

**ORDINANCE 2023/ \_\_\_\_\_**

**TEXT AMENDMENTS TO THE BEAUFORT COUNTY CODE OF ORDINANCES, CHAPTER 82: IMPACT FEES, ARTICLE I, IN GENERAL; ARTICLE II, DEVELOPMENT IMPACT FEE PROCEDURES; ARTICLE III, PARKS AND RECREATION FACILITIES; ARTICLE IV, ROAD FACILITIES—SOUTHERN BEAUFORT COUNTY SERVICE AREA; ARTICLE V, LIBRARY FACILITIES; ARTICLE VI, FIRE FACILITIES; ARTICLE VII, ROAD FACILITIES—NORTHERN BEAUFORT COUNTY SERVICE AREA, AND EFFECTIVE DATES.**

**NOW, THEREFORE, BE IT ORDAINED** by the County Council of Beaufort County, South Carolina that:

**SECTION 1. TEXT AMENDMENTS TO ARTICLE I, IN GENERAL**

The Beaufort County Code of Ordinances, Chapter 82: Impact Fees, Article I, In General, is amended as set forth in Exhibit A, which is attached hereto and incorporated herein by reference. Added text is underscored and deleted text is ~~struck through~~.

**SECTION 2. TEXT AMENDMENTS TO ARTICLE II, DEVELOPMENT IMPACT FEE PROCEDURES**

The Beaufort County Code of Ordinances, Chapter 82: Impact Fees, Article II, Development Impact Fee Procedures, is amended as set forth in Exhibit B, which is attached hereto and incorporated herein by reference. Added text is underscored and deleted text is ~~struck through~~.

**SECTION 3. TEXT AMENDMENTS TO ARTICLE III, PARKS AND RECREATION FACILITIES**

The Beaufort County Code of Ordinances, Chapter 82: Impact Fees, Article III, Parks and Recreation Facilities, is amended as set forth in Exhibit C, which is attached hereto and incorporated herein by reference. Added text is underscored and deleted text is ~~struck through~~.

**SECTION 4. TEXT AMENDMENTS TO ARTICLE IV, ROAD FACILITIES—SOUTHERN BEAUFORT COUNTY SERVICE AREA**

The Beaufort County Code of Ordinances, Chapter 82: Impact Fees, Article IV, Road Facilities—Southern Beaufort County Service Area, is amended as set forth in Exhibit D, which is attached hereto and incorporated herein by reference. Added text is underscored and deleted text is ~~struck through~~.

**SECTION 5. TEXT AMENDMENTS TO ARTICLE V, LIBRARY FACILITIES**

The Beaufort County Code of Ordinances, Chapter 82: Impact Fees, Article V, Library Facilities, is amended as set forth in Exhibit E, which is attached hereto and incorporated herein by reference. Added text is underscored and deleted text is ~~struck through~~.

**SECTION 6. TEXT AMENDMENTS TO ARTICLE VI, FIRE FACILITIES**

The Beaufort County Code of Ordinances, Chapter 82: Impact Fees, Article VI, Fire Facilities, is amended as set forth in Exhibit F, which is attached hereto and incorporated herein by reference. Added text is underscored and deleted text is ~~struck through~~.

**SECTION 7. TEXT AMENDMENTS ARTICLE VII, ROAD FACILITIES—NORTHERN BEAUFORT COUNTY SERVICE AREA**

The Beaufort County Code of Ordinances, Chapter 82: Impact Fees, Article VII, Road Facilities—Northern Beaufort County Service Area, is amended as set forth in Exhibit G, which is attached hereto and incorporated herein by reference. Added text is underscored and deleted text is ~~struck through~~.

**SECTION 8. EFFECTIVE DATES**

- (a) This Ordinance shall become effective on June 5, 2023,
- (b) Applications for new development filed after the effective date as set forth in this section shall be subject to the parks and recreation development impact fee as amended by Section 3 of this Ordinance, the road facilities development impact fee as amended by Section 4 and 7 of this Ordinance, the fire development impact fee as amended by Section 6 of this Ordinance, and the library development impact fee as amended by Section 5 of this Ordinance.
- (c) Applications for new development filed between the date of adoption of this Ordinance and the effective date as set forth in this section shall be subject to the parks and recreation development impact fee, the road development impact fee, the fire development impact fee, and the library development impact fee in effect prior to the effective date.

**ADOPTED** this \_\_\_ day of \_\_\_\_\_ 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Joseph F. Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah Brock, Clerk to Council

## **EXHIBIT A**

### **ARTICLE I. – IN GENERAL**

#### **Sec. 82-1. Adoption of Development Impact Fees**

For the reasons set forth in this Chapter 82, the Beaufort County Council finds it appropriate to adopt certain development impact fees as permitted by and in accordance with the State Development Impact Fee Act, S.C. Code 1976, §§ 6-1-910—6-1-2010.

**Secs. 82-2—82-20. - Reserved.**

## **EXHIBIT B**

### **ARTICLE II. - DEVELOPMENT IMPACT FEE PROCEDURES**

#### **Sec. 82-21. - Adoption.**

The imposition, calculation, collection, expenditure and administration of all County development impact fees shall be consistent with, and administered pursuant to, the County Development Impact Fee Procedures Ordinance as set forth in this article.

#### **Sec. 82-22. - Title.**

This article shall be known and may be referred to as the County Development Impact Fee Procedures Ordinance.

#### **Sec. 82-23. - Purpose and Intent.**

The purpose and intent of this article are as follows:

- (a) To establish uniform and consistent procedures for the development, implementation, imposition, calculation, collection, deposit, expenditure and administration of all development impact fees adopted by the County, pursuant to the State Development Impact Fee Act, S.C. Code 1976, §§ 6-1-910—6-1-2010.
- (b) To be consistent with, and to facilitate the implementation of, the goals, objectives and policies of the adopted County Comprehensive Plan, and all elements thereof relating to the provision of public facilities needed to meet the demands created by new growth and development, and relating to appropriate, fair and equitable cost sharing of such public facilities.
- (c) To ensure that new development pays, at the time of development approval or issuance of a building permit or development permit, as appropriate, a proportionate share of the cost of system improvements needed to serve the projected new development.
- (d) To ensure that all applicable legal standards and criteria are properly incorporated and will be met by the County, with specific reference to the State Development Impact Fee Act, S.C. Code 1976, §§ 6-1-910—6-1-2010.

#### **Sec. 82-24. - Definitions.**

- (a) The words, terms and phrases used in this article shall have the meanings prescribed in the State Development Impact Fee Act, S.C. Code 1976, § 6-1-920.
- (b) To the extent that the definitions of such words, terms or phrases as prescribed in S.C. Code 1976, § 6-1-920, conflict with the definition of such words, terms or phrases as may be defined in this Code, the County land development regulations or other adopted County ordinances, plans or documents, the former shall control.
- (c) The following are applicable definitions pursuant to S.C. Code 1976, § 6-1-920:

*Affordable Housing* means housing affordable to families whose incomes do not exceed 80 percent of the median income for the service area or areas within the jurisdiction of the county.

*Capital Improvements* mean improvements with a useful life of five years or more, by new construction or other action, which increases or increased the service capacity of a public facility.

*Capital Improvements Plan* means a plan that identifies capital improvements for which development impact fees may be used as a funding source.

*Connection Charges* and *Hookup Charges* mean charges for the actual cost of connecting a property to a public water or public sewer system, limited to labor and materials involved in making pipe connections, installation of water meters, and other actual costs.

*Developer* means an individual or corporation, partnership, or other entity undertaking development.

*Development* means construction or installation of a new building or structure, or a change in use of a building or structure, any of which creates additional demand and need for public facilities. A building or structure shall include, but not be limited to, modular buildings and manufactured housing. The term "development" does not include alterations made to existing single-family homes.

*Development Approval* means a document from a governmental entity which authorizes the commencement of a development.

*Development Impact Fee* or *Impact Fee* means a payment of money imposed as a condition of development approval to pay a proportionate share of the cost of system improvements needed to serve the people utilizing the improvements. The term does not include:

- (1) A charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development.
- (2) Connection or hookup charges.
- (3) Amounts collected from a developer in a transaction in which the governmental entity has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements.
- (4) Fees authorized by S.C. Code 1976, § 6-1-300 et seq.

*Development Permit* means a permit issued for construction on or development of land when no subsequent building permit issued pursuant to S.C. Code 1976, title 6, ch. 9, is required.

*Fee Payor* means the individual or legal entity that pays or is required to pay a development impact fee.

*Governmental Entity* means a county, as provided in S.C. Code 1976, title 4, ch. 9, and a municipality, as defined in S.C. Code 1976, § 5-1-20.

*Incidental Benefits* are benefits which accrue to a property as a secondary result or as a minor consequence of the provision of public facilities to another property.

*Land Use Assumptions* mean a description of the service area and projections of land uses, densities, intensities and population in the service area over at least a ten-year period.

*Level of Service* means a measure of the relationship between service capacity and service demand for public facilities.

*Local Planning Commission* means the entity created pursuant to S.C. Code 1976, title 6, ch. 29, art. 1.

*Project* means a particular development on an identified parcel of land.

*Proportionate Share* means that portion of the cost of system improvements determined pursuant to S.C. Code 1976, § 6-1-990, which reasonably relates to the service demands and needs of the project.

*Public Facilities* means:

- (1) Water supply production, treatment, laboratory, engineering, administration, storage and transmission facilities;
- (2) Wastewater collection, treatment, laboratory, engineering, administration and disposal facilities;
- (3) Solid waste and recycling collection, treatment and disposal facilities;
- (4) Roads, streets and bridges, including, but not limited to, rights-of-way and traffic signals;
- (5) Stormwater transmission, retention, detention, treatment, and disposal facilities and flood control facilities;
- (6) Public safety facilities, including law enforcement, fire, emergency medical and rescue, and street lighting facilities;

- (7) Capital equipment and vehicles, with an individual unit purchase price of not less than \$100,000.00 including, but not limited to, equipment and vehicles used in the delivery of public safety services, emergency preparedness services, collection and disposal of solid waste, and stormwater management and control;
- (8) Parks, libraries and recreational facilities;
- (9) Public education facilities for grades K-12 including, but not limited to, schools, offices, classrooms, parking areas, playgrounds, libraries, cafeterias, gymnasiums, health and music rooms, computer and science laboratories, and other facilities considered necessary for the proper public education of the state's children.

*Service Area* means, based on sound planning or engineering principles, or both, a defined geographic area in which specific public facilities provide service to development within the area defined. Provided, however, that no provision in this article may be interpreted to alter, enlarge, or reduce the service area or boundaries of a county or other political subdivision which is authorized or set by law.

*Service Unit* means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements.

*System Improvements* mean capital improvements to public facilities which are designed to provide service to a service area.

*System Improvement Costs* means costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering, and other costs attributable to the improvements, and also including the costs of providing additional public facilities needed to serve new growth and development. System improvements do not include:

- (1) Construction, acquisition, or expansion of public facilities other than capital improvements identified in the capital improvements plan;
- (2) Repair, operation, or maintenance of existing or new capital improvements;
- (3) Upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
- (4) Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;
- (5) Administrative and operating costs of a county or a municipality participating in an impact fee program; and
- (6) Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of a county or a non-county service provider pursuant to an intergovernmental agreement to finance capital improvements identified in the capital improvements plan.

**Sec. 82-25. - Exclusive Method to Impose Fees; Other Methods of Requiring Capital Improvements;**

**Preexisting Fees.**

- (a) Requirements for developers to pay, as a condition of development approval or issuance of a development permit or building permit, as appropriate, in whole or in part, for system improvements may be imposed by the County or a participating municipality only by way of development impact fees imposed pursuant to the State Development Impact Fee Act, S.C. Code 1976, §§ 6-1-910—6-1-2010, this article, and individual public facility development impact fee ordinances adopted by the County and participating municipalities.
- (b) Notwithstanding the provisions of the State Development Impact Fee Act or this article, the County retains its power, to the extent authorized, to impose fees, to require contributions and to require dedication of land for capital improvements.
- (c) A development impact fee adopted by the County pursuant to the law existing prior to enactment of the State Development Impact Fee Act and existing on the effective date of the Act shall not be affected

by the Act until its termination. Provided, however, that any proposed change, revision to, or reenactment of such development impact fee subsequent to the effective date of the Act shall comply with the provisions of this article, any applicable individual public facility development impact fee ordinances, and the Act.

**Sec. 82-26. - Conflict.**

To the extent of any conflict between other County ordinances and this article, this article shall be deemed to be controlling; provided, however, that this article is not intended to amend or repeal any existing County ordinance, resolution or regulation, except as expressly set forth in the ordinance from which this article is derived.

**Sec. 82-27. - Severability.**

- (a) If any section, subsection, sentence, clause, phrase or portion of this article is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion of this article shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions of this article nor impair or nullify the remainder of this article, which shall continue in full force and effect.
- (b) If the application of any provision of this article to any new development is declared to be invalid by a decision of any court of competent jurisdiction, the intent of County Council is that such decision shall be limited only to the specific new development expressly involved in the controversy, action or proceeding in which such decision of invalidity was rendered. Such decision shall not affect, impair or nullify this article as a whole or the application of any provision of this article to any other new development.

