

Chapter 33A

IMPACT FEES FOR TRAFFIC AND ROADWAY IMPROVEMENTS IN EWA

Articles:

1. General Provisions

Article 1. General Provisions

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Sec. 33A-1.1 Purpose.

This chapter sets forth a regulatory scheme for the assessment and collection of impact fees to be borne on a pro-rata share basis by landowners, developers, home builders, and others who directly contribute to expanding the population and increasing economic activity in the Ewa region through new land development activities. This chapter is intended to recover only a portion of the governmental expenditures related to growth and implements the Ewa development plan and the Ewa highway master plan. (Added by Ord. 02-52)

Sec. 33A-1.2 Definitions.

For the purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended:

"Applicant" means an individual, partnership, corporation, trust or agent having the requisite authority, who has applied to the City and County of Honolulu for a building permit.

"Building" or "structure" shall have the same meaning as defined in the uniform building code as adopted and amended in Chapter 16.

"Building permit" means an official document or certificate issued by the city authorizing the construction of any building or structure.

"Ewa region" means the geographical area defined in the Ewa development plan, plus the entire Royal Kunia and Village Park areas. The Village Park area is described by the following tax map key plats: 9-4-104, -106, -107, -113, -114, -120, -124, -131, -132, -133, -134, and -135; and by the following tax map key Nos.: 9-4-002: 014 and 028. The Royal Kunia area is described by the following tax map key plats: 9-4-136, -137, -146, -148, -149, -152, -153, -154, -155, -156, -157, -163, -164, -165; and by the following tax map key Nos.: 9-4-002: 049, 050, 064, 066, 068, 001, 052, 070, and 071.

"Ewa highway impact fee program" refers collectively to (i) the July 3, 2002 report entitled "Ewa Highway Impact Fee Program," prepared by Kaku Associates, Inc., for the State of Hawaii department of transportation ("DOT"), which includes the Ewa highway master plan and which was submitted as miscellaneous communication No. 1965 (2002) to the city council, as supplemented by (ii) the letter from Kaku Associates, Inc., to the chair of the council's zoning committee, submitted as miscellaneous communication No. 2440 (2002) to the city council, and as further supplemented by (iii) the "Proportionate Share Study of the Ewa Highway Impact Fee Program" by SMS Research, dated October 2, 2002, and submitted as miscellaneous communication No. 2590 (2002) to the city council.

"Ewa highway master plan" refers collectively to the August 28, 2001 report from Kaku Associates, Inc., to the director of the DOT on the Ewa highway master plan/Year 2010 highway plan, as modified by the May 31, 2002 report from Kaku Associates, Inc., to the director of the DOT on the Ewa highway master plan, both of the aforesaid reports being included as part of miscellaneous communication No. 1965 (2002) to the city council. The Year 2010 highway improvement plan contained in the Ewa highway master plan sets forth the six regional roadway projects improvements that form the basis for this impact fee ordinance.

"Ewa highway master plan impact fees" are the charges imposed on new land development that are designed to fund a pro-rata share of the cost of traffic and roadway improvements set out and contained in the Ewa highway master plan.

"Hotel" or "transient vacation unit" are buildings or structures that are designed or intended for temporary human habitation. The types of hotel or transient vacation unit identified in this chapter shall have the same meaning as in Section 21-10.1.

"New land development" means the carrying out of any building activity or the making of any material change in the use or appearance of any structure or land that attracts or produces vehicular trip(s) over and above that produced or attracted by the existing use of the land.

"Square feet" are computed by determining the total floor area of a nonresidential structure or building under roof, with all of the same exclusions as set forth in the definition of "floor area" contained in Section 21-10.1.

"Trip" or "vehicular trip" means a one-way movement of vehicular travel from an origin point (one trip end) to a destination point (the other trip end). For the purposes of this chapter, trip shall have the meaning that it has in commonly accepted traffic engineering practice and that is substantially the same as that definition in the previous sentence.

"Trip generation" means the attraction or production of trips caused by a given new land development.
(Added by Ord. 02-52)

Sec. 33A-1.3 Impact fees.

- (a) Ewa highway master plan impact fees shall be charged and assessed for all new land development activities that require a building permit in the Ewa region, except as otherwise provided in Section 33A-1.10(a). Ewa highway master plan impact fees shall be assessed in accordance with Section 33A-1.6, and shall be paid to the City and County of Honolulu prior to the issuance of any building permit.
- (b) No building permit shall be issued if an Ewa highway master plan impact fee is due and the Ewa highway master plan impact fee has not been paid.
- (c) Applications for refunds or waivers under the Ewa highway impact fee program shall be accompanied by a fee of \$50.00 which is not refundable.

