total study cost, including the City's projcct management fees.

iv. The City's project management fees shall equal 32% of the total study cost or $8,000, whichever is less.

v. The Director shall issue a Notice to Proceed to the consultant engineer conducting the TIS upon receipt of payment set forth above. Upon receipt of the draft report and prior to releasing same to the Applicant, the Director shall cause to be issued an invoice for the balance of the study cost and project management fees.

vi. The consultant engineer conducting the TIS shall be chosen from a pre-qualified list for professional engineering services possessed by the Office of Board and Commissioners. Such list shall be compiled based on applicable procurement laws and procedures. For more information about applicable procurement laws and procedures, please contact the Baltimore

City Department of Finance, Bureau of Purchases at 410-396-5700 or citibuy@baltimorecity.gov.

vii. The Scope of Study may not exceed ½ mile from the outermost boundary of the property line of the subject project, as defined in Section 3802.2.1, unless the Director determines that either of the following extraordinary circumstances exist:

1. The project is within one mile of an access point to I-95, I-395, I-895, I-83 or MD 295; or

2. The project is expected to have a significant regional travelshed and/or unusually high trip generation, such as but not limited to a stadium, area, concert hall, casino or similar venue.

viii. If, at any time during the conduct of the study, the applicant makes significant changes to the size, use or site plan of the proposed development, the applicant shall promptly notify the Director in writing. Upon receipt of said changes, the Department shall promptly adjust the Scope of Study, if necessary, and advise the applicant of any additional cost and/or time needed complete the study.

ix. Any delay caused by a change in the Scope of Study under subparagraph vii shall cause the 60-day study duration limitation described in Paragraph 8 of these regulations to re-set.

x. Upon completion of the draft study, the assigned engineering consultant shall provide the following separate reports:

1. A summary of trip generation, distribution, current and future levels of service and any other findings related to the matters identified in the scope of study;

2. Recommendations, if any, with regard to mitigating adverse impacts identified in the study; and,

3. If no recommendations are provided under 2 above, a report explaining why no recommendations are being provided.

xi. The consultant's recommendations shall be considered by the Department along with any other recommendations it chooses to make based on the study.

xii. A traffic impact study is to be considered final only once:

1. a Traffic Mitigation Agreement, if necessary, is entered into and approved by the Board of Estimates; or,

2. the Director issues a "Finding of No Significant Impact" based on the study findings.

c. Unsatisfactory, Incomplete, And Tardy Studies

i. Failure to Perform the Study in a Timely Manner

1. Should DOT fail to perform the TIS within 60 days required under the Ordinance, the Applicant may proceed to contract for the TIS with a Consultant appearing on the pre-qualified list for professional engineering services with the Office of Board and Commissioners.

2. The City will refund any payments and release to the Applicant any data or information already collected or performed as part of the study.

ii. Consultant's Failure to Perform a Sufficient or Complete Study

1. Should the Consultant fail to complete the TIS in a satisfactory manner within 60 days required under the Ordinance, the Director may, at his or her sole discretion, proceed to contract for a TIS with an alternative Consultant appearing on the pre-qualified list of professional engineering services with the Office of Board and Commissioners.

2. A TIS shall be considered Unsatisfactory if any of the following apply:

a. It fails to sufficiently respond to the items requested in the Scope of Study,

b. It is proven to materially misrepresent any information purported to be factual, or

c. It fails to comply with the terms of the Ordinance or these Rules and Regulations.

d. Expedited Study & Finding

i. Notwithstanding any other provisions of these regulations, the Director may expedite the conduct of a Traffic Impact Study if the Director determines that no significant traffic impact is likely to occur as a result of the subject development, based on:

1. data collected and maintained by the Department, or

2. another study has been completed within the 24 months prior to the subject application

ii. Upon issuance of a "Finding of No Significant Impact," the Director shall notify the relevant building or zoning official(s) that the permits related to the Application are to be approved with regard to this Ordinance.

iii. For the issuance of such a finding in accordance with this subparagraph, the Applicant shall pay an administrative fee to the Director of Finance in the amount of $250.

i. Administrative Fees

All fees contained in these regulations, except with regard to traffic mitigation fees approved for in-zone projects, shall be adjusted annually in accordance with the Fee Policy approved by the Board of Estimates. Changes in administrative fees shall not require public review under these regulations.

Approved:

Khalil Zaied
Director of Transportation

10/22/12
Date

Approved as to form and legal sufficiency:

Barbara Zektick, Esq.