**Sec. 82-28. - Term.**

The development impact fee procedures set forth in this article shall remain in effect unless and until repealed, amended or modified by County Council in accordance with applicable state law and County ordinances and resolutions.

**Sec. 82-29. - Amendment of Development Impact Fee Act.**

Upon the amendment of any provision of the State Development Impact Fee Act, S.C. Code 1976, §§ 6-1-910—6-1-2010, by the State Legislature, County Council shall initiate a review of this article to determine whether it remains in full compliance with the Act; and, upon the completion of such review, County Council shall introduce any changes deemed necessary and appropriate to ensure the continued compliance of this article with the Act.

**Sec. 82-30. - Annual Review and Report.**

The County shall prepare and publish an annual report describing the amount of all development impact fee funds collected, appropriated and spent, by public facility and by service area, during the preceding fiscal year.

**Sec. 82-31. - Affordable Housing Report.**

Before adopting a development impact fee for a public facility which imposes the fee on residential units, the County shall prepare a report which estimates the effect of recovering capital costs for the public facility through development impact fees on the availability of affordable housing within the County.

**Sec. 82-32. - Applicability.**

- (a) *Development Subject to Development Impact Fees.* All development, both residential and nonresidential, as defined in the State Development Impact Fee Act, S.C. Code 1976, §§ 6-1-910—6-1-2010, and in Section 82-24, may be subject to the imposition of one or more development impact fees for particular public facilities; provided, however, that the type and nature of the development project must create an additional demand and need for system improvements for the public facility in order to maintain the adopted level of service (LOS) standard, and is not otherwise exempt.

- (b) *Development not Subject to Development Impact Fees.* The following structures and activities, which might otherwise be construed as development as defined by the Act, are exempt from the imposition of development impact fees:
- (1) Rebuilding the same amount of floor space of a structure that was destroyed by fire or other catastrophe;
  - (2) Remodeling or repairing a structure that does not result in an increase in the number of service units;
  - (3) Replacing a residential unit, including a manufactured home, with another residential unit on the same lot, if the number of service units does not increase;
  - (4) Placing a construction trailer or office on a lot during the period of construction on the lot;
  - (5) Constructing an addition on a residential structure which does not increase the number of service units;
  - (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 a significant impact on the system's capacity;
  - (7) All or part of a particular development project if:
    - a. The project is determined to create affordable housing; and
    - b. That portion of the project's proportionate share of system improvements is funded through a revenue source other than development impact fees;
  - (8) Any development project for which the developer has paid for the needed public facility in its entirety. However, this exemption applies only to a County development impact fees for the same category of public facility that has been provided;
  - (9) Any development project for which a valid building permit or certificate of occupancy has been issued or in which construction has commenced, before the effective date of the ordinance imposing the development impact fee, except as otherwise provided in Section 82-33(a).
- (c) *Effect of imposition and payment of development impact fees on County land development regulations.*
- (1) The payment of development impact fees shall not entitle the fee payor to development approval nor a development permit unless all other applicable requirements, standards, and conditions of the County land development regulations and all other applicable County codes, ordinances, and/or procedures have been met. Such other requirements, standards, and conditions are independent of the requirement for payment of a development impact fee.
  - (2) Neither this article nor a specific development impact fee ordinance shall affect, in any manner, the permissible use of property, the permitted density/intensity of development, the applicable design and improvement standards, or any other applicable standards or requirements of this Code or land development regulations, which shall be operative and which shall remain in full force and effect without limitation.

**Sec. 82-33. - Imposition, Calculation and Collection.**

- (a) *Imposition.* A development impact fee may be imposed by the County or a participating municipality only upon development approval or issuance of a development permit or building permit, as applicable. Unless otherwise provided in a development impact fee ordinance for a particular public facility, imposition, calculation and collection of a development impact fee shall occur at building permit issuance; provided, however, that if a building permit is not required for the proposed development project, or for other valid reasons, County Council or the elected body of the participating municipality may, at its discretion, impose, calculate and collect a development impact fee either at the time construction is authorized or at the time of issuance of a certificate of occupancy.
- (b) *Calculation.*



- (1) Upon receipt of a request for development approval or issuance of a development permit which triggers imposition of a development impact fee, as set forth in subsection (a) of this section, the County or the participating municipality, as applicable, shall determine the following:
  - a. The applicable public facilities development impact fee or fees.
  - b. The appropriate service area.
  - c. The types of land use in the proposed development project.
  - d. The amount of development (i.e., for residential, the number of and if appropriate the type dwelling units; for nonresidential, the square footage of nonresidential development) in the proposed development project.
  - e. The number and type of affordable housing units in the proposed development project.
  - f. The total number of new or additional service units created by the proposed development project.
- (2) After making the determinations set forth in subsection (b)(1) of this section in a timely manner, the County or participating municipality, as applicable, shall multiply the number of new or additional service units by the cost per service unit as set forth in the specific public facility development impact fee ordinance, to derive a total development impact fee amount due.
- (3) The County or participating municipality, as applicable, in appropriate circumstances, shall deduct from the total development impact fee amount due:
  - a. Appropriate credits or offsets for developer contributions of money, dedication of land, construction of system improvements, or oversizing of system improvements used for, or having excess capacity to serve, other development projects;
  - b. A pro rata share of other (non-County) funding sources committed to financing system improvements for the applicable public facility, which are not required to be repaid by the County, and which were not previously considered in calculating the cost per service unit for the public facility;
  - c. A discount for affordable housing units based on the table below, for "single-family units" and for "all other types of housing units":

<b>Area Medium Income (AMI)</b>	<b>Impact Fee Discount</b>
Under 60%	100%
60% to 80%	60%
Over 80%	0%

- (4) Development impact fees shall be calculated in accordance with generally accepted accounting principles.
- (5) Development impact fees may be subsidized, as long as funds are available in the Beaufort County Affordable Housing Fund, up to 100 percent for housing that a person or family earning 80 percent or less of the County's median family income based on household size can afford by spending not more than 35 percent of their gross income on a case-by-case basis. Criteria approved by County Council will be used to provide guidance.
- (6) If rehabilitated property for which the impact fees have been subsidized is sold within ten years, or owner acquired/occupied property for which the impact fees have been subsidized is sold

within ten years, the development impact fees that would have been collected will be paid out of the proceeds of the sale and reimbursed into the Beaufort County Affordable Housing Fund. If rental property for which the development impact fees have been subsidized is sold, resulting in units being rented at rates above that which falls in the affordable range based upon household income and size, a fee will be paid out of the proceeds of the sale at a rate equal to the amount of subsidy increased at a rate equal to two times the Consumer Price Index (CPI) for the years between the time of subsidy and the time of sale for each applicable year up to 30 years. The fee will be reimbursed into the Beaufort County Affordable Housing Fund.

- (7) For purposes of this section, the Consumer Price Index (CPI) is the U.S. Department of Labor, Bureau of Labor Statistics' index for "owners' equivalent rent of primary residence" for the South Urban Area, base period December, 1982 equal to 100 (Exhibit A, on file with the County Clerk).
- (8) All impact fees shall be adjusted annually to reflect the effects of inflation on the costs for projects set forth in the impact fee study and CIP. Impact fee amounts shall be adjusted to account for inflationary increases in the costs of providing facilities using the Construction Cost Index calculated by the Engineering News-Record (ENR). For each such adjustment, the development impact fees shall be multiplied by a fraction, the numerator of which is the ENR Construction Cost Index for the most recent month for which figures are available, and the denominator of which is the ENR Construction Cost Index for the period one year prior to the period reflected in the numerator.

(c) *Collection.*

- (1) The County or a participating municipality, as applicable, shall collect all development impact fees imposed and due prior to, and as a condition of, issuance of the applicable development approval or development permit, as set forth in this section, unless:
  - a. The fee payor pays the development impact fee under protest; or
  - b. The fee payor files an administrative appeal and, at the fee payor's option, elects to post a bond or submit an irrevocable letter of credit, approved by the County, for the full amount of the development impact fees calculated to be due; or
  - c. The County and the fee payor agree to mediation by a qualified independent party.
- (2) The County may, in its sole discretion, add to the development impact fee an additional amount for reasonable interest and penalties for nonpayment or late payment.

(d) *Enforcement.*

- (1) The County or a participating municipality, as applicable, may withhold the requested development approval or development permit, including but not limited to a certificate of occupancy, or a building permit if no certificate of occupancy is required, until the development impact fee is paid in full.
- (2) The County may impose a lien for failure of the developer to make timely payment of a development impact fee.

**Sec. 82-34. - Accounts and Expenditures.**

(a) *Accounts.*

- (1) Revenues collected by the County or a participating municipality, as applicable, from all development impact fees, shall be deposited into, and maintained until transferred or expended in a segregated, interest-bearing account.
- (2) Separate accounts, and appropriate accounting records, shall be maintained for each public facility development impact fee (i.e., for each category of system improvements), and for each service area in which the fees are collected.
- (3) Interest earned on development impact fees shall be considered funds of the account on which it is earned, and must be subject to all restrictions otherwise placed on the use and expenditure

of development impact fee revenues pursuant to the State Development Impact Fee Act, S.C. Code 1976, §§ 6-1-910—6-1-2010, and this article.

(b) *Expenditures.*

- (1) Expenditure of development impact fees shall be made only for the category of system improvements, and within or for the benefit of the service area, for which the development impact fee was imposed as shown by the relevant capital improvements plan and as authorized in the State Development Impact Fee Act.
- (2) Development impact fees may not be used for:
  - a. A purpose other than system improvement costs to create additional improvements to serve new growth;
  - b. A category of system improvements other than that for which they were collected; or
  - c. The benefit of service areas other than the area for which they were imposed.
- (3) In accordance with all other applicable requirements as set forth in this article, development impact fees may be expended for the payment of principal, interest, and other financing costs on contracts, bonds, notes or other obligations issued by or on behalf of the County or other applicable service provider, to finance system improvements.
- (4) Development impact fees may be expended only for system improvements and system improvement costs as defined in the State Development Impact Fee Act or in Section 82-24. Development impact fees may not be expended for personnel costs.

(c) *Timing of Expenditures.*

- (1) Through the use of the annual review and report, the County shall monitor the collection and expenditure of development impact fee revenues in relation to the system improvements as specified in the public facility capital improvements plans.
- (2) The County shall ensure that development impact fees will be expended within three years of the date they were scheduled in the capital improvements plan to be expended on a first-in, first-out basis.
- (3) The County shall ensure that sufficient impact fee funds are, or will be available before proceeding with a system improvement project.

**Sec. 82-35. - Refunds.**

- (a) *Eligibility.* A development impact fee must be refunded to the owner of record of property on which a development impact fee has been paid if:
  - (1) The impact fee revenues collected from that property have not been expended within three years of the date they were scheduled to be expended, pursuant to the capital improvements plan, on a first-in, first-out accounting basis; or
  - (2) A building permit or permit for installation of a manufactured home on the property is subsequently denied.
- (b) *Payment.* When the right to a refund exists, as set forth in subsection (a) of this section, the County shall send the refund amount only to the owners of record of the subject property at the time the refund payment must be made.
- (c) *Timing.* The County shall send the refund amount to the owner of record of the subject property within 90 days after it is determined by the County that a refund is due.
- (d) *Amount.* All refund payments determined to be due shall include the pro rata portion of interest earned while on deposit in the interest-bearing development impact fee account.
- (e) *Standing.* A person entitled to a refund shall have standing to sue for payment of the refund by the County if there has not been a timely payment of the refund pursuant to this section and the State Development Impact Fee Act.

**Sec. 82-36. - Remedies.**

If the developer or fee payor disagrees with the County with respect to any aspect of a development impact fee, including, but not limited to, the amount of the fee due, the developer or fee payor shall have the following remedies:

- (a) *Administrative Appeal.* The developer or fee payor may file an administrative appeal with the County Administrator. Such appeal shall be filed with the County Clerk within 30 days of fee payment on a form made available by the County. The County Administrator shall render a decision on the appeal within 90 days after the filing of the appeal.
- (b) *Payment under Protest.*
  - (1) The developer or fee payor may pay a development impact fee under protest. Payment under protest does not preclude the developer or fee payor from filing an administrative appeal nor does it preclude receipt of a refund pursuant to Section 82-35, if applicable.
  - (2) In-lieu of paying the development impact fee under protest, the developer or fee payor may, at the developer's option, post a bond or submit an irrevocable letter of credit for the amount of the development impact fee due, pending the outcome of an appeal.
- (c) *Mediation.*
  - (1) In order to address any disagreement between the fee payor and the County relative to the imposition of a development impact fee, the County and the fee payor may, upon voluntary agreement, enter into mediation conducted by a qualified independent party.
  - (2) Participation in mediation does not preclude the fee payor from pursuing any other available remedies provided in this article, in the State Development Impact Fee Act, or otherwise available by law.
- (d) *Incidental Benefit.* The receipt of incidental benefit by a third party property owner or developer within the service area resulting from the payment of a development impact fee by a fee payor or developer shall not be considered grounds for exercising the remedies set forth in this article.

