

## § 156 IMPACT FEE

(A) *Title.* This section shall be referred to as the "Development Impact Fee Ordinance for the City of Goose Creek, South Carolina."

(B) *Authority.* This section is adopted pursuant to and in compliance with the authority of the South Carolina Development Impact Fee Act, Code of Laws of South Carolina, Title 6, Article 9, Chapter 1 (the "Act"), and is to be interpreted in accordance with such Act, or as it may be amended in the future.

(C) *Findings.* The City of Goose Creek City Council hereby declares that:

(1) Adequate general government, police, fire protection, public works and parks and recreation facilities and equipment are vital and necessary to the health, safety, welfare and prosperity of the city and its citizens. Substantial growth and new construction is taking place within the city and is anticipated to continue. This growth creates substantial need for new infrastructure capacity. Meeting these needs is very costly; however, failure to do so will result in an inadequate system of facilities and equipment to accommodate anticipated demand. This would make the city a less desirable place to live and do business.

(2) To the extent that future growth and new construction in the city place demands on general government, police, fire protection, public works and parks and recreation facilities and equipment, those demands and needs should be met by shifting a portion of the capital costs for providing new capacity to serve new development, which creates, in whole or in part, these demands and needs.

(3) The Planning Commission recommended to City Council to adopt the impact fee rates as defined by the City of Goose Creek Development Impact Fee Study Report and Capital Improvement Plan dated June 26, 2018, with projects eligible for impact fee funding from FY2019 - FY2028.

(4) This section is enacted to implement the findings and recommendations of the City of Goose Creek Development Impact Fee Study Report and endorse the list of capital projects eligible for impact fee funding in the City of Goose Creek Capital Improvements Plan.

(5) The impact fees prescribed in this section are equitable, do not impose an unfair or disproportionate burden on developers and new construction, and are in the best interests of the general welfare of Goose Creek and its citizens.

(6) New facilities or equipment eligible for development impact fee funding will benefit all new development or redevelopment in city limits. Therefore, it is appropriate to treat the entire city as one service area for calculating, collecting and spending development impact fees.

(7) This section provides the procedures for timely processing of applications for determination of appropriate development impact fees applicable to all development inside city limits subject to the impact fees, and for the timely processing of applications for individual assessment of development impact fees, credits or reimbursements allowed or paid.

(8) The maximum allowable recreation impact fee determined in the City of Goose Creek Development Impact Fee Study Report has been reduced by 54% for the general development impact fee schedule summarized in Exhibit A of this chapter, setting the fees at 46% of the maximum amount to provide a reasonable fee for residential investment and to ensure that the impact fees collected do not exceed the cost to provide capital facilities that accommodate new development.

(9) Property for which a valid building permit has been issued prior to the effective date of this section shall not be subject to the updated development impact fees.

(D) *Definitions.* The following definitions apply within this ordinance consistent with the provisions set forth in the South Carolina Development Impact Fee Act, or as it may be amended in the future. Where terms are not defined, the definitions used in the City of Goose Creek Code of Ordinances shall apply:

**AFFORDABLE HOUSING.** Housing affordable to families whose incomes do not exceed 80% of the median income for the service area or areas within the jurisdiction of the city.

**BUILDING PERMIT.** A permit issued for construction on or development of land.

**CAPITAL IMPROVEMENT.** Improvements with a useful life of five years or more, by new construction or other action, which increase the service capacity of the public facility. Public facility categories for the purpose of this section include general government, police, fire protection, public works and parks and recreation facilities and equipment.

**CAPITAL IMPROVEMENTS PLAN (CIP).** A multi-year planning tool used to identify capital projects and coordinate financing and implementation. The plan also identifies capital improvements for which impact fees may be used as a funding source.

**CERTIFICATE OF OCCUPANCY.** A certificate allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with the City of Goose Creek Code of Ordinances and all other applicable regulations.

**CREDITS.** Impact fee deductions allowed to a fee payer for eligible off-site capital improvements funded by the fee payer.

**DEVELOPER.** An individual, corporation, partnership or other legal entity undertaking new development.

**DEVELOPMENT.** Construction or installation of a new building or structure, or a change in use of an existing building or structure, any of which creates additional demand and need for public facilities (i.e., general government, police, fire protection, public works and parks and recreation facilities and equipment). A building or structure shall include, but not be limited to, modular buildings and manufactured housing. Development does not include alterations made to existing single-family homes.