(Added by Ord. 02-52; Am. by Ord. 14-4)

Sec. 33A-1.4 Conformity with the Ewa development plan and the Ewa highway master plan.

Section 4.1 of the Ewa development plan, adopted by Ordinance No. 97-49, as amended, lists the highway improvements needed to be built in order to accommodate the planned growth in Ewa. The roadways identified in the Ewa highway master plan are consistent with and implement Section 4.1 of the Ewa development plan. The Ewa highway master plan is hereby approved and adopted by the City and County of Honolulu. This plan contains the Year 2010 highway improvement plan which lists a set of roadway improvements that are necessary in order to accommodate the anticipated development of the Ewa region with adequate roadway improvements while protecting the health, safety and general welfare of the public.

The Ewa highway master plan impact fees set forth in Section 33A-1.6 are in conformity with the Ewa highway master plan and are an essential component of implementing this plan.

(Added by Ord. 02-52)

Sec. 33A-1.5 Ewa highway impact fee program.

The Ewa highway impact fee program is hereby approved as the "needs assessment study" required for enactment of this chapter and for purposes of HRS Sections 46-141 through 46-148. The Ewa highway impact fee program is comprised of the following parts:

- (a) Ewa Region Development Forecasts. The land use development forecasts for the Ewa region through 2010 are shown in Table 33A-1.1.

	Units (square feet for Non- residential)
Residential	
SF Residential Dwelling Unit	7,640
MF Residential Dwelling Unit	7,640
Nonresidential	
Retail	938,100
Office	852,200
Industrial/Other	3,475,200
Hotel	1,100
Timeshare	1,000

- (b) Roadway Master Plan for Ewa. The estimated cost of Ewa highway master plan improvements for the Ewa region is shown in Table 33A-1.2.

FACILITY	SEGMENT	IMPROVEMENT	COST ESTIMATE
H-1	Kapolei Interchange	New ramps, bridges	\$ 25,910,000
H-1	Makakilo Interchange	Extend ramp, new ramp	10,170,000
		Subtotal	\$ 36,080,000
Fort Barrette Road	Farrington to Franklin D. Roosevelt Ave.	Widen to 4 lanes	10,500,000
Fort Weaver Road	Farrington Hwy. to North Road	Widen to 6 lanes	33,500,000
Kapolei Parkway	Ko Olina to Kalaeloa Blvd.	New 4-lane roadway	14,400,000
	Kamokila Blvd. to Fort Barrette Rd.	New 4-lane roadway	10,400,000
	Kapolei Pkwy. Bridge to North-South Rd.	New 4-lane roadway	3,400,000
	North-South Road to Puamaeole	New 4-lane roadway	14,000,000
	Puuloa Road to Keoneula Blvd.	New 2-lane roadway	3,600,000

	Keonuela Blvd. to Kaileolea Dr.	New 2-lane roadway	2,424,000
	Kaimalie St. to Papipi Rd.	New 2-lane roadway	860,400
		Subtotal	\$ 49,084,400
North-South Road	H-1 to Kapolei Parkway	New 4-lane roadway New Interchange	64,800,000
		GRAND TOTAL	\$193,964,400

Based upon the Ewa highway master plan, the Ewa highway impact fee program, the Oahu regional transportation (Top 2025) plan, the Ewa development plan, and other policy considerations, the portion of the estimated cost of Ewa highway master plan improvements attributable to new development and to be collected by this impact fee ordinance is \$38,792,880.

(c) Vehicular Trip Forecasts. The forecasted new vehicular trips, per hour, for the Ewa region are shown in Table 33A-1.3.

Land Use (1,000 square feet for Nonresidential; units for Residential, Hotel and Timeshare)	Units (Increment 2002 to 2010)	Trip Generation Rate		Trip Generation	
		AM Peak	PM Peak	AM Peak	PM Peak
Residential					
SF Residential Dwelling Unit	7,640	0.78	0.52	5,959	3,973
MF Residential Dwelling Unit	7,640	0.52	0.362	3,973	2,766
Nonresidential					
Retail	938	0.62	2.25	582	2,111
Office	852	1.23	1.18	1,048	1,006
Industrial/Other	3,475	0.7	0.73	2,433	2,537
Hotel	1,100	0.34	0.37	374	407
Timeshare	1,000	0.17	0.185	170	185
Total				14,539	12,985

(Added by Ord. 02-52)

Sec. 33A-1.6 Ewa highway master plan impact fees.