**Sec. 82-37. - Development Agreements.**

- (a) In-lieu of making development impact fee payments, the fee payor/developer and the County, by mutual agreement, may enter into an agreement for the provision, construction, and installation of system improvements pursuant to, and in accordance with, the requirements of the State Local Government Development Agreement Act.
- (b) The agreement may additionally provide for credits or reimbursement for costs incurred by a fee payor or developer, including interproject transfers of credits or reimbursement for project improvements which are used or shared by more than one development project.
- (c) A development impact fee for system improvements for a specific public facility category may not be imposed on a fee payor or developer who has entered into a development agreement providing for the provision of system improvements for that same public facility category. Provided, however, that development impact fees may still be imposed on the fee payor or developer for system improvements for another public facility category.
- (d) The development agreement shall include a provision addressing increases in development impact fees over the life of the development agreement as well as the applicability of subsequently adopted development impact fees for other public facilities over the life of the development agreement and the development project.

**Sec. 82-38. - System Improvements Provided by Another Service Provider.**

- (a) *Non-County Service Provider.* If the proposed system improvements include a public facility or facilities under the jurisdiction of, and provided by, another unit of government as described in the State Development Impact Fee Act, S.C. Code 1976, §§ 6-1-910—6-1-2010, the County and the other unit of government shall enter into an intergovernmental agreement providing for:

- (1) Determination of the development impact fee amount in the same manner and pursuant to the same procedures and limitations as provided in this article and the State Development Impact Fee Act for all other development impact fees.
  - (2) Collection of the development impact fee by the County or a participating municipality, as applicable.
  - (3) Transfer of the development impact fee funds collected within the service area of the service provider to the service provider for expenditure at reasonable times.
  - (4) Expenditure of the development impact fee revenues by the service provider in accordance with the capital improvements plan.
- (b) *Cost Sharing of Joint Improvements.* The intergovernmental agreement between the County and the service provider or the County and the participating municipality, shall specify the reasonable share of funding by each governmental unit for jointly funded improvements. The County shall not assume more than its reasonable share of funding of joint improvements; nor may the service provider, which is not authorized to impose development impact fees, assume more than its share of funding of joint improvements, unless the expenditure is being made pursuant to a development agreement.

**Sec. 82-39. - Effects of Annexation.**

A County Development Impact Fee Ordinance imposed in an unincorporated area which is subsequently annexed by a municipality shall remain in full force and effect pursuant to this article and the State Development Impact Fee Act, S.C. Code 1976, §§ 6-1-910—6-1-2010, until the development impact fee terminates, unless the annexing municipality:

- (1) Assumes responsibility for the provision of system improvements included in the capital improvements plan that are to be provided, in whole or in part, via payment of development impact fees from developers in the annexed area; and
- (2) Assumes any liability which is to be paid with the impact fee revenue.

If the annexing municipality agrees to assume responsibility and liability as set forth in this section, it shall enter into an intergovernmental agreement to such effect with the County.

**Secs. 82-40—82-50. - Reserved.**

## EXHIBIT C

### ARTICLE III. – PARKS AND RECREATION FACILITIES—NORTHERN AND SOUTHERN BEAUFORT COUNTY SERVICE AREAS

#### Sec. 82-51. - Adoption.

Pursuant to the impact fee procedures in Section 82-21 *et seq.*, this parks and recreation development impact fee is adopted and imposed on all new residential development in the County, in accordance with the procedures and requirements of this article and the intergovernmental agreement(s) the County has entered into with the participating municipalities.

#### Sec. 82-52. - Establishment of Service Area

There are two service areas for parks and recreation development impact fees. They are the South Beaufort County Parks and Recreation Service Area and the North Beaufort County Parks and Recreation Service Area. The South Beaufort County Parks and Recreation Service Area includes those parts of the County south of the Broad River. The North Beaufort County Parks and Recreation Service Area includes those parts of the County north of the Broad River. The boundaries of these services areas are identified in Figure 82-52: Beaufort County Parks and Recreation Service Areas.

FIGURE 82-52: BEAUFORT COUNTY PARKS AND RECREATION SERVICE AREAS



**Sec. 82-53. - Incorporation of Support Study.**

The County and the participating municipalities hereby rely on the level of service standard, land use assumptions, methodologies, service units, system improvement costs, formula, and analyses for parks and recreation development impact fees for parks and recreation facility system improvements set out in *Capital Improvement Plan and Development Impact Fee Study* prepared by TischlerBise, dated July 27, 2020 (hereinafter “parks and recreation development impact fee study and CIP”). The parks and recreation development impact fee study and CIP are incorporated herein by reference. The parks and recreation development impact fee study and CIP sets forth a reasonable level of service standard, land use assumptions, methodologies, service units, system improvement costs, and formulas for determining the impacts of new residential development on the recreation facility system improvement needs for the South Beaufort County Parks and Recreation Service Area and the North Beaufort County Parks and Recreation Service Area.

**Sec. 82-54. - Imposition of Parks and Recreation Development Impact Fees.**

(a) Pursuant to this article and the appropriate intergovernmental agreement(s) between the County and municipalities, and in accordance with the County impact fee procedures set forth in Section 82-21 et seq. et seq., the State Development Impact Fee Act, and the support studies and the County adopted parks and recreation facilities capital improvements plan (CIP), incorporated in this article by reference, parks and recreation facilities development impact fees shall be imposed in the following service areas in the amounts identified in Table 82-55: Parks and Recreation Facilities Development Impact Fee Schedule, by Service Area, unless an Individual Assessment of Development Impact is accepted pursuant to Section 82-56, Individual Assessment of Development Impact.

(b) The parks and recreation development impact fee shall be imposed on all new residential development (dwelling units) in the unincorporated County and within the participating municipalities, unless the residential development is exempted, or an exception or waiver is granted pursuant to Sec. 82-32(b), Development Not Subject to Development Impact Fees, or Sec. 82-33(b)(3)c. A parks and recreation development impact fee shall only be imposed if a new dwelling unit is developed.

(c) The parks and recreation development impact fee in the unincorporated County and within a participating municipality shall be paid prior to issuance of a building permit, or if a building permit is not required, prior to construction of the dwelling unit, or prior to issuance of a development permit for the dwelling unit, as appropriate.

**Sec. 82-55. - Parks and Recreation Development Impact Fee Schedule and Facility Project List.**

(a) The following general procedure shall be followed upon receipt of an application for a building permit for new development:

(1) Identify the applicable service area (South Beaufort County Parks and Recreation Service Area or North Beaufort County Parks and Recreation Service Area) based on the development’s location.

(2) Determine if any of the dwelling units qualify for a discount as “affordable housing” in accordance with Sec. 82-33(b)(3)c, and if so the number of those dwelling units and the amount of the discount.

(3) Determine whether the applicant has applied for an Individual Assessment of Development Impact in accordance with Sec. 82-56,

(4) If an Individual Assessment of Development Impact is not approved, or not applied for, identify the number of dwelling units, and the square feet in size of each dwelling unit, and then apply the fee schedule in Table 82-55: Parks and Recreation Development Impact Fee Schedule, by Service Area, to each dwelling unit; or

(5) If an Individual Assessment of Development Impact is accepted, pay the fee based on the approved Individual Assessment of Development Impact.

<b>TABLE 82-55: PARKS AND RECREATION DEVELOPMENT IMPACT FEE SCHEDULE, BY SERVICE AREA</b>		
<b>Housing Unit Size</b>	<b>North Beaufort County Parks and Recreation Service Area Impact Fee</b>	<b>South Beaufort County Parks and Recreation Service Area Impact Fee</b>
1,000 sf or less	\$486	\$282
1,001 to 1,250 sf	\$590	\$353
1,251 to 1,500 sf	\$694	\$423
1,501 to 1,750 sf	\$798	\$470
1,751 to 2,000 sf	\$868	\$517
2,001 to 2,500 sf	\$1,006	\$588
2,501 to 3,000 sf	\$1,076	\$658
3,001 to 3,500 sf	\$1,180	\$705
3,501 to 4,000 sf	\$1,249	\$752
4,001 or more sf	\$1,319	\$776

<b>TABLE 82-55a: PARKS AND RECREATION NORTHERN AND SOUTHERN FACILITY PROJECTS</b>	
<b>Northern Service Area Projects</b>	<b>Southern Service Area Projects</b>
Burton Wells Park Expansion	Buckwalter Park Expansion
County Splash Pads and Aquatics Center/Park	M.C. Riley Complex Expansion
Passive Park Development and Construction	Daufuskie Island Park Improvements
Basal Green Complex Expansion	Outdoor Aquatics and Splash Pads Installation
Coursen-Tate Complex Expansion	Bluffton Center Expansion
Saint Helena Park Expansions	Passive Park Development and Construction
Community Center Expansions	Community Center Expansion
Small Park Expansion and Development	Recreation Field Development and Construction
Municipal Owned Park Facility Development and Expansions: Henry C Chamber's Park Spanish Moss Trail Port Royal Skate Park Washington Street Park Pigeon Point Park	



**Sec. 82-56. - Individual Assessment of Development Impact.**

(a) In-lieu of calculating the parks and recreation development impact fees by reference to the fee schedule in Table 82-55: Parks and Recreation Development Impact Fee Schedule, by Service Area, a fee payor may request that the amount of the required parks and recreation development impact fees be determined by reference to an Individual Assessment of Development Impact for the proposed development.

(b) If a fee payor requests the use of an Individual Assessment of Development Impact, the fee payor shall be responsible for retaining a qualified professional to prepare the Individual Assessment of Development Impact that complies with the requirements of this section, at the fee payor's expense.

(c) Each Individual Assessment of Development Impact shall be based on the same level of service standard and system improvement costs for park and recreation facilities for the service areas used in the parks and recreation development impact fee study and CIP, shall use the formula for calculating the development impact fees used in the parks and recreation development impact fee study and CIP (no adjustments in the assumption of credits shall be made), and shall document the relevant methodologies and assumptions used. The burden shall be on the fee payor requesting the Individual Assessment of Development Impact to demonstrate by competent evidence that the data and assumptions used in the parks and recreation development impact fee study and CIP and reflected in Table 82-55: Parks and Recreation Development Impact Fee Schedule, by Service Area, is less accurate than the results of the Individual Assessment of Development Impact.

(d) Each Individual Assessment of Development Impact shall be submitted to the Planning Director or a designee, and may be accepted, rejected, or accepted with modifications by the Planning Director or a designee as the basis for calculating park and recreation development impact fees. If an Individual Assessment of Development Impact is accepted or accepted with modifications by the Director or a designee as a more accurate measure of the demand for park and recreation facility system improvements created by the proposed development than the applicable fee in Table 82-55: Parks and Recreation Development Impact Fee Schedule, by Service Area, then the park and recreation development impact fees due under this Ordinance shall be calculated according to such assessment.

**Sec. 82-57. - Credits.**

(a) Any developer/fee payor which is obligated to pay a parks and recreation development impact fee under this section may apply for credit against parks and recreation development impact fees otherwise due, up to but not exceeding the full obligation for the fees proposed to be paid pursuant to the provisions of this Ordinance for any land dedication, construction, or contribution for parks and recreation facility system improvements that are accepted by the County Council for parks and recreation facility systems improvements identified in the CIP.

(b) *Valuation of Credits*

(1) Credit for land dedication for park and recreation facility system improvements, at the fee payor's option, shall be valued at either (a) 100 percent of the most recent assessed value for such land as shown in the records of the County Assessor, or (b) the fair market value of the land established by a private appraiser acceptable to the County Council in an appraisal paid for by the fee payor.

(2) Credit for construction of parks and recreation facility system improvements shall be valued by the County Council based on construction costs estimates submitted by the fee payor. The County Council shall determine the amount of credit due based on the information submitted, or, if it determines the information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the County Council.

(3) Credit for a contribution for parks and recreation facility system improvements shall be based on the value of the contribution at the time it is made by the fee payor.

(c) *When Credits Become Effective*

(1) Credits for land dedication for parks and recreation facilities shall become effective after the credit is approved by County Council or applicable municipal legislative body pursuant to this section, and a Credit Agreement/Development Agreement is entered into, and (a) the land has been conveyed to the County or applicable municipality in a form established by the County or applicable municipality at no cost

to the County or applicable municipality, and (b) the dedication of land has been accepted by the County or applicable municipality.

(2) Credits for construction of parks and recreation facility system improvements shall become effective after the credit is approved by County Council or applicable municipal legislative body pursuant to this section when (a) a Credit Agreement/Development Agreement is entered into, (b) a suitable maintenance and warranty bond has been received and approved by the County Council or applicable municipal legislative body, and (c) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable County requirements (or municipal requirements, as applicable).

(3) Credits for contributions shall become effective after the contribution is approved by the County Council or applicable municipal legislative body pursuant to this section, and the contribution is provided to and accepted by the County Council or applicable municipal legislative body.

(4) Credits for land dedication, construction of parks and recreation facility system improvements, or contributions, shall be transferable within the same development for parks and recreation development impact fee purposes, but shall not be transferable outside the development or used as credit against fees for other public facilities. Credit may be transferred pursuant to these terms and conditions by any written instrument that clearly identifies which credits issued under this section are to be transferred. The instrument shall be signed by both the transferor and transferee, and the document shall be delivered to the County Council or applicable municipal legislative body for registration.