**DEVELOPMENT APPROVAL.** A document that authorizes the commencement of a development.

**DEVELOPMENT IMPACT FEE.** A financial payment imposed as a condition of development approval to pay a proportionate share of the cost for certain off-site system improvements needed to accommodate future growth. Development impact fees (or "impact fees") are collected by the city for general government, police, fire protection, public works and parks and recreation facilities and equipment.

**DWELLING UNIT.** Shall include the definitions for **DWELLING** as follows: duplex; group dwelling; group care dwelling; manufactured housing unit; multi-family dwelling; single-family dwelling; and townhouse dwelling contained in the City of Goose Creek Zoning Ordinance.

**FEE PAYER.** A fee payer is any person who, after the effective date of this section, seeks to develop land by applying for the issuance of a building permit, or other development permit, subject to development impact fees.

**FIRE PROTECTION IMPACT FEE.** A payment of money imposed as a condition of approval to pay a proportionate share of the cost for improvements to the fire protection system identified to serve new development.

**MUNICIPAL FACILITIES AND EQUIPMENT IMPACT FEE.** A payment of money imposed as a condition of approval to pay a proportionate share of the cost for improvements to the municipal facilities and equipment system identified to serve new development: police, fire, and government services associated with managing growth (i.e., planning and development, public services, and the administrative offices), and parks and recreation.

**OFF-SITE IMPROVEMENTS.** Capital improvements located outside of the boundaries of a development that are required to serve the development's proportionate share of future year system demands and needs.

**PROPORTIONATE SHARE.** The portion of system improvements costs for public facilities determined in the City of Goose Creek Development Impact Fee Study Report that reasonably relates to the service demands and needs of the development.

**PUBLIC FACILITIES.** Improvements to and/or construction of capital improvements identified in the City of Goose Creek Capital Improvements Plan, or the City of Goose Creek Development Impact Fee Study Report as described in division (E) hereof. Public facilities for the purpose of this section shall include general government facilities and equipment (including administration; law enforcement; fire protection; and public works) and parks and recreation facilities and equipment.

**RECREATION IMPACT FEE.** A payment of money imposed as a condition of approval to pay a proportionate share of the cost for improvements to the recreation system identified to serve new development.

**SERVICE AREA.** A defined geographic area in which specific public facilities provide service to development within the area defined.

**SQUARE FOOTAGE.** The total floor space within the exterior walls of a building not including space in cellars or basements.

**SYSTEM IMPROVEMENT.** A capital improvement to a public facility which is designed to provide service to a service area.

**SYSTEM IMPROVEMENT COSTS.** The costs incurred for construction and reconstruction of system improvements, including design, acquisition, engineering and other costs attributable to the improvements, and also including the cost of providing additional public facilities needed to serve new growth and development. System improvement costs do not include:

- (a) Construction, acquisition, or expansion of public facilities other than capital improvements eligible for impact fee funding that are identified in the City of Goose Creek capital improvements plan;
- (b) Repair, operation or maintenance of existing or new capital improvements;
- (c) Upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
- (d) Upgrading, updating, expanding or replacing existing capital improvements to provide better service to existing development;
- (e) Administrative and operating costs of the governmental entity; or
- (f) Principle payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance capital improvements eligible for impact fee funding that are identified in the City of Goose Creek capital improvements plan.

(E) *Supporting documentation.*

(1) This section is based upon the conclusions and recommendations presented in the City of Goose Creek development impact fee study report, and City of Goose Creek capital improvements plan, prepared consistent with the provisions set forth in the act. Both documents are on file in the city's Clerk of Council Office and are incorporated into this section by reference.

(2) All development impact fees collected pursuant to this section shall be used to implement any or all of the public facilities deemed eligible for impact fee funding identified in the City of Goose Creek capital improvements plan as prioritized therein.

(F) *Jurisdiction.* A development impact fee shall apply to all new development or redevelopment located within city limits, including those locations annexed by the city in the future.