Ewa highway master plan impact fees shall be based on the following factors:

- Impact of New Development. The measure of impact is the number of predicted vehicular trips generated by the new land development activity. The authority for the trip generation rates to be used in the calculation of vehicle trips is Table 33A-1.3 of Section 33A-1.5.
- Assessment of Cost. A schedule for determining Ewa highway master plan impact fees is hereby established. The fee rates by land use type are shown in Table 33A-1.4.

CATEGORY	LAND USE	IMPACT FEE	
		AMOUNT	UNIT
Residential	Single Family	\$1,836	Per Dwelling Unit
	Multi-Family	1,245	Per Dwelling Unit
Nonresidential	Hotel	\$1,003	Per Unit
	Timeshare	501	Per Unit
	Retail	4,053	Per 1,000 square feet
	Office	3,403	Per 1,000 square feet
	Industrial/Other	2,019	Per 1,000 square feet

The department of planning and permitting shall compute and collect Ewa highway master plan impact fees from applicants before issuance of building permits. The director of planning and permitting shall establish by rule such procedures as may be necessary to carry out the department's responsibilities under this section.

- Interpretation of Fee Schedule. If the type of land use that is the subject of an application is in doubt, the applicant may request an interpretation from the department of planning and permitting as to the appropriate type of land development

being undertaken and the applicable Ewa highway master plan impact fees that would be due. This interpretation may be appealed by following the procedures set out in Section 33A-1.8.

- (d) Expansion of a Building or Structure. In the event of an expansion of a building or structure, Ewa highway master plan impact fees due would be the net positive difference between the Ewa highway master plan impact fees that would be due for the expanded building or structure and that which would have been due for the original building if constructed currently.
- (e) Change of Use. In the event of a change of use of a building or structure, Ewa highway master plan impact fees due would be the net positive difference between the Ewa highway master plan impact fees that would be due for the new use of the building or structure and that which would have been due for the original use if constructed currently.
- (f) Mixed Use. When a single building or structure will contain more than one type of land use, the Ewa highway master plan impact fees due will be based on the amount of space devoted to each type.
- (g) Retail, Office, and Industrial/Other Impact Fees. Impact fees for land uses that are listed in units of 1,000 square feet in Table 33A-1.4 shall be computed by dividing the per-1,000-square-foot amount of the land use impact fee by 1,000 and then multiplying this amount by the actual square footage of the land use.
- (h) Revisions to the Ewa Highway Master Plan. The director of transportation services, in consultation with the director of planning and permitting and the state director of transportation, shall review the Ewa highway master plan once every five years in terms of land uses, densities, highway improvements, and changes in costs and make appropriate changes thereto. This review and revision shall include consultation and input from the Ewa region developers. The cost of this review may be funded out of the impact fees collected under this ordinance. Based upon this review of the Ewa highway master plan, the directors may recommend to the city council that the impact fee program contained in this chapter be modified by amending this ordinance. As a matter of policy, the share of the costs attributable to new development for highway projects in the Ewa region and payable by impact fees shall remain in roughly the same proportion as the proportion set forth in this chapter.
- (i) Compliance with Unilateral Agreement Conditions. The enactment of this ordinance constitutes compliance with the various unilateral agreement conditional zoning conditions attached to project zoning conditions requiring participation in the implementation, funding, and construction of the six regional transportation projects contained in the Ewa highway master plan, or similar requirements to address regional transportation impacts in the Ewa area. Upon issuance of a building permit, the requirements for participation in the implementation, funding, and construction of the six regional transportation projects contained in the Ewa highway master plan, or similar requirements to address regional transportation impacts in the Ewa area, shall be satisfied with respect to the development covered by that building permit. Any on-site or project-specific improvements, apart from those set forth in the Ewa highway master plan, remain subject to the requirements of the specific unilateral agreement conditions.

(Added by Ord. 02-52)

Sec. 33A-1.7 Ewa highway improvement trust fund or account.