(5) The total amount of the credit shall not exceed the amount of the parks and recreation development impact fees due and payable for the project.

(6) If the offer for credit is approved, a Credit Agreement/Development Agreement shall be prepared and signed by the applicant and the County Council or applicable municipal legislative body. The Credit Agreement/Development Agreement shall specifically outline the land dedication, construction, or contribution for parks and recreation facility system improvements, the time by which they shall be completed or dedicated and any extensions thereof, and the value (in dollars) of the credit against the parks and recreation development impact fees the fee payor shall receive.

(7) The County Council or applicable legislative body may enter into a Capital Contribution Front-Ending Agreement with any developer/fee payor who proposes to dedicate land or construct parks and recreation facility system improvements in the CIP, to the extent the fair market value of the land or the construction of those parks and recreation facility system improvements exceed the obligation to pay parks and recreation development impact fees for which a credit is provided pursuant to this section. The Capital Contribution Front-Ending Agreement shall provide proportionate and fair share reimbursement linked to new growth and development's use of the parks and recreation facility system improvements constructed.

#### **Sec. 82-58. - Trust Account for Parks and Recreation Development Impact Fees.**

The County and the participating municipalities hereby establish segregated Parks and Recreation Development Impact Fee Trust Accounts. All parks and recreation development impact fees collected by the County and the participating municipalities shall be placed in their respective Trust Account. By November 1 of each year, the participating municipalities shall transfer the parks and recreation development impact fees they collect to the County. Upon receipt, the County shall then place the funds into its Parks and Recreation Development Impact Fee Trust Account. Each Trust Account shall be interest-bearing and all interest earned and accruing to the account shall become funds of the account, subject to the same limitations and restrictions on use and expenditure of funds that are applicable to parks and recreation development impact fee funds.

#### **Sec. 82-59. - Expenditure of Fees for Parks and Recreation Facility System Improvements.**

Parks and recreation development impact fee funds shall be used by the County in accordance with the development impact fee procedures in Section 82-21 *et seq.*, solely and exclusively for parks and recreation facility system improvements as set forth in the parks and recreation development impact fee study and CIP. System improvements generally include the following: acquisition of land for development of new parks, expansions to existing parks, and park and recreation equipment.

**Sec. 82-60. - Development Agreement Option.**

(a) The developer may pay the parks and recreation development impact fee, as calculated pursuant to Section 82-56, as the proposed development project's proportionate share of system improvement costs and as full and complete payment of such obligations. In the alternative, a developer may enter into an agreement with the County or a participating municipality pursuant to the State Local Government Development Agreement Act, and provide for dedication of land, park equipment, development of parks and recreation facilities, and/or for payments in-lieu of development impact fees for parks and recreation facilities, through a development agreement

(b) A parks and recreation development impact fee may not be imposed on a developer who has entered into a development agreement with the County that provides for the parks and recreation facility system improvement needs of the development project that is subject to the development agreement.

(c) A development agreement for parks and recreation facilities may only be entered into with the authorization and approval of both the County and the developer, or the participating municipality and developer, as appropriate.

**Sec. 82-61. - Developer Rights.**

The developer, pursuant to the State Development Impact Fee Act and the County impact fee procedures in Section 82-21 *et seq.*, shall have the following rights, any or all of which may be exercised only in accordance with the impact fee procedures in Section 82-21 *et seq.*

(a) *Administrative Appeal.* The developer/applicant may file an administrative appeal with the County Administrator with respect to a County or municipal decision related to the imposition, calculation, collection, processing, or expenditure of a parks and recreation development impact fee, at any time; provided, however, that such appeal must comply with the provisions and requirements of the County impact fee procedures set forth in Section 82-21 *et seq.* If the appeal follows payment of the development impact fee, it must be made within 30 days of the date of fee payment. The filing of an appeal will immediately halt the development approval process, unless the developer/applicant posts a bond or submits an irrevocable letter of credit for the full amount of the impact fees as calculated by the County or a participating municipality to be due.

(b) *Payment under Protest.* The developer/applicant may pay the County-calculated or municipality-calculated development impact fee under protest, pursuant to the County impact fee procedures set forth in Section 82-21 *et seq.* Payment under protest does not preclude the developer/applicant from filing an administrative appeal, from requesting a refund, or from posting a bond or submitting an irrevocable letter of credit for the full amount of the development impact fee due, all as set forth in the impact fee procedures in Section 82-21 *et seq.*

(c) *Mediation.* The developer/applicant may request mediation by a qualified independent party, but only upon voluntary agreement by both the developer/applicant (fee payor) as well as the County (and, if applicable, participating municipality) and only to address a disagreement related to the parks and recreation development impact fee, as calculated by the County or municipality, for the proposed development. Neither request for, nor participation in, mediation shall preclude the developer/applicant (fee payor) from pursuing other developer rights and/or remedies, as set forth in this article, the County impact fee procedures in Section 82-21 *et seq.* or other remedies available by law.

**Sec. 82-62. - County Remedies.**

(a) The County and a participating municipality (to the extent authorized in the intergovernmental agreement(s) with the County), pursuant to the State Development Impact Fee Act and the County impact fee procedures in Section 82-21 *et seq.*, shall have all of the following remedies, which may be exercised individually or collectively, but only in accordance with the impact fee procedures in Section 82-21 *et seq.*

(1) *Interest and Penalties.* The County or participating municipality may, in its sole discretion, add reasonable interest and penalties for nonpayment or late payment to the amount of the calculated parks and recreation development impact fee due, pursuant to the impact fee procedures in Section 82-21 *et seq.*

(2) *Withholding Building or Development Permit or Development Approval or Certificate of Occupancy.* The County or participating municipality may withhold a certificate of occupancy, a building or development permit, or development approval, as may be applicable, until full and complete payment has been made by the developer/applicant of the parks and recreation development impact fee due.

(3) *Lien.* The County may impose a lien on the developer's property, pursuant to the impact fee procedures set forth in Section 82-21 *et seq.*, for failure of the developer/applicant to timely pay the required parks and recreation development impact fee in full.

(b) The County or participating municipality may pursue any one or all of the remedies described in subsection (a) of this section, at its discretion. The failure to pursue any remedy, at any time, shall not be deemed to be a waiver of County or municipal rights to pursue any remedy at such other time as may be deemed appropriate.

**Sec. 82-63. – Refund of Fees.**

(a) A collected parks and recreation development impact fee shall be refunded to the owner of record of property on which a parks and recreation development impact fee has been paid if:

(1) The parks and recreation development impact fee revenues collected on the property have not been expended within three years of the date they were scheduled to be expended, pursuant to the parks and recreation development impact fee study and CIP; or

(2) A building permit or permit for installation of a manufactured home on the property is subsequently denied.

(b) The amount, timing, and recipient of any refund required by this article of collected parks and recreation development impact fees shall comply with the standards of Sec. 82-35.

**Sec. 82-64. - Intergovernmental Agreements.**

Prior to collection of a parks and recreation development impact fee in a participating municipality, the County shall enter into an intergovernmental agreement with the participating municipality. Intergovernmental agreements shall:

(a) Specify the reasonable share of funding joint system improvements for parks and recreation facility system improvements by each governmental unit; and

(b) Provide for the collection of the parks and recreation development impact fee by the municipality within its corporate limits and by the County within the unincorporated area; and

(c) Provide for the timely transfer of parks and recreation development impact fee funds from the municipality to the County; and

(d) Provide for the timely expenditure of the parks and recreation development impact fee funds by the County, in accordance with the CIP.

**Sec. 82-65. - Termination of the Parks and Recreation Development Impact Fee.**

The parks and recreation development impact fee shall be terminated upon the completion/conclusion of all of the parks and recreation development impact fee-funded capital improvements, as set forth in the CIP, unless:

(a) The County adopts a CIP for a subsequent time period; or

(b) The County adopts an updated parks and recreation development impact fee pursuant to the substantive and procedural requirements of the State Development Impact Fee Act.

**Secs. 82-66—82-80. - Reserved**

## EXHIBIT D

### ARTICLE IV. – ROAD FACILITIES—NORTHERN AND SOUTHERN BEAUFORT COUNTY SERVICE AREAS

#### Sec. 82-81. - Adoption.

Pursuant to the impact fee procedures in Section 82-21 *et seq.*, this road facilities development impact fee is adopted and imposed on all new development in the County, in accordance with the procedures and requirements of this article and the intergovernmental agreement(s) the County has entered into with the participating municipalities.

#### Sec. 82-82. – Establishment of Service Areas.

There are two service areas for the road facilities development impact fee: the South Beaufort County Road Facilities Service Area and the North Beaufort County Road Facilities Service Area. The South Beaufort County Road Facilities Service Area includes those parts of the County south of the Broad River. The North Beaufort County Road Facilities Service Area includes those parts of the County north of the Broad River. The boundaries of these services areas are identified in Figure 82-82: Beaufort County Road Facilities Service Areas.

FIGURE 82-82: BEAUFORT COUNTY ROAD FACILITIES SERVICE AREAS



**Sec. 82-83. - Incorporation of Support Study.**

The County and the participating municipalities hereby rely on the level of service standard, land use assumptions, methodologies, service units, system improvement costs, formula, and analyses for the road facilities development impact fee set out in *Capital Improvement Plan and Development Impact Fee Study (Transportation Update)* prepared by TischlerBise, dated November 15, 2022 (hereinafter “road facilities development impact fee study and CIP”). The road facilities development impact fee study and CIP (the Beaufort County 2030 transportation improvement plan) are incorporated herein by reference. The road facilities development impact fee study and CIP sets forth a reasonable level of service standard, land use assumptions, methodologies, service units, system improvement costs, and formulas for determining the impacts of new development on the South Beaufort County Road Facilities Service Area and the North Beaufort County Road Facilities Service Area.

**Sec. 82-84. - Imposition of Road Facilities Development Impact Fees.**

- (a) The road facilities development impact fee shall be imposed on all new development in the unincorporated County and within the participating municipalities, unless the development is exempted, or an exception or waiver is granted pursuant to Sec. 82-32(b), Development Not Subject to Development Impact Fees, or Sec. 82-33(b)(3)c, of the County Code.
- (b) The road facilities development impact fee in the unincorporated County and within a participating municipality shall be paid prior to issuance of a building permit, or if a building permit is not required prior to construction, prior to issuance of a development permit.

**Sec. 82-85. – Road Facilities Development Impact Fee Schedule.**

- (a) Pursuant to this article and the appropriate intergovernmental agreement(s) between the County and the participating municipalities, and in accordance with the County impact fee procedures set forth in Section 82-21 *et seq.*, the State Development Impact Fee Act, and the road facilities development impact fee study and CIP, road facilities development impact fees shall be imposed in the South Beaufort County Road Facilities Service Area and the North Beaufort County Road Facilities Service Area.
- (b) The following general procedure shall be followed upon receipt of an application for a building permit or development permit, whichever is applicable, for new development:
  - (1) Identify the applicable service area (South Beaufort County Road Facility Service Area or North Beaufort County Road Facility Service Area) based on the development’s location;
  - (2) Determine if any of the dwelling units qualify for a discount as “affordable housing” in accordance with Sec. 82-33(b)(3)c, and if so the number of those dwelling units and the amount of the discount;
  - (3) Determine whether the applicant has applied for an Individual Assessment of Development Impact in accordance with Sec. 82-86.
  - (4) If an Individual Assessment of Development Impact is not approved, or not applied for, identify the number of dwelling units, and the square feet in size of each dwelling unit, and the type of nonresidential development and the square feet of the nonresidential development, then apply the fee schedule in Table 82-85: Road Facilities Development Impact Fee Schedule, by Service Area, to each dwelling unit or nonresidential development, as appropriate; or
  - (5) If an Individual Assessment of Development Impact is accepted, pay the fee based on the approved Individual Assessment of Development Impact.

<b>TABLE 82-85: ROAD FACILITIES DEVELOPMENT IMPACT FEE SCHEDULE, BY SERVICE AREA</b>		
<b>Residential Development</b>		
<b>Housing Unit Size</b>	<b>North Beaufort County Road Facility Service Area Impact Fee</b>	<b>South Beaufort County Road Facility Service Area Impact Fee</b>
1,000 sf or less	\$1,509	\$1,551
1,001 to 1,250 sf	\$1,896	\$1,939
1,251 to 1,500 sf	\$2,245	\$2,284
1,501 to 1,750 sf	\$2,516	\$2,585
1,751 to 2,000 sf	\$2,748	\$2,844
2,001 to 2,500 sf	\$3,135	\$3,231
2,501 to 3,000 sf	\$3,483	\$3,576
3,001 to 3,500 sf	\$3,754	\$3,835
3,501 to 4,000 sf	\$3,986	\$4,093
4,001 or more sf	\$4,180	\$4,309
<b>Nonresidential Development</b>		
<b>Development Type</b>	<b>North Beaufort County Road Facility Service Area Impact Fee per 1,000 square feet</b>	<b>South Beaufort County Road Facility Service Area Impact Fee per 1,000 square feet</b>
Retail	\$4,513	\$5,024
Office/Service	\$2,243	\$2,497
Industrial	\$905	\$1,007
Institutional	\$2,089	\$2,326

- (c) The road facilities development impact fee shall be adjusted annually to reflect the effects of inflation on the costs for road facilities set forth in the road facilities development impact fee study and CIP. Prior to December 1 of each year, beginning in 2023, the development impact fee amount set forth in Table 82-85: Road Facilities Development Impact Fee Schedule, by Service Area, shall be adjusted to account for inflationary increases in the costs of providing road facilities using the Construction Cost Index calculated by the Engineering News-Record (ENR). For each such adjustment, the road facilities development impact fees shown in Table 82-85 shall be multiplied by a fraction, the numerator of which is the ENR Construction Cost Index for the most recent month for which figures are available, and the denominator of which is the ENR Construction Cost Index for the period one year prior to the period reflected in the numerator.