(G) *Application and exemptions.* The provisions of the section shall apply to all new development or redevelopment within city limits for which a building permit or development approval is required except for the following:

- (1) Rebuilding the same amount of floor space of a structure that was destroyed by fire or other natural catastrophe;
- (2) Remodeling or repairing a structure with the same use of land that does not result in an increase in the number of service units or place new demand on general government, police, fire protection, public works and parks and recreation facilities and equipment;
- (3) Replacing a residential unit, including a manufactured home, with another residential unit on the same lot, if the amount of demand for facilities and services generated by the new residential unit does not increase;
- (4) Placing a construction trailer or temporary office on a lot during the period of construction on the same lot;
- (5) Construction of an addition to a residential structure that does not increase the amount of demand for facilities and services generated by the same use of land;
- (6) Adding uses that are typically accessory to residential uses, such as a tennis court or a clubhouse, unless it is demonstrated clearly that the use creates new demand for general government, police, fire protection, public works and parks and recreation facilities and equipment;
- (7) All or part of a particular development project if:
  - (a) The project is determined to create affordable housing; and
  - (b) The exempt development's proportionate share of system improvements is funded through a revenue source other than development impact fees;
- (8) Constructing a new elementary, middle or secondary school; and
- (9) Constructing a new volunteer fire department.

(H) *Determination of fees.*

(1) *General provisions.*

(a) The City Finance Department shall determine and collect all development impact fees administered within city limits.

(b) Upon the effective date of this section, development impact fees shall be charged to new development or redevelopment in accordance with the procedures set forth in this section. The fees to be collected for a development will be determined at the time of application for a building permit. If the development is one that does not require a building permit, the impact fee for the development will be determined at the time of development approval. No building permit or development approval shall be issued for any development requiring the payment of development impact fees until the fees have been remitted to the City Finance Department, or in the case of affordable housing, the appropriate financial guarantees have been filed with the City Finance Director. Payment of such fees shall not relieve the developer from obligations to comply with any other applicable city ordinances, regulations or requirements prior to receiving a certificate of occupancy.

(c) All monies paid by the fee payer pursuant to this ordinance shall be identified as development impact fees and promptly deposited in the appropriate development impact fee trust fund described under division (I) of this section.

(d) For the purpose of calculating development impact fees, the use of land types assumed in the General Development impact fee schedule of this section (i.e., Exhibit A) shall be defined in accordance with the definitions contained City of Goose Creek development impact fee study report as follows:

1. *Single family.* Detached and attached one-unit dwellings.
2. *Multi-family.* All attached multi-family dwellings including duplexes and condominiums.
3. *Commercial.* All commercial, retail, educational, and hotel/motel development.
4. *Office.* All general, professional, and medical office development.

5. *Industrial.* All manufacturing and warehouse development.

(e) Payment of development impact fees according to the general development impact fee schedule (i.e., Exhibit A), or independent impact fee calculation study as provided for in this section, shall constitute full and complete payment of the new development's proportionate share of public facilities costs.

(f) A developer may negotiate and contract with the city to provide facilities or services in lieu of payment of development impact fees in accordance with Section 6-1-1050 of the Act.

(2) *General government facilities and equipment impact fee formula.* General government facilities and equipment impact fees (including administration, police, fire protection, and public works) collected within city limits shall be in accordance with one of the following formulas:

<i>Land Use</i>	<i>A</i> <i>Cost Per Capita</i>	<i>B</i> <i>Densit y</i>	<i>C= A x B</i> <i>Base Fee</i> <sup>1</sup>	<i>D= C x 0.02</i> Admin Charge <sup>1, 2</sup>	<i>E = C + D</i> Total Fee <sup>1</sup>	<i>E/1,000</i> Fee per <i>Sq. Ft.</i>
<i>Residential</i>						
Single family unit	\$932	2.70	\$2,517	\$50	\$2,567	
Multi-family unit	\$932	2.03	\$1,888	\$38	\$1,926	
<i>Non-residential</i>						
Commercial	\$289	2.00	\$578	\$12	\$590	\$0.59
Office	\$289	1.52	\$439	\$9	\$448	\$0.45
Industrial	\$289	0.90	\$260	\$5	\$265	\$0.27

<sup>1</sup> Fee per dwelling unit (residential) or per 1,000 square feet (non-residential).

<sup>2</sup> Administrative charge of 2.0% for:

- (a) Legal, accounting, and other administrative support; and
- (b) Impact fee program.

Administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

A *Cost per Capita.* The estimated cost per resident or worker to provide public facilities and equipment.

B *Density.* The estimated number of persons per dwelling unit or employee space ratio.

C *Base fee.* The cost per capita multiplied by the density assumptions.