- (a) The department of budget and fiscal services shall create a special trust fund, or interest-bearing account in the general trust fund or other appropriate fund, which shall serve as the exclusive depository of all funds collected as Ewa highway master plan impact fees pursuant to this chapter.
- (b) All funds collected as Ewa highway master plan impact fees shall promptly be deposited into and held in the special trust fund or account until expended or encumbered pursuant to this chapter. All interest earnings on the balances in the special trust fund or account shall be retained and used for the same purposes as Ewa highway master plan impact fees.
- (c) All funds deposited into the special trust fund or account are to be used exclusively for traffic and roadway improvements set out and contained in the Year 2010 highway improvement plan contained in the Ewa highway master plan, as that plan may be amended, and not for any other purpose, except that the city shall receive two percent of all funds deposited, deducted upon deposit, as reimbursement for the cost of administering this chapter.
- (d) Funds collected as Ewa highway master plan impact fees shall be made available to either the State of Hawaii for state highway or traffic improvements, or the city for city highway or traffic improvements, provided that the improvements are contained in the Year 2010 highway improvement plan contained in the Ewa highway master plan.

(Added by Ord. 02-52)

Sec. 33A-1.8 Hearing and appeal procedures.

The applicant may contest the amount of the impact fee assessed by petitioning the director of the department of planning and permitting for a declaratory ruling pursuant to the practices and procedures of the department. The petition must be submitted by the developer within 15 days of notification of the fee amount. Payment of the fee amount will not be a waiver of the applicant's right to request a declaratory ruling from the director. The declaratory ruling shall be considered a final decision and order by the department. (Added by Ord. 02-52)

Sec. 33A-1.9 Refund of fees.

- (a) The fees collected pursuant to this chapter, less the administrative costs set forth in Section 33A-1.7(c), shall be refunded to the applicants in the following situations, provided that the procedures set forth in subsection (b) shall be complied with:
 - (1) If they have not been spent or encumbered within six years from the date collected; or
 - (2) If the building permit is revoked or withdrawn and no work was initiated thereunder.
- (b) (1) The applicant shall petition the department of planning and permitting for the refund within the following time periods:
 - (A) For situations described in subsection (a)(1), within one year following the end of the sixth year from the date on which the fee was collected; or
 - (B) For situations described in subsection (a)(2), within 30 days of the revocation or withdrawal of the building permit.

- (2) The form of the petition shall be prescribed by the department of planning and permitting. The petition shall contain such information as the department deems necessary to establish that the petitioner is eligible for a refund.
- (3) Within one month from the date of receipt of a petition for refund, the department of planning and permitting shall advise the petitioner of the status of the request for refund. For the purposes of this section, fees collected shall be deemed to be spent or encumbered on the basis of the first fee in shall be the first fee out. In other words, the first money placed in the special account shall be the first money taken out of that account when withdrawals have been made.

(Added by Ord. 02-52)

Sec. 33A-1.10 Exemptions and credits.

- (a) The following shall be exempted from payment of the Ewa highway master plan impact fee:
 - (1) Alterations or expansion of an existing residential dwelling unit where no additional dwelling or living units are created and the use is not changed;
 - (2) The construction of accessory buildings or structures, as defined in Section 21-10.1, that will not increase the number of external vehicular trips beyond those produced or attracted by the primary buildings or structures;
 - (3) The replacement of an existing building or structure with a new building or structure of the same size and use that will not increase the number of external vehicular trips beyond those produced or attracted by the original buildings or structures;
 - (4) Facilities that are part of water, sewer, electrical, telecommunication, or roadway system infrastructure and that do not attract or produce vehicular trips. This includes but is not limited to utility installations, as defined in Section 21-10.1, that do not have regular on-site employees; and
 - (5) Mass transit centers or stops that promote a reduction in commuting by private vehicles.
- (b) The following credits shall be applied to payment of the Ewa highway master plan impact fee:
 - (1) In lieu of paying the Ewa highway master plan impact fee, a landowner or developer may elect to construct all or a portion of one of the Ewa highway master plan Year 2010 highway improvements set forth in Section 33A-1.5(b). If a landowner or developer does elect to construct all or a portion of one of the Ewa highway master plan Year 2010 highway improvements, then the landowner or developer shall receive a credit against Ewa highway master plan impact fees equal to the estimated cost set forth in Section 33A-1.5(b) or a pro rata share thereof depending upon the portion of the improvement constructed. If a developer elects to oversize all or a portion of one of the Ewa highway master plan Year 2010 highway improvements, the developer shall receive a credit against Ewa highway master plan impact fees equal to the developer's actual cost of constructing the improvement if the oversized improvement subsequently is identified as a needed improvement in an Ewa highway master plan revision undertaken pursuant to Section 33A-1.6(h). The credits received by a landowner or developer pursuant to this section may be transferred by the holder to other landowners or developers.
 - (2) Credit for construction costs given to the landowner or developers may be repaid by the city from future new land development activities.

(Added by Ord. 02-52)