**Sec. 82-86. - Individual Assessment of Development Impact.**

- (a) In-lieu of calculating the road facilities development impact fees by reference to the fee schedule in Table 82-85: Road Facilities Development Impact Fee Schedule, by Service Area, a fee payor may request that the amount of the required road facilities development impact fees be determined by reference to an Individual Assessment of Development Impact for the proposed development.

- (b) If a fee payor requests the use of an Individual Assessment of Development Impact, the fee payor shall be responsible for retaining a qualified professional to prepare the Individual Assessment of Development Impact that complies with the requirements of this section, at the fee payor's expense.
- (c) Each Individual Assessment of Development Impact shall be based on the same level of service standard and system improvement costs for road facilities used in the road facilities development impact fee study and CIP, shall use the formula for calculating the impact fee used in the road facilities development impact fee study and CIP (no adjustments in the assumption of credits shall be made), and shall document the relevant methodologies and assumptions used. The burden shall be on the fee payor requesting the Individual Assessment of Development Impact to demonstrate by competent evidence that the data and assumptions used in the road facilities development impact fee study and CIP and reflected in Table 82-85: Road Facilities Development Impact Fee Schedule, by Service Area, is less accurate than the results of the Individual Assessment of Development Impact.
- (d) Each Individual Assessment of Development Impact shall be submitted to the Planning Director or a designee, and may be accepted, rejected, or accepted with modifications by the Planning Director or a designee based on the standards in Section 82-86(c), as the basis for calculating road facilities development impact fees. If an Individual Assessment of Development Impact is accepted or accepted with modifications by the Director or a designee as a more accurate measure of the demand for road facility system improvements created by the proposed development than the applicable fee in Table 82-56: Road Facilities Development Impact Fee Schedule, by Service Area, then the road facilities development impact fees due shall be calculated according to the assessment.

**Sec. 82-87. - Credits.**

- (a) Any developer/fee payor which is obligated to pay a road facilities development impact fee under this section may apply for credit against road facilities development impact fees otherwise due, up to but not exceeding the full obligation for the fees proposed to be paid pursuant to the provisions of this article for any land dedication for right-of-way (ROW), construction, or contribution for road facilities system improvements that are identified in the Table 82-87a: Road Facility Projects, North of the Broad River, for development north of the Broad River, and Table 82-87b: Road Facility Projects, South of the Broad River, for development south of the Broad River. that are accepted by County Council.

<b>TABLE 82-87a: ROAD FACILITY PROJECT NORTH OF THE BROAD RIVER</b>	
<b>Transportation Projects</b>	<b>Type of Improvement</b>
US 21/SC 802 Connector SE (Hazel Farms Road)	New Road
US 21/SC 802 Connector NW (Sunset/Miller Road)	New Road
US 21/SC 802 Intersection Improvement (Sea Island Parkway/Sams Pt. Road)	Intersection Improvements
US 21/SC 128 Intersection Improvement (Ribault Road/Lady's Island Drive)	Intersection Improvements
Boundary Street Connectivity (Polk Street Parallel Road)	New Road
Joe Frazier Road Improvements	Access Management
US 21 Business (Woods Memorial Bridge ITS)	Intelligent Transportation Systems
Sea Island Parkway Improvements	Access Management/ Complete Streets
Spine Road – Port Royal Port	New Road
US 21 and Parker Drive Mast Arm Signal	Traffic Signal
9 Traffic Signals	Traffic Signal



<b>TABLE 82-87a: ROAD FACILITY PROJECT NORTH OF THE BROAD RIVER</b>	
<b>Transportation Projects</b>	<b>Type of Improvement</b>
Port Royal Road Interconnectivity	New Road

<b>TABLE 82-87b: ROAD FACILITY PROJECT SOUTH OF THE BROAD RIVER</b>	
<b>Transportation Projects</b>	<b>Type of Improvement</b>
US 278 at Jenkins Island Alternate 2A Super Street Plan	Superstreet Plan
US 278 Bridge Widening 6-lane widening from Bluffton 5A to Jenkins Island	Bridge Widening
US 278 Access Management	Access Management
US 278/SC 170 Interchange – ramp reconfiguration for added capacity	Interchange Improvements
SC 170 – US 278 to Tide Watch – widen to 6 lanes	Road Widening
SC 46/170 Widen to 6-lane divided from Argent Blvd. to SC 462	Road Widening
Buckwalter Parkway access management – roadway connectivity	Access Management
May River Road access management (including bike/ped)	Access Management
Burnt Church Road from Bluffton Parkway to All Joy Turn access management (including bike/ped)	Access Management
Buck Island Rd. widening to 3 lanes from US 278 to Bluffton Parkway (including bike/ped)	Road Widening
Lake Point Drive/Old Miller Road Connection with (including bike/ped)	New Road
SC 170/SC 46 Widening to 4-lane from roundabout to Jasper County	Road Widening
Innovation Drive	New Road
Buckwalter Frontage Connector Road from Buckwalter Parkway through Willow Run	New Road
16 Traffic Signal	Traffic Signal

(b) Valuation of Credits.

- (1) Credit for land dedication for ROW, at the fee payor's option, shall be valued at either (a) 100 percent of the most recent assessed value for such land as shown in the records of the County Assessor, or (b) the fair market value of the land established by a private appraiser acceptable to the County Council in an appraisal paid for by the fee payor.
- (2) Credit for construction of road facilities system improvements shall be valued by the County Council based on construction costs estimates submitted by the fee payor . The County Council shall determine the amount of credit due based on the information submitted, or, if it determines

the information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the County Council.

- (3) Credit for a contribution for road facilities system improvements shall be based on the value of the contribution at the time it is made by the fee payor.
- (c) When Credits Become Effective.
- (1) Credits for land dedication for ROW shall become effective after the credit is approved by County Council pursuant to this section when (a) a Credit Agreement/Development Agreement is entered into, (b) the land has been conveyed to the County in a form established by the County at no cost to the County, and (c) the dedication of land for ROW has been accepted by the County.
  - (2) Credits for construction of road facility system improvements shall become effective after the credit is approved by the County Council pursuant to this section when (a) a Credit Agreement/Development Agreement is entered into, (b) a suitable maintenance and warranty bond has been received and approved by the County Council, and (c) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable requirements.
  - (3) Credits for contributions shall become effective after the contribution is approved by the County Council and (a) a credit Agreement/Development Agreement has been entered into, and (b) the contribution is provided to and accepted by the County Council.
  - (4) Credits for land dedication for ROW, construction of road facility system improvements, or contributions shall be transferable within the same development for road facilities development impact fee purposes but shall not be transferable outside the development or used as credit against fees for other public facilities. Credit may be transferred pursuant to these terms and conditions by any written instrument that clearly identifies which credits issued under this article are to be transferred. The instrument shall be signed by both the transferor and transferee, and the document shall be delivered to the County for registration.
  - (5) The total amount of the credit shall not exceed the amount of the road facilities development impact fees due and payable for the project.
  - (6) The Credit Agreement/Development Agreement shall be prepared and signed by the applicant and the County Council. The Credit Agreement/Development Agreement shall specifically outline the land dedication, construction, or contribution for road facility system improvements, the time by which they shall be completed or dedicated, and any extensions thereof, and the value (in dollars) of the credit against the road facilities development impact fees the fee payor shall receive.
  - (7) The County Council may enter into a Capital Contribution Front-Ending Agreement with any developer/fee payor who proposes to dedicate land for ROW, construct road facility system improvements, and/or make contributions, to the extent the fair market value of the land for ROW, the construction of road facility system improvements, and/or the contributions exceed the obligation to pay road facilities development impact fees for which a credit is provided pursuant to this section. The Capital Contribution Front-Ending Agreement shall provide proportionate and fair share reimbursement.

**Sec. 82-88. – Trust Account for Road Facilities Development Impact Fees.**

The County and the participating municipalities hereby establish segregated Road Facilities Development Impact Fee Trust Accounts. All road facilities development impact fees collected by the County and the participating municipalities shall be placed in their respective Trust Account. By November 1 of each year, the participating municipality shall transfer the road facilities development impact fees they collect to the County. Upon receipt, the County shall place the funds in its Road Facilities Development Impact Fee Trust Account. Each Trust Account shall be interest-bearing and all interest earned and accruing to the account shall become funds of the account, subject to the same limitations and restrictions on use and expenditure of funds that are applicable to road facilities development impact fee funds.

**Sec. 82-89. - Expenditure of Fees for Road Facilities System Improvements.**

Road facilities development impact fee funds shall be used by the County in accordance with the development impact fee procedures in Section 82-21 *et seq.*, solely and exclusively for road facilities system improvements in the CIP.

**Sec. 82-90. - Development Agreement Option.**

- (a) The developer may pay the road facilities development impact fee, as calculated pursuant to Section 82-85, as the proposed development project's proportionate share of road facilities system improvement costs and as full and complete payment of such obligations. In the alternative, the developer may enter into an agreement with the County pursuant to the State Local Government Development Agreement Act, providing for dedication of land for ROW, the construction of roads, and/or for payments in-lieu of development impact fees for road facilities, through a development agreement.
- (b) A road facilities development impact fee may not be imposed on a developer who has entered into a development agreement with the County that provides for the road facility system improvement needs of the developer's development project that is subject to the development agreement.
- (c) A development agreement for road facility system improvements may only be entered into with the authorization and approval of both the County and the developer, and after consultation with an affected municipality, if applicable.

**Sec. 82-91. - Developer Rights.**

The developer, pursuant to the State Development Impact Fee Act and the county impact fee procedures in Section 82-21 *et. seq.*, shall have the following rights, any or all of which may be exercised only in accordance with the impact fee procedures in Section 82-21 *et. seq.*

- (a) *Administrative Appeal.* The developer/applicant may file an administrative appeal with the County Administrator with respect to a County or municipal decision related to the imposition, calculation, collection, processing, or expenditure of a road facilities development impact fee, at any time; provided, however, that such appeal must comply with the provisions and requirements of the County impact fee procedures set forth in Section 82-21 *et. seq.* If the appeal follows payment of the development impact fee, it must be made within 30 days of the date of fee payment. The filing of an appeal will immediately halt the development approval process, unless the developer/applicant posts a bond or submits an irrevocable letter of credit for the full amount of the impact fees as calculated by the County or participating municipality to be due.
- (b) *Payment under Protest.* The developer/applicant may pay the County-calculated or municipality-calculated development impact fees under protest, pursuant to the County impact fee procedures in Section 82-21 *et. seq.* Payment under protest does not preclude the developer/applicant from filing an administrative appeal, nor from requesting a refund, nor from posting a bond or submitting an irrevocable letter of credit for the amount of the development impact fees as calculated by the County or municipality to be due,
- (c) *Mediation.* The developer/applicant may request mediation by a qualified independent party, but only upon voluntary agreement by both the developer/applicant (fee payor) as well as the County (and, if applicable, municipality) and only to address a disagreement related to the road facilities development impact fees, as calculated by the County or municipality, for the proposed development. Neither request for, nor participation in, mediation shall preclude the developer/applicant (fee payor) from pursuing other developer rights and/or remedies, as set forth in this article, the County impact fee procedures in Section 82-21 *et seq.*, or other remedies available by law.

**Sec. 82-92. - County Remedies.**

- (a) The County and the participating municipalities (to the extent authorized in the intergovernmental agreements with the County), and pursuant to the State Development Impact Fee Act and the County

impact fee procedures in Section 82-21 *et seq.*, shall have all of the following remedies, which may be exercised individually or collectively.

- (1) *Interest and Penalties.* The County or participating municipality may, in its sole discretion, add reasonable interest and penalties for nonpayment or late payment to the amount of the calculated road facilities development impact fees due, pursuant to the impact fee procedures in Section 82-21 *et seq.*
  - (2) *Withholding Building or Development Permit or Development Approval or Certificate of Occupancy.* The County or participating municipality may withhold a certificate of occupancy, a building or development permit, or development approval, as may be applicable, until full and complete payment has been made by the developer/applicant of the County-calculated or municipality-calculated road facilities development impact fees due.
  - (3) *Lien.* The County may impose a lien on the developer's property, pursuant to the impact fee procedures set forth in Section 82-21 *et seq.*, for failure of the developer/applicant to timely pay the required County-calculated or municipality-calculated road facilities development impact fees in full.
- (b) The County or participating municipality may pursue any one or all of the remedies described in subsection (a) of this section at its discretion. The failure to pursue any remedy, at any time, shall not be deemed to be a waiver of County or municipal rights to pursue any remedy at such other time as may be deemed appropriate.