D *Administration charge.* The assumed administrative charge of 2.0% for:

- (a) Legal, accounting, and other administrative support; and
- (b) Impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

E *Total Fee.* the sum of the Base Fee plus the Administration Charge.

E/1,000 For commercial development, the total fee per 1,000 square feet of development.

(3) *Recreation impact fee formula.* Recreation impact fees collected within city limits shall be in accordance with the following formula:

<i>Land Use</i>	<i>A</i> <i>Cost Per Capita</i>	<i>B</i> <i>Densit y</i>	<i>C= A x B</i> Base Fee <sup>1</sup>	<i>D= C x 0.02</i> Admin Charge <sup>1, 2</sup>	<i>E = C + D</i> Total Fee <sup>1</sup>
<i>Residential</i>					
Single family	\$249	2.70	\$673	\$13	\$686
Multi-family	\$249	2.03	\$504	\$10	\$514

<sup>1</sup> Fee per dwelling unit (residential) or per 1,000 square feet (non-residential).

<sup>2</sup> Administrative charge of 2.0% for:

- (a) Legal, accounting, and other administrative support; and
- (b) Impact fee program.

Administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

- A *Cost per Capita*. The estimated cost per resident or worker to provide public facilities and equipment.
- B *Density*. The estimated number of persons per dwelling unit or employee space ratio.
- C *Base fee*. The cost per capita multiplied by the density assumptions.
- D *Administration charge*. The assumed administrative charge of 2.0% for:
  - (a) Legal, accounting, and other administrative support; and
  - (b) Impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.
- E *Total Fee*. the sum of the Base Fee plus the Administration Charge.
- E/1,000 For commercial development, the total fee per 1,000 square feet of development.

(4) *Determining general government facilities and equipment impact fees*. The amount of general government facilities and equipment impact fees attributable to a specific development shall be determined through the following process:

(a) Verify the type and number of new residential dwelling units or the type and intensity of new nonresidential square footage or other use of land measuring criteria for which the building permit is being sought;

(b) Determine the applicable use of land category and impact fee per unit set forth in Exhibit A (as applicable) of this chapter; and

(c) Multiply the development impact fee rate for the specified use of land category by the number of net new units or net new square footage within the development (as applicable) and the average persons per household or employee space ratio estimate (as applicable in the City of Goose Creek Development Impact Fee Study Report).

(5) *Determining recreation impact fees*. The amount of recreation impact fees attributable to a specific development shall be determined through the following process:

(a) Verify the type and number of new residential dwelling units for which the building permit is being sought;

(b) Determine the applicable residential dwelling unit category set forth in Exhibit A (as applicable) of this section; and

(c) Multiply the development impact fee rate for the residential dwelling unit category by the number of net new units within the development and the average persons per household estimate.

(6) *Special cases*. The city shall take the following special cases into account when calculating development impact fees for a building permit application:

(a) When an application for a building permit has been made that contains two or more uses of land in any combination, including two or more uses of land within a single building or structure, the total development impact fee assessment shall be the sum of the products, as calculated above, for each use of land unless an independent impact fee calculation is performed, and approved for use by the City Administrator, or its designee, consistent with divisions (1) through (5) of this division (as applicable).

(b) In the case of a change, redevelopment or modification of a use of land which requires a building permit, and which is not exempted from development impact fees under division (G) of this ordinance, the impact fee calculation shall be based upon the net increase in new or proposed use of land as compared to the existing or previous use of land.

(c) In the case of a demolition or termination of an existing use or structure, development impact fees for future redevelopment shall be based upon the net increase in development impact fees for the new or proposed use of land as compared to the existing actual active previous use of land since its original occupancy. Credit for the prior use shall not be transferable to another location.

(d) In the case of relocating an existing use of land, development impact fees shall be assessed to the relocated use at its new location. Future redevelopment of the old location from which the use was removed will receive a credit against development impact fees assessed equal to the impact fees that would have been assessed against the relocated use. Credits shall not be transferable to the new location.

(e) Before a building permit application may become eligible for the provisions set forth in divisions (H)(6)(b) through (d), a developer shall provide reasonably sufficient evidence that a previous use of land had been actively maintained on the site within 12 months of the date of application for a building permit. Such evidence may include proof of utility records, records for the use sought to be shown, business license records or other documentation.

(f) Any claim of existing or previous use must be made no later than the time for application of a building permit. Any claim made after such time shall be deemed invalid.

(I) *Impact fee trust funds*.

(1) Development impact fees collected pursuant to this section shall be kept separate from other revenue of the city. There shall be one trust fund established for each development impact fee category depicted in Exhibit A of this chapter: general government and parks and recreation facilities and equipment. All development impact fees collected shall be properly identified by property address noted on the approved building permit and by the appropriate trust account.

(2) Any funds on deposit not immediately necessary for expenditure shall be maintained in an interest-bearing account prior to expenditure on recommended projects. Interest earned on development impact fees in deposit must be considered revenue to the trust fund account for which income is earned and must be subject to all restrictions placed on the use of

development impact fees pursuant to this section.

(J) *Limitation on expenditures of funds collected.*

(1) *Eligible system improvement costs.* Funds from development impact fee trust accounts shall be expended only for the public facilities and system improvements identified as eligible for impact fee funding in the City of Goose Creek Capital Improvements Plan, incorporated herein by reference. No funds shall be used for administrative or operating costs associated with imposing any of the development impact fees. Eligible components of a public facility may include, but are not limited to, the following:

- (a) Design and construction plan preparation;
- (b) Right-of-way acquisition;
- (c) Construction of new facilities, structures, or amenities that provide additional capacity;
- (d) Purchase of new equipment (greater than \$100,000 purchase price) that provide additional capacity;
- (e) Construction of new drainage facilities associated with capital improvements;
- (f) Purchase and installation of traffic signalization; and

(g) Principle payments, interest and other finance charges on bonds or other indebtedness issued by or on behalf of the city for financing any or all public facilities.

(2) *Rationale nexus test.* The city's Finance Director, or its designee, shall make an annual report to the City Council and publish this report for access by the general citizenry showing where development impact fees have been collected and what projects have been funded with these revenues. The Council shall consider this report and whether the fees are being spent for the benefit of new development within city limits. If the Council determines that this is not the case, then it shall adjust the City of Goose Creek Capital Improvements Plan and other projected capital expenditures to correct the condition.

(3) *Expenditure of funds.* Development impact fee funds shall be expended in the order in which they were collected. The disbursement of such funds shall require approval of the City Council, upon recommendation of the City Administrator or its designee.

(4) *Reimbursement.* Impact fee funds not obligated for expenditure within three years of the date that they are scheduled to be expended in the City of Goose Creek Capital Improvements Plan shall be returned, with actual interest earned, to the record owner of the property for which the fees were collected, on a first-in, first-out basis.

(K) *Credits/reimbursements.*

(1) *General provisions.*

(a) A developer shall be entitled to a credit against development impact fees assessed pursuant to this section, assuming the same discount rates applied to maximum allowable impact fees presented in this section for the various impact fee categories, for city-approved monetary or in-kind contributions toward some or all of the public facilities included in the City of Goose Creek capital improvements plan that are eligible for impact fee funding.

(b) Development impact fees shall not be imposed on a fee payer or developer who has entered into a credit agreement with the city for certain contribution, payment, construction or dedication of land up to the cash value of the specific improvements identified within the agreement. Any difference between total development impact fees due, by impact fee category, for the development and the cash value of the executed credit agreement remain eligible for collection pursuant to the rules and requirements of this section.

(c) Any request for development impact fee credit or reimbursement shall be submitted to the City Administrator prior to issuance of a building permit.

(2) *Application for credit agreement.*

(a) The determination of the amount of any credit shall be undertaken through submission of an application for credit agreement, which shall be submitted through the City Finance Department for review by the City Administrator, or its designee.

(b) The application for credit agreement shall include the following information:

1. The following documentation must be provided if the proposed application involves a credit for any cash contribution:

- A. A certified copy of the development approval in which the contribution was agreed; and
- B. Proof of payment (if already made); or
- C. Proposed method of payment (if not already made).

2. The following documentation must be provided if the proposed application involves credit for dedication of land:

- A. Drawing and legal description of the land;

B. The appraised fair market value of the land at the date a building permit application is sought for the use of land, prepared by a professional Real Estate Appraiser who is a member of the member Appraisal Institute (MAL) or who is a member of Senior Residential Appraisers (SRA); and

C. A certified copy of the development permit in which the land was agreed to be dedicated (if applicable).

3. The following documentation must be provided if the proposed application involves credit for construction:

A. The proposed construction documents of the specific construction project prepared and certified by a duly qualified and licensed engineer in the State of South Carolina;

B. The projected costs for the suggested improvements, which shall be based on local information for similar improvements, along with the construction schedule for the completion of said improvements. Such estimated cost shall include construction or reconstruction of the project; the cost of labor and materials; the cost of all lands, property, rights, easements and franchises acquired; financing charges or interest prior to and during construction and for one year after completion of construction; costs of plans and specifications; surveys of estimates of costs and revenues; costs of professional services; and all of the expenses necessary or incidental to determining the feasibility or practicability of such construction or reconstruction.