**Sec. 82-93. – Refund of Fees.**

(a) A collected road facilities development impact fee shall be refunded to the owner of record of property on which a road facilities development impact fee has been paid if:

(1) The road facilities development impact fee revenues collected on the property have not been expended within three years of the date they were scheduled to be expended, pursuant to the road facilities development impact fee study and CIP; or

(2) A building permit or permit for installation of a manufactured home on the property is subsequently denied.

(b) The amount, timing, and recipient of any refund required by this article of collected road facilities development impact fees shall comply with the standards of Sec. 82-35.

**Sec. 82-94. - Intergovernmental Agreement.**

Prior to collection of a road facilities development impact fee pursuant to this article within a participating municipality, the County shall enter into an intergovernmental agreement with the participating municipality., Each intergovernmental agreement shall:

- (a) Specify the reasonable share of funding joint system improvements for road facility system improvements by each governmental unit or entity; and
- (b) Provide for the collection of the road facilities development impact fee by the municipality within its corporate limits, and by the County within the unincorporated County; and
- (c) Provide for the timely transfer of road facilities development impact fee funds from the municipality to the County; and
- (d) Provide for the timely expenditure of the road facilities development impact fee funds by the County, in accordance with the CIP.

**Sec. 82-95. - Termination of the Road Facilities Development Fee.**

The road facilities development impact fees shall be terminated upon the completion/conclusion of all of the road facilities development impact fee-funded capital improvements, as set forth in the CIP, unless:

- (a) The County adopts a CIP for a subsequent time period; or

- (b) The County adopts an updated road facilities development impact fee pursuant to the substantive and procedural requirements of the State Development Impact Fee Act.

**Secs. 82-96—82-110. - Reserved.**

## EXHIBIT E

### ARTICLE V. – LIBRARY FACILITIES—NORTHERN AND SOUTHERN BEAUFORT COUNTY SERVICE AREAS

#### Sec. 82-111. - Adoption.

Pursuant to the impact fee procedures in Section 82-21 *et seq.*, the library development impact fee is adopted and imposed in accordance with the procedure and requirements of this article and the intergovernmental agreement(s) the County has entered into with the participating municipalities.

#### Sec. 82-112. – Establishment of Service Area.

There are two service areas for library development impact fees. They are the South Beaufort County Library Service Area and the North Beaufort County Library Service Area. The South Beaufort County Library Service Area includes those parts of the County south of the Broad River. The North Beaufort County Library Service Area includes those parts of the County north of the Broad River. The boundaries of these services areas are identified in Figure 82-112: Beaufort County Library Service Areas.

FIGURE 82-112: BEAUFORT COUNTY LIBRARY SERVICE AREAS



#### Sec. 82-113. - Incorporation of Support Study.

The County and the participating municipalities hereby rely on the level of service standard, land use assumptions, methodologies, service units, system improvement costs, formula, and analyses for the

library development impact fees for library facility system improvements set out in *Capital Improvement Plan and Development Impact Fee Study* prepared by TischlerBise, dated July 27, 2020 (hereinafter “library development impact fee study and CIP”). The library development impact fee study and CIP are incorporated herein by reference. The library development impact fee study and CIP sets forth a reasonable level of service standard, land use assumptions, methodologies, service units, system improvement costs, and formulas for determining the impacts of new residential development on the South Beaufort County Library Service Area and the North Beaufort County Library Service Area.

**Sec. 82-114. – Imposition of Library Development Impact Fees**

- (a) Pursuant to this article and the appropriate intergovernmental agreement(s) between the County and the participating municipalities, and in accordance with the impact fee procedures in Section 82-21 *et seq.*, the State Development Impact Fee Act, and the library development impact fee study and CIP, library development impact fees shall be imposed in the South Beaufort County Library Service Area and the North Beaufort County Library Service Area.
- (b) The library development impact fee shall be imposed on all new residential development (dwelling units) in the County, unless the residential development is exempted, or an exception or waiver is granted pursuant to Sec. 82-32(b), Development Not Subject to Development Impact Fees, or Sec. 82-33(b)(3)c. A library development impact fee shall only be imposed if a new dwelling unit is developed.
- (c) The library development impact fee in the unincorporated County and within a participating municipality shall be paid prior to issuance of a building permit, or if a building permit is not required, prior to construction of the dwelling unit, or prior to issuance of a development permit for the dwelling unit, as appropriate.

**Sec. 82-115. – Library Impact Fee Schedule.**

- (a) Pursuant to this article and the appropriate intergovernmental agreement(s) between the County and the participating municipalities, and in accordance with the County impact fee procedures set forth in Section 82-21 *et seq.*, the State Development Impact Fee Act, and the library development impact fee study and CIP, library development impact fees shall be imposed in the South Beaufort County Library Service Area and the North Beaufort County Library Service Area.
- (b) The following general procedure shall be followed upon receipt of an application for a building permit for new development:
  - (1) Identify the applicable service area (South Beaufort County Library Service Area or North Beaufort County Library Service Area) based on the development’s location;
  - (2) Determine if any of the dwelling units qualify for a discount as “affordable housing” in accordance with Sec. 82-33(b)(3)c, and if so the number of those dwelling units and the amount of the discount;
  - (3) Determine whether the applicant has applied for an Individual Assessment of Development Impact in accordance with Sec. 82-116,
  - (4) If an Individual Assessment of Development Impact is not approved, or not applied for, identify the number of dwelling units, and the square feet in size of each dwelling unit, and then apply the fee schedule in Table 82-115: Library Development Impact Fee Schedule, by Service Area, to each dwelling unit; or
  - (5) If an Individual Assessment of Development Impact is accepted, pay the fee based on the approved Individual Assessment of Development Impact.

<b>TABLE 82-115: LIBRARY DEVELOPMENT IMPACT FEE SCHEDULE, BY SERVICE AREA</b>
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<b>Housing Unit Size</b>	<b>North Beaufort County Library Service Area Impact Fee</b>	<b>South Beaufort County Library Service Area Impact Fee</b>
1,000 sf or less	\$225	\$151
1,001 to 1,250 sf	\$273	\$189
1,251 to 1,500 sf	\$321	\$227
1,501 to 1,750 sf	\$369	\$252
1,751 to 2,000 sf	\$401	\$278
2,001 to 2,500 sf	\$466	\$316
2,501 to 3,000 sf	\$498	\$353
3,001 to 3,500 sf	\$546	\$379
3,501 to 4,000 sf	\$578	\$404
4,001 or more sf	\$610	\$417

**Sec. 82-116. - Individual Assessment of Development Impact.**

- (a) In-lieu of calculating the library facilities development impact fees by reference to the fee schedule in Table 82-115, Library Development Impact Fee Schedule, by Service Area, a fee payor may request that the amount of the required library development impact fees be determined by reference to an Individual Assessment of Development Impact for the proposed development.
- (b) If a fee payor requests the use of an Individual Assessment of Development Impact, the fee payor shall be responsible for retaining a qualified professional to prepare the Individual Assessment of Development Impact that complies with the requirements of this section, at the fee payor's expense.
- (c) Each Individual Assessment of Development Impact shall be based on the same level of service standard and system improvement costs for library facilities used in the library development impact fee study and CIP, shall use the formula for calculating the development impact fees used in the library development impact fee study and CIP, and shall document the relevant methodologies and assumptions used. The burden shall be on the fee payor requesting the Individual Assessment of Development Impact to demonstrate by competent evidence that the data and assumptions used in the appropriate support study and reflected in Table 82-115: Library Development Impact Fee Schedule, by Service Area, is less accurate than the results of the Individual Assessment of Development Impact.
- (d) Each Individual Assessment of Development Impact shall be submitted to the Planning Director or a designee, and may be accepted, rejected, or accepted with modifications by the Planning Director or a designee as the basis for calculating library development impact fees. If an Individual Assessment of Development Impact is accepted or accepted with modifications by the Director or a designee as a more accurate measure of the demand for library facility system improvements created by the proposed development than the applicable fee in Table 82-115: Library Development Impact Fee Schedule, by Service Area, then library development impact fees due under this Ordinance shall be calculated according to such assessment.

**Sec. 82-117. – Credits.**

- (a) Any developer/fee payor which is obligated to pay a library development impact fee under this section may apply for credit against library development impact fees otherwise due, up to but not exceeding the full obligation for the fees proposed to be paid pursuant to the provisions of this Ordinance for any land dedication, construction, or contribution for library facility system improvements that are accepted by the County Council for library facility system improvements identified in the CIP.



(b) *Valuation of Credits*

- (1) Credit for land dedication for library facility system improvements, at the fee payor's option, shall be valued at either (a) 100 percent of the most recent assessed value for such land as shown in the records of the County Assessor, or (b) the fair market value of the land established by a private appraiser acceptable to the County Council in an appraisal paid for by the fee payor.
- (2) Credit for construction of library facility system improvements shall be valued by the County Council based on construction costs estimates submitted by the fee payor. The County Council shall determine the amount of credit due based on the information submitted, or, if it determines the information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the County Council.
- (3) Credit for a contribution for library facility system improvements shall be based on the value of the contribution at the time it is made by the fee payor.

(c) *When Credits Become Effective*

- (1) Credits for land dedication for library facility system improvements shall become effective after the credit is approved by the County Council pursuant to this section, a Credit Agreement/Development Agreement is entered into, and (a) the land has been conveyed to the County in a form established by the County at no cost to the County, and (b) the dedication of land has been accepted by the County.
- (2) Credits for construction of library facility system improvements shall become effective after the credit is approved by County Council pursuant to this section, a Credit Agreement/Development Agreement is entered into, a suitable maintenance and warranty bond has been received and approved by the County Council, and all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable County requirements.
- (3) Credits for contributions shall become effective after the contribution is approved by the County Council or applicable municipal legislative body pursuant to this section, and the contribution is provided to and accepted by the County Council or applicable municipal legislative body.
- (4) Credits for land dedication, construction of library facility system improvements, or contributions, shall be transferable within the same development for library development impact fee purposes, but shall not be transferable outside the development or used as credit against fees for other public facilities. Credit may be transferred pursuant to these terms and conditions by any written instrument that clearly identifies which credits issued under this section are to be transferred. The instrument shall be signed by both the transferor and transferee, and the document shall be delivered to the County Council for registration.
- (5) The total amount of the credit shall not exceed the amount of the library development impact fees due and payable for the project.
- (6) If the offer for credit is approved, a Credit Agreement/Development Agreement shall be prepared and signed by the applicant and the County Council. The Credit Agreement/Development Agreement shall specifically outline the land dedication, construction, or contribution for library facility system improvements, the time by which they shall be completed or dedicated and any extensions thereof, and the value (in dollars) of the credit against the library development impact fees the fee payor shall receive.
- (7) The County Council may enter into a Capital Contribution Front-Ending Agreement with any developer/fee payor who proposes to dedicate land or construct library facility system improvements in the CIP, to the extent the fair market value of the land or the construction of those library facility system improvements exceed the obligation to pay library development impact fees for which a credit is provided pursuant to this section. The Capital Contribution Front-Ending Agreement shall provide proportionate and fair share reimbursement linked to new growth and development's use of the library facility system improvements constructed.

**Sec. 82-118. -Trust Account for Library Development Impact Fees.**

The County and the participating municipalities hereby establish segregated Library Development Impact Fee Trust Accounts. All library development impact fees collected by the County and the participating municipalities shall be placed in their respective Trust Account. By November 1 of each year, the participating municipalities shall transfer the library development impact fees they collect to the County. Upon receipt, the County shall place these impact fee funds in its Library Development Impact Fee Trust Account. Each Trust Account shall be interest-bearing and all interest earned and accruing to the account shall become funds of the account, subject to the same limitations and restrictions on use and expenditure of funds that are applicable to library development impact fee funds.

**Sec. 82-119. - Expenditure of Fees for Library Facility System Improvements.**

Library development impact fee funds shall be used by the County in accordance with the development impact fee procedures in Section 82-21 *et seq.*, solely and exclusively for library facility system improvements as set forth in the library development impact fee study and CIP. System improvements generally include the following: acquisition of land for libraries, expansion to existing library buildings and related facilities, and bookmobiles.

**Sec. 82-120. - Development Agreement Option.**

- (a) The developer may pay the library development impact fee, as calculated pursuant to Section 82-115, as the proposed development project's proportionate share of system improvement costs and as full and complete payment of such obligations. In the alternative, a developer may enter into a development agreement with the County pursuant to the State Local Government Development Agreement Act and provide for dedication of land, construction of buildings and related facilities, bookmobiles, and/or for payments in- lieu of development impact fees for library facilities through a development agreement.
- (b) A library development impact fee may not be imposed on a developer who has entered into a development agreement with the County that provides for the library facility system improvement needs of the developer's development project that is subject to the development agreement.
- (c) A development agreement for library facility system improvements may only be entered into with the authorization and approval of both the County and the developer.