C. Within 14 days of receipt of the proposed application for credit agreement, the City Finance Director, or its designee, shall determine if the application is complete. If it is determined that the proposed agreement is not complete, the City Finance Director shall send written notification to the applicant outlining the deficiencies. The city shall take no further action on the proposed application for credit agreement until all such deficiencies have been corrected or otherwise settled.

D. Once the City Finance Director determines the proposed application for credit agreement is complete, it shall be reviewed within 30 days by a committee of designated staff composed of the City Administrator, City Finance Director, City Planning Director, and the Department Head for the impact fee category under consideration (either the Recreation Director for the recreation impact fee, the Fire Chief for the fire protection impact fee, the Director of Public Works). Together, this group will be known as the Development Impact Fee Credit Review Committee.

E. If the application for credit agreement is approved by the development impact Fee Credit Review Committee, a credit agreement shall be prepared and signed by the applicant and the City Administrator. It shall specifically outline the contribution, payment, construction or land dedication; the time by which it shall be complete, dedicated or paid, and any extensions thereof; and the dollar credit the applicant shall receive for the contribution, payment or construction against development impact fees. Any credit agreement shall be limited to the impact fee dollars owed for the project, by the developer, for the impact fee category under consideration, unless City Council decides to entertain a credit agreement in excess of fees owed that may be transferred to another project of the same developer in the same service area (see division (C)(3) for definition of **SERVICE AREA**). The agreement may also include provisions for rescinding the credit and issuing stop work orders if the dedication and/or work and/or construction are not timely accomplished.

F. A fee payer affected by the decision of the Credit Review Committee regarding credits may appeal such decision pursuant to division (M)(1) of this section.

(L) *Penalties*. City Council shall have the following remedies, which may be exercised individually or collectively, for collecting development impact fees. The failure to pursue any remedy at any time shall not be deemed as a waiver of city rights to pursue any remedy at such other time as may be deemed appropriate.

(1) *Interest and penalties*. The city may, at its discretion, add to the amount of calculated development impact fees due prior to award of a certificate of occupancy, reasonable interest and penalties for nonpayment or late payment of required funds. Penalties for unpaid development impact fees shall be administered consistent with the city's Code of Ordinances, which declares the violation a penalty subject to a fine not to exceed \$500 or imprisonment not to exceed 30 days. Each day of violation shall be deemed a separate offense.

(2) *Withholding certificate of occupancy*. The city may withhold a certificate of occupancy until full and complete payment has been made by the developer of development impact fees due for the development.

(3) *Lien*. The city may impose a lien on the developer's property for failure of the developer to pay required development impact fees in full.

(4) *Other*. The city may pursue the collection of the development impact fees, including interest, by way of civil process in the Court of Common Pleas for Berkeley County.

(M) *Appeal process*. A developer shall have the following rights for appeal of development impact fees imposed by the city on their development pursuant only to this section:

(1) *Administrative appeal*.

(a) A developer may file an administrative appeal with the City Administrator regarding the payment of development impact fees, independent calculation of impact fees, or credits or reimbursements by filing a written notice of appeal. Said notice shall be filed within 30 days of the decision sought to be appealed. The filing of an appeal will immediately halt the building permit application process, unless the developer posts a bond or submits an irrevocable letter of credit for the full amount of the development impact fees as calculated by the city to be due. All notices of appeal shall include a full explanation of the reasons for the appeal, specifying the grounds therefore, and containing any documentation that the developer desires to be considered. The appeal shall contain the name and address of the developer filing the appeal and

shall state their capacity to act as a representative or agent if they are not the owner of the property to which impact fees or credits pertain.

(b) Within 30 days following receipt of the written notice of appeal, the city administrator will review the appellant's written report, supporting documentation and departmental staff reports. The 30 day review period may be extended if additional information is needed from the appellant in order to render a decision. Upon completion of the administrative review, the City Administrator will provide a written response to the appellant constituting a final administrative determination.

(c) Any person desiring to appeal the final administrative determination of the City Administrator regarding payment of development impact fees or credits shall file a written notice of appeal to the City Council. Said notice of appeal to City Council shall be filed with the Clerk of City Council within 15 days following receipt of the final administrative determination. Receipt shall be construed to have occurred when the final administrative decision is deposited in the United States mail postage prepaid to the person whose name and address is identified in the original notice of appeal.

(d) The City Clerk of Council will schedule all impact fee appeals for the first City Council meeting following ten days from receipt of the written notice of appeal to the City Council. Postponements of the City Council appeal date may be granted by the City Administrator if they are requested in writing at least ten days in advance of the scheduled City Council meeting date.

(e) When an appeal is scheduled for oral presentation before the City Council, the appellant and city staff shall each be given ten minutes at the oral argument to present the appeal and to discuss the submitted written record.

(2) *Payment under protest.* A fee payer may pay development impact fees under protest. Payment under protest does not preclude the developer from filing an administrative appeal nor is the fee payer estopped from receiving a refund of an amount considered to have been collected illegally. A fee payer, at its option, may also post a bond or submit an irrevocable letter of credit for the amount of development impact fees due instead of making a cash payment under protest, pending the outcome of an appeal.

(3) *Mediation.* City Council shall provide for mediation by a qualified independent party, upon voluntary agreement by both the developer and the city, to address a disagreement related to development impact fees calculated by the city. Neither a request for, nor participation in, mediation shall preclude a fee payer from pursuing other developer rights or remedies otherwise available by law.

(N) *Refunds.*

(1) *General provisions.*

(a) Funds not obligated for expenditure within three years of the date that they are scheduled to be expended in the City of Goose Creek capital improvements plan shall be refunded to the record owner of property for which the impact fees were paid, with actual interest earned, on a first-in, first-out basis. For the purpose of determining whether fees have been spent or encumbered, the first money placed in a trust fund account shall be deemed to be the first money taken out of that account when withdrawals have been made.

(2) *Refund process.*

(a) The owner of property eligible for a refund of one or more development impact fee payments shall submit to the City Finance Director a notarized sworn statement that the person is the current owner of the property for which a refund is due, a certified copy of the latest recorded deed, and a copy of the most recent ad valorem tax bill for the property.

(b) When a right to a refund exists, the city shall send a refund to the current owner of record within 90 days after it is determined by City Council that a refund is due.

(c) All refunds shall include the pro rata portion of the interest earned while on deposit in the specific development impact fee trust account.

(d) A record owner of property for which one or more development impact fee refunds are due has standing to sue for such refund pursuant to Section 6-1-1020(D) of the Act if there has not been a good-faith effort towards a timely payment of a refund pursuant to division (b) of this division (N)(2).

(O) *Review.*

(1) City Council shall be responsible for preparing and publishing an annual report describing the amount of development impact fees collected, appropriated and spent during the preceding fiscal year. This may be done as part of the city's annual budget.

(2) The city's planning commission shall be responsible for a holistic review and update of the City of Goose Creek development impact fee study report, City of Goose Creek capital improvements plan in support of a development impact fee study in goose creek, and the development impact fee ordinance for the City of Goose Creek on the same review cycle as the City of Goose Creek comprehensive plan.

(P) *Termination of development impact fee.* Development impact fees for the City of Goose Creek shall be terminated within 15 years after the effective date of this section, or when sufficient fees have been collected to fund all of the projects eligible for development impact fee funding that are identified in the City of Goose Creek Capital Improvements Plan, whichever shall first occur, unless:



(1) City Council adopts a revised City of Goose Creek Development impact fee study report or amends the City of Goose Creek capital improvements plan for a subsequent amount of time; or

(2) City Council adopts an updated development impact fee ordinance for the City of Goose Creek pursuant to the substantive and procedural requirements set forth in the South Carolina Development Impact Fee Act, as amended.

(Q) *Liberal construction.* The provisions of this section shall be liberally construed to effectively carry out its purpose in the interest of further promoting and protecting public health, safety, welfare and convenience.

(1985 Code, Art. V, § 508) (Ord. 88-12, passed 12-13-1988; Ord. 95-002, passed 3-14-1995; Ord. 118-014, passed 7-10-2018)