**Sec. 82-121. - Developer Rights.**

The developer, pursuant to the State Development Impact Fee Act and the County impact fee procedures in Section 82-21 *et seq.*, shall have the following rights:

- (a) *Administrative Appeal.* The developer/applicant may file an administrative appeal with the County Administrator with respect to a municipal or County decision related to the imposition, calculation, collection, processing, or expenditure of library development impact fees, at any time; provided, however, that such appeal must comply with the provisions and requirements of the County impact fee procedures set forth in Section 82-21 *et seq.* If the appeal follows payment of the development impact fee, it must be made within 30 days of the date of fee payment. The filing of an appeal will immediately halt the development approval process, unless the developer/applicant posts a bond or submits an irrevocable letter of credit for the full amount of the impact fees as calculated by the County or participating municipality to be due.
- (b) *Payment under Protest.* The developer/applicant may pay the County-calculated or municipality-calculated development impact fees under protest, pursuant to the County impact fee procedures in Section 82-21 *et seq.* Payment under protest does not preclude the developer/applicant from filing an administrative appeal nor from requesting a refund, nor from posting a bond or submitting an irrevocable letter of credit for the amount of the development impact fee due, all as set forth in the impact fee procedures in Section 82-21 *et seq.*
- (c) *Mediation.* The developer/applicant may request mediation by a qualified independent party, but only upon voluntary agreement by both the developer/applicant (fee payor) as well as the County (and, if applicable, municipality) and only to address a disagreement related to the library development impact fee, as calculated by the County or municipality, for the proposed development. Neither request for,

nor participation in, mediation shall preclude the developer/applicant (fee payor) from pursuing other developer rights and/or remedies, as set forth in this article, the County impact fee procedures in Section 82-21 *et seq.*, or other remedies available by law

**Sec. 82-122. - County Remedies.**

- (a) The County and a participating municipality (to the extent authorized in the intergovernmental agreements with the County), pursuant to the State Development Impact Fee Act, and the County impact fee procedures as set forth in Section 82-21 *et seq.*, shall have all of the following remedies, which may be exercised individually or collectively:
  - (1) *Interest and Penalties.* The County or participating municipality may, in its sole discretion, add reasonable interest and penalties for nonpayment or late payment to the amount of the calculated library development impact fees due, pursuant to the impact fee procedures in Section 82-21 *et seq.*
  - (2) *Withholding Building or Development Permit or Development Approval or Certificate of Occupancy.* The County or participating municipality may withhold a certificate of occupancy, a building or development permit, or development approval, as may be applicable, until full and complete payment has been made by the developer/applicant of the library development impact fee due.
  - (3) *Lien.* The County may impose a lien on the developer's property, pursuant to the impact fee procedures in Section 82-21 *et seq.* for failure of the developer/applicant to timely pay the required library development impact fee in full.
- (b) The County or participating municipality may pursue any one or all of the remedies described in subsection (a) of this section, at its discretion. The failure to pursue any remedy or remedies, at any time, shall not be deemed to be a waiver of County or municipal rights to pursue any remedy or remedies at such other time as may be deemed appropriate.

**Sec. 82-123. – Refund of Fees.**

(a) A collected library development impact fee shall be refunded to the owner of record of property on which a library development impact fee has been paid if:

(1) The library impact fee revenues collected on the property have not been expended within three years of the date they were scheduled to be expended, pursuant to the library development impact fee study and CIP; or

(2) A building permit or permit for installation of a manufactured home on the property is subsequently denied.

(b) The amount, timing, and recipient of any refund required by this article of collected library development impact fees shall comply with the standards of Sec. 82-35.

**Sec. 82-124. - Intergovernmental Agreements.**

Prior to collection of the library development impact fee in a participating municipality, the County shall enter into an intergovernmental agreement with the participating municipality. Each intergovernmental agreement shall:

- (a) Specify the reasonable share of funding joint system improvements for library facility system improvements by each governmental unit; and
- (b) Provide for the collection of the library development impact fee by the municipality within its corporate limits and by the County within the unincorporated area; and
- (c) Provide for the timely transfer of library development impact fee funds from the municipality to the County; and
- (d) Provide for the timely expenditure of the library development impact fee funds by the County, in accordance with the CIP.

**Sec. 82-125. - Termination of the Library Development Fee.**

The library development impact fee shall be terminated upon the completion/conclusion of all of the library development impact fee-funded capital improvements as set forth in the CIP, unless:

- (a) The County adopts a CIP for a subsequent time period; or
- (b) The County adopts an updated library development impact fee pursuant to the substantive and procedural requirements of the State Development Impact Fee Act.

**Secs. 82-126—82-130. – Reserved**

## EXHIBIT F

### ARTICLE VI. – FIRE FACILITIES—NORTHERN AND SOUTHERN BEAUFORT COUNTY SERVICE AREAS

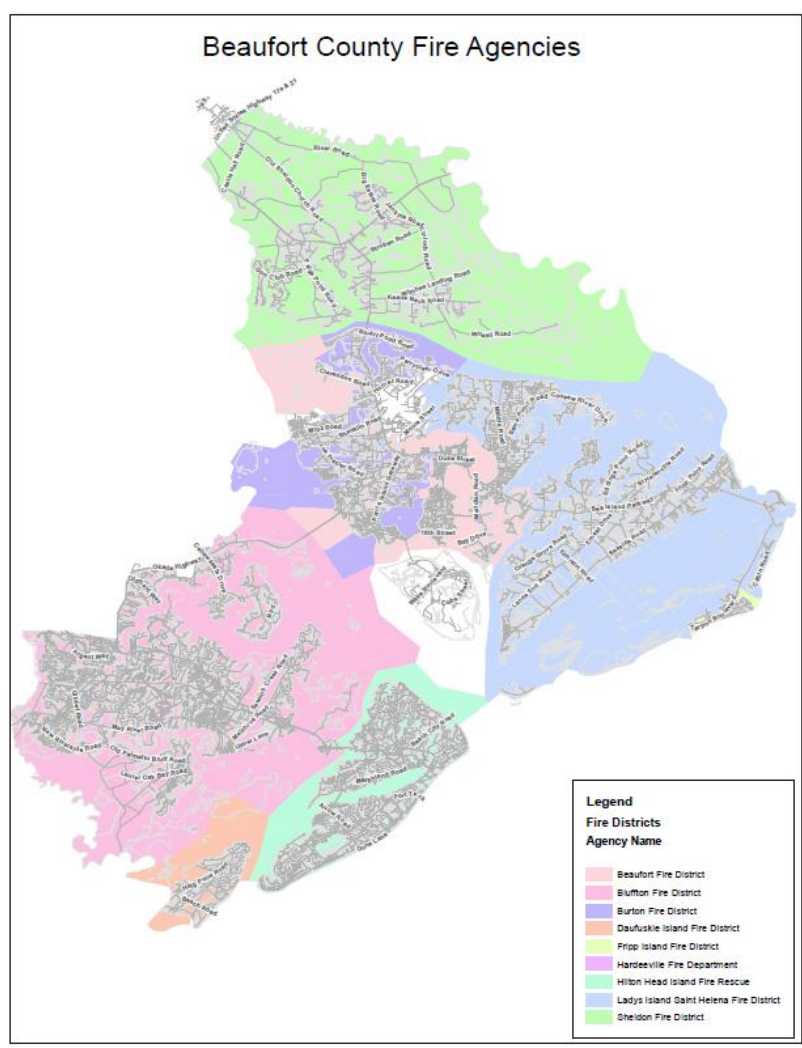
#### Sec. 82-131. - Adoption.

Pursuant to the impact fee procedures in Section 82-21 et seq., the fire facilities development impact fee is adopted and imposed on all new development in the County in accordance with the procedures and requirements of this article and the intergovernmental agreement(s) the County has entered into with the participating municipalities.

#### Sec. 82-132. - Establishment of Service Area.

There are two service areas for fire facilities development impact fees. They are the Bluffton Fire District Service Area and the North Beaufort County Fire District Service Area. The Bluffton Fire District Service Area includes the Bluffton Township Fire District. The North Beaufort County Fire Service Area includes the Burton, Lady's Island St. Helena, and Sheldon fire districts. The boundaries of these services areas are identified in Figure 82-132: Beaufort County Fire Facilities Service Areas.

FIGURE 82-132: BEAUFORT COUNTY FIRE DISTRICTS



**Sec. 82-133. – Incorporation of Support Study.**

The County and the participating municipalities hereby rely on the level of service standard, land use assumptions, methodologies, service units, system improvement costs, formula, and analyses for fire facilities development impact fees for fire facility system improvements set out in *Capital Improvement Plan and Development Impact Fee Study* prepared by TischlerBise, dated July 27, 2020 (hereinafter “fire facilities development impact fee study and CIP”). The fire facilities development impact fee study and CIP are incorporated herein by reference. The fire facilities development impact fee study and CIP sets forth a reasonable level of service standard, land use assumptions, methodologies, service units, system improvement costs, and formulas for determining the impacts of new development on the Bluffton Fire District Service Area and the North Beaufort County Fire Service Area.

**Sec. 82-134. - Imposition of Fire Facilities Development Impact Fees.**

- (a) The fire facilities development impact fees shall be imposed on all new development in the service areas, unless the development is exempted, or an exception or waiver is granted pursuant to Sec. 82-32(b), Development Not Subject to Development Impact Fees, or Sec. 82-33(b)(3)c.
- (b) The fire facilities development impact fee in the unincorporated County and within a participating municipality shall be paid prior to issuance of a building permit, or if a building permit is not required prior to construction, or prior to issuance of a development permit.

**Sec. 82-135 – Fire Facilities Development Impact Fee Schedule.**

- (a) Pursuant to this article and the appropriate intergovernmental agreement(s) between the County and the participating municipalities, and in accordance with the County impact fee procedures set forth in Section 82-21 *et seq.*, the South Carolina Development Impact Fee Act, and the fire facilities development impact fee study and CIP, fire facilities development impact fees shall be imposed in the Bluffton Fire District Service Area and the North Beaufort County Fire Service Area.
- (b) The following general procedure shall be followed upon receipt of an application for a building permit or development permit, whichever is applicable, for new development:
  - (1) Identify the applicable service area (Bluffton Fire District Service Area or North Beaufort County Fire Service Area) based on the development’s location;
  - (2) Determine if any of the dwelling units qualify for a discount as “affordable housing” in accordance with Sec. 82-33(b)(3)c and if so the number of those dwelling units and the amount of the discount;
  - (3) Determine if any of the nonresidential development qualifies for a waiver of the fire facilities development impact fee due to the inclusion of automatic sprinklers, where otherwise not required by the applicable County fire code or fire district codes and regulations.
  - (3) Determine whether the applicant has applied for an Individual Assessment of Development Impact in accordance with Sec. 82-136.
  - (4) If an Individual Assessment of Development Impact is not approved, or not applied for, calculate the fee as follows:
    - a. For residential development, identify the number of dwelling units, and the square feet in size of each dwelling unit, then apply the fee schedule in Table 82-135a: Fire Facilities Development Impact Fee Schedule for Residential Development, by Service Area, to each dwelling unit; and

<b>TABLE 82-135a: FIRE FACILITIES DEVELOPMENT IMPACT FEE SCHEDULE FOR RESIDENTIAL DEVELOPMENT, BY SERVICE AREA</b>		
<b>Housing Unit Size</b>	<b>Bluffton Fire District Service Area</b>	<b>North Beaufort County Fire Service Area</b>
1,000 sf or less	\$477	\$601
1,001 to 1,250 sf	\$600	\$742
1,251 to 1,500 sf	\$715	\$872
1,501 to 1,750 sf	\$791	\$1,001
1,751 to 2,000 sf	\$877	\$1,084
2,001 to 2,500 sf	\$991	\$1,260
2,501 to 3,000 sf	\$1,115	\$1,343
3,001 to 3,500 sf	\$1,191	\$1,473
3,501 to 4,000 sf	\$1,267	\$1,555
4,001 or more sf	\$1,315	\$1,649

- b. For nonresidential development, determine the fire hazard level of the development, and apply the fee schedule per 1,000 square foot of development in Table 82-135b: Fire Facilities Development Impact Fee Schedule for Nonresidential Development, assigning a fee of \$953 for each Equivalent Dwelling Unit (EDU) (or fraction thereof) in the Bluffton Fire District Service Area, and \$1,178 for each EDU (or fraction thereof) in the North Beaufort County Fire Service Area.. (For purposes of this article, fire hazard level means and refers to the extent to which a building or structure contributes to the demand for fire stations, facilities and apparatus, as set forth in the applicable capital improvements plan for the fire district, based on a variety of factors as set forth in Table 10-4A of the Fire Protection Handbook (National Fire Protection Association, 1992)). Fire hazard levels are defined as low hazard occupancies, medium hazard occupancies, or high hazard occupancies.

<b>TABLE 82-135b: FIRE FACILITIES DEVELOPMENT IMPACT FEE SCHEDULE FOR NONRESIDENTIAL DEVELOPMENT</b>				
<b>Fire Hazard Level</b>	<b>Up to 1,000 sq ft</b>	<b>1,001 to 5,000 sq ft</b>	<b>5,001 to 10,001 sq ft</b>	<b>10,000 sq ft and larger</b>
	Base Minimum	Additional per 1,000 sq ft		
Low Hazard	1.0 EDU	0.8 EDU	0.5 EDU	0.1 EDU
Medium Hazard	1.5 EDU	1.2 EDU	0.75 EDU	0.15 EDU
High Hazard	2.0 EDU	1.6 EDU	1.0 EDU	0.2 EDU

- (5) If an Individual Assessment of Development Impact is accepted, pay the fee based on the approved Individual Assessment of Development Impact.

**Sec. 82-136. - Individual Assessment of Development Impact.**

- (a) In-lieu of calculating the fire facilities development impact fee by reference to the fee schedule in Table 82-135a: Fire Facilities Development Impact Fee Schedule for Residential Development, by Service Area, or Table 82-135b: Fire Facilities Development Impact Fee Schedule for Nonresidential Development, by Service Area, a fee payor may request that the amount of the required fire facilities development impact fees be determined by reference to an Individual Assessment of Development Impact for the proposed development.
- (b) If a fee payor requests the use of an Individual Assessment of Development Impact, the fee payor shall be responsible for retaining a qualified professional to prepare the Individual Assessment of Development Impact that complies with the requirements of this section, at the fee payor's expense.
- (c) Each Individual Assessment of Development Impact shall be based on the same level of service standard and system improvement costs for fire facilities for the service areas used in the fire facilities development impact fee study and CIP, shall use the formula for calculating the development impact fees used in the fire facilities development impact fee study and CIP (no adjustments in the assumption of credits shall be made), and shall document the relevant methodologies and assumptions used. The burden shall be on the fee payor requesting the Individual Assessment of Development Impact to demonstrate by competent evidence that the data and assumptions used in the fire facilities development impact fee study and CIP and reflected in Table 82-135a: Fire Facilities Development Impact Fee Schedule for Residential Development, by Service Area, and/or Table 82-135b: Fire Facilities Development Impact Fee Schedule for Nonresidential Development, by Service Area, is less accurate than the results of the Individual Assessment of Development Impact.
- (d) Each Individual Assessment of Development Impact shall be submitted to the Planning Director or a designee, and may be accepted, rejected, or accepted with modifications by the Planning Director or a designee as the basis for calculating fire facilities development impact fees. If an Individual Assessment of Development Impact is accepted or accepted with modifications by the Director or a designee as a more accurate measure of the demand for fire facility system improvements created by the proposed development than the applicable fee in Table 82-135a: Fire Facilities Development Impact Fee Schedule for Residential Development, by Service Area, and/or Table 82-135b: Fire Facilities Development Impact Fee Schedule for Nonresidential Development, by Service Area, then the fire facilities development impact fees due under this article shall be calculated according to such assessment.

**Sec. 82-137. - Credits.**

- (a) Any developer/fee payor which is obligated to pay a fire facilities development impact fee under this section may apply for credit against fire facilities development impact fees otherwise due, up to but not exceeding the full obligation for the fees proposed to be paid pursuant to the provisions of this Ordinance for any land dedication, construction, or contribution for fire facility system improvements that are accepted by the County Council for fire facility systems improvements identified in the CIP.
- (b) *Valuation of Credits*
  - (1) Credit for land dedication for fire facility system improvements, at the fee payor's option, shall be valued at either (a) 100 percent of the most recent assessed value for such land as shown in the records of the County Assessor, or (b) the fair market value of the land established by a private appraiser acceptable to the County Council in an appraisal paid for by the fee payor.
  - (2) Credit for construction of fire facility system improvements shall be valued by the County Council based on construction costs estimates submitted by the fee payor. The County Council shall determine the amount of credit due based on the information submitted, or, if it determines the information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the County Council.
  - (3) Credit for a contribution for fire facility system improvements shall be based on the value of the contribution at the time it is made by the fee payor.



(c) *When Credits Become Effective*

- (1) Credits for land dedication for fire facilities shall become effective after the credit is approved by County Council pursuant to this section, and a Credit Agreement/Development Agreement is entered into, and (a) the land has been conveyed to the County or applicable Fire District in a form established by the County or applicable Fire District at no cost to the County or applicable Fire District, and (b) the dedication of land has been accepted by the County or applicable Fire District.
- (2) Credits for construction of fire facility system improvements shall become effective after the credit is approved by County Council or applicable Fire District pursuant to this section when (a) a Credit Agreement/Development Agreement is entered into, (b) a suitable maintenance and warranty bond has been received and approved by the County Council or applicable municipal legislative body, and (c) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable County requirements (or Fire District requirements, as applicable).
- (3) Credits for contributions shall become effective after the contribution is approved by the County Council or applicable Fire District pursuant to this section, and the contribution is provided to and accepted by the County Council or applicable Fire District.
- (4) Credits for land dedication, construction of fire facility system improvements, or contributions, shall be transferable within the same development for fire facilities development impact fee purposes, but shall not be transferable outside the development or used as credit against fees for other public facilities. Credit may be transferred pursuant to these terms and conditions by any written instrument that clearly identifies which credits issued under this section are to be transferred. The instrument shall be signed by both the transferor and transferee, and the document shall be delivered to the County Council for registration.
- (5) The total amount of the credit shall not exceed the amount of the fire facilities development impact fees due and payable for the project.
- (6) If the offer for credit is approved, a Credit Agreement/Development Agreement shall be prepared and signed by the applicant and the County Council or applicable Fire District. The Credit Agreement/Development Agreement shall specifically outline the land dedication, construction, or contribution for fire facility system improvements, the time by which they shall be completed or dedicated and any extensions thereof, and the value (in dollars) of the credit against the fire facilities development impact fees the fee payor shall receive.
- (7) The County Council or applicable municipal legislative body may enter into a Capital Contribution Front-Ending Agreement with any developer/fee payor who proposes to dedicate land or construct fire facility system improvements in the CIP, to the extent the fair market value of the land or the construction of those fire facility system improvements exceed the obligation to pay fire facilities development impact fees for which a credit is provided pursuant to this section. The Capital Contribution Front-Ending Agreement shall provide proportionate and fair share reimbursement linked to new growth and development's use of the fire facility system improvements constructed.

**Sec. 82-138. - Trust Account for Fire Facilities Development Impact Fees.**

The County and the participating municipalities hereby establish segregated Fire Facilities Development Impact Fee Trust Accounts. All fire facilities development impact fees collected by the County and the participating municipalities shall be placed in their respective Trust Accounts. By November 1 of each year, the participating municipalities shall transfer the fire facilities development impact fees they collect to the County. Upon receipt, the County shall place these impact fee funds in its Fire Facilities Development Impact Fee Trust Account. Each Trust Fund shall be an interest-bearing account and all interest earned and accruing to the account shall become funds of the account, subject to the same limitations and restrictions on use and expenditure of funds that are applicable to fire facilities development impact fee funds.

**Sec. 82-139. - Expenditure of Fees for Fire Facility System Improvements.**

Fire facilities development impact fees shall be used by the County in accordance with the development impact fee procedures in Section 82-21 *et seq.*, solely and exclusively for fire facility system improvements as set forth in the parks and recreation development impact fee study and CIP. System improvements generally include the following: new fire stations; fire station renovations that constitute fire station expansions; and major fire apparatus and equipment, such as pumper trucks, tanker trucks, telesquirt trucks, ladder trucks, and the like.

**Sec. 82- 140. - Development Agreement Option.**

- (a) The developer may pay the fire facilities development impact fee, as calculated pursuant to Section 82-134, as the proposed development project's proportionate share of system improvement costs and as full and complete payment of such obligations. In the alternative, the developer may enter into an agreement with the County or a participating municipality pursuant to the South Carolina Local Government Development Agreement Act, and provide for dedication of land, construction of fire facility improvements (new or renovated fire stations that constitute expansions), contributions of major fire apparatus and equipment, or contributions for fire facility system improvements, through a development agreement.
- (b) A fire facilities development impact fee may not be imposed on a developer who has entered into a development agreement with the county who provides for the fire facility system improvement needs of the developer's development project that is subject to the development agreement.
- (c) A development agreement for fire facilities may only be entered into with the authorization and approval of both the county and the developer, or the participating municipality and developer, after consultation with the applicable Fire District and with the formal approval of its governing body.

**Sec. 82-141. - Developer Rights.**

The developer, pursuant to the State Development Impact Fee Act and the County impact fee procedures in Section 82-21 *et seq.*, shall have the following rights, any or all of which may be exercised only in accordance with the impact fee procedures in Section 82-21 *et seq.*

- (a) *Administrative appeal.* The developer/applicant may file an administrative appeal with the County Administrator with respect to a County or municipal decision related to the imposition, calculation, collection, processing, or expenditure of a fire facilities development impact fee, at any time; provided, however, that such appeal must comply with the provisions and requirements of the County impact fee procedures set forth in Section 82-21 *et seq.* The filing of an appeal will immediately halt the development approval process, unless the developer/applicant posts a bond or submits an irrevocable letter of credit for the full amount of the impact fees as calculated by the County or participating municipality to be due.
- (b) *Payment under protest.* The developer/applicant may pay the County-calculated or municipal-calculated development impact fee under protest, pursuant to the County impact fee procedures in Section 82-21 *et seq.* Payment under protest does not preclude the developer/applicant from filing an administrative appeal, from requesting a refund, or from posting a bond or submitting an irrevocable letter of credit for the full amount of the development impact fees as calculated by the County or municipality to be due.
- (c) *Mediation.* The developer/applicant may request mediation by a qualified independent party, but only upon voluntary agreement by both the developer/applicant (feepayer) as well as the County (and, if applicable, municipality) and the applicable fire district, and only to address a disagreement related to the fire facilities development impact fee, as calculated by the County or municipality, for the proposed development. Neither request for, nor participation in, mediation shall preclude the developer/applicant (feepayer) from pursuing other developer rights and/or remedies, as set forth in this article, the County impact fee procedures in Section 82-21 *et seq.*, or other remedies available by law.

**Sec. 82-142. - County remedies.**

- (a) The County and the participating municipalities (to the extent authorized in the intergovernmental agreements with the County), pursuant to the State Development Impact Fee Act and the County

Impact Fee procedures in Section 82-21 *et seq.*, shall have all of the following remedies, which may be exercised individually or collectively.

- (1) *Interest and Penalties.* The County or participating municipality may, in its sole discretion, add reasonable interest and penalties for nonpayment or late payment to the amount of the calculated fire facilities development impact fee due, pursuant to the impact fee procedures in Section 82-21 *et seq.*
  - (2) *Withholding Building or Development Permit or Development Approval or Certificate of Occupancy.* The County or participating municipality may withhold a certificate of occupancy, a building or development permit, or development approval, as may be applicable, until full and complete payment has been made by the developer/applicant of the fire facilities development impact fee due.
  - (3) *Withholding of Utility Service.* The County or participating municipality may withhold the provision of utility services to a proposed development project until the required fire facilities development impact fee has been paid in full, in accordance with the procedures set forth in the impact fee procedures in Section 82-21 *et seq.*
  - (4) *Lien.* The County may impose a lien on the developer's property, pursuant to the impact fee procedures in Section 82-21 *et seq.*, for failure of the developer/applicant to timely pay the required fire facilities development impact fee in full.
- (b) The County or participating municipality may pursue any one or all of the remedies described in subsection (a) of this section, at its discretion. The failure to pursue any remedy or remedies, at any time, shall not be deemed to be a waiver of County or municipal rights to pursue any remedy or remedies at such other time as may be deemed appropriate.

**Sec. 82-143. – Refund of Fees.**

(a) A collected fire facilities development impact fee shall be refunded to the owner of record of property on which a fire facilities development impact fee has been paid if:

(1) The fire facilities development impact fee revenues collected on the property have not been expended within three years of the date they were scheduled to be expended, pursuant to the fire facilities development impact fee study and CIP; or

(2) A building permit or permit for installation of a manufactured home on the property is subsequently denied.

(b) The amount, timing, and recipient of any refund required by this article of fire facilities development impact fees shall comply with the standards of Sec. 82-35.

**Sec. 82-144. - Intergovernmental Agreements.**

Prior to collection of a fire facilities development impact fee in a fire district pursuant to this article, the County and the fire district shall enter into an intergovernmental agreement, and the County and the participating municipalities in the relevant fire district service area shall enter into intergovernmental agreements. Each intergovernmental agreement between the County and participating municipality shall:

- (a) Specify the reasonable share of funding of joint system improvements for fire facility system improvements by each governmental unit or entity; and
- (b) Provide for the collection of the fire facilities development impact fee by the municipality within its corporate limits and by the County within the unincorporated County; and
- (c) Provide for the timely transfer of fire facilities development impact fee revenues from the municipality to the County, and then the transfer of the fees collected by the participating municipalities and the County to the fire district; and
- (d) Provide for the timely expenditure of the fire facilities development impact fee revenues by the applicable fire district, in accordance with the CIP.

**Sec. 82-145. - Termination of the Fire Facilities Development Impact Fee.**

The fire facilities development impact fee shall terminate upon the completion of all of the fire facilities development impact fee-funded capital improvements, as set forth in the CIP, unless:

- (a) The County, in conjunction with the fire districts, adopts a CIP for a subsequent time period; and
- (b) The County adopts an updated fire facilities development impact fee for the fire district service areas, pursuant to the substantive and procedural requirements of the State Development Impact Fee Act.

**Secs. 82-146—82-170. - Reserved.**