

# AMENDED CHATHAM COUNTY EDUCATIONAL FACILITIES IMPACT FEE ORDINANCE

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## SECTION I- LEGISLATIVE FINDINGS

The Chatham County Board of Commissioners makes the following legislative findings:

A. Chatham County public school facilities are vital to the health, safety, welfare, and economic prosperity of Chatham County;

B. That public school facilities in Chatham County must be expanded in order to maintain current levels of service if new development is to be accommodated without decreasing current levels of service;

C. To finance the expansion of the public school facilities in Chatham County necessary to maintain current levels of service while accommodating new residential growth, several methods of finance will be employed, one of which will require new residential development to pay an appropriate share of the reasonably anticipated new educational facilities in the form of school impact fees; and

D. The school impact fees will provide, in a reasonable manner, for the public health, safety, and welfare of persons residing within Chatham County by providing a portion of the costs of new school facilities bearing a relationship between the benefits of new school facilities to the new residential growth in Chatham County.

E. Impact fees to defray a portion of the costs of new capital improvements to public school facilities is authorized by Chapter 460, Title III of the 1987 Session Laws.

F. The County has heretofore received a Public School Impact Fee Report by Tischler & Associates, Inc. which estimated the total cost of future school improvements necessary through the year 2005 to be approximately THIRTY TWO MILLION NINE HUNDRED THOUSAND DOLLARS (\$32,900,000.00). As a result of anticipated credits for future property and sales tax payments, the maximum gross impact fee payable was estimated to be TWENTY MILLION SIX HUNDRED THOUSAND DOLLARS (\$20,600,000.00), based upon type of housing unit as follows: Single family - \$3,529; multifamily - \$1,164 and manufactured homes and other - \$3,714.

G. The County has considered the Tischler Report along with the supplementary report by Tischler dated September 7, 1999, and hereby establishes a formula which fairly apportions the cost of new facilities among those generating the need for such improvements.

H. The impact fees set forth herein are established in accordance with the methodology of the Tischler Report and the supplementary report, and apply on a countywide basis.

## **SECTION II - DEFINITIONS**

For the purposes of this ordinance, the following terms shall have the following definitions:

Accessory Dwelling Unit A guest house, garage apartment, in-house apartment, a dwelling unit that is smaller than the principal residential dwelling, but is secondary and incidental to the principal residential use of the property. The accessory dwelling unit is situated on the same lot as the principal residence and may be located within the principal residence or in a separate building. An accessory dwelling unit shall contain no more than 1,000 square feet of heated space and shall not be larger than 2/3 the size of the heated space of the principal residence, whichever is less. An accessory dwelling unit may not be the residence of more than two adult occupants. An accessory dwelling unit must be constructed at the same time as, or subsequent to, the principal residential dwelling unit.

Building Permit. A certificate issued by Chatham County or a municipality authorizing the construction of one or more dwelling units in Chatham County.

Campers. Mobile living facilities designed for temporary occupancy that have a chassis, wheels and are provided tags by the state Department of Motor Vehicles. These facilities include but are not limited to campers, travel trailers, recreation vehicles/motor homes.

Conditional Power. Temporary electric power provided to a dwelling unit prior to the issuance of a certificate of occupancy so that the contractor can test the electrical system therein and maintain environmental conditions for a limited period of time, not to exceed ninety (90) consecutive calendar days.

Dwelling Unit. A room or group of rooms forming a single independent habitable unit with facilities used or intended to be used for living, sleeping, cooking, and eating by one family.

Fee Payer. The person constructing or responsible for having constructed a new dwelling unit or new dwelling units. In the case of a mobile home, the fee payer is the person installing or responsible for having installed a mobile home or mobile homes.

Residential Dwelling Unit - Multi-Family. A residential use consisting of a building designed or constructed to contain more than one dwelling unit, including apartment houses.

Residential Dwelling Unit - Single-Family. A residential use consisting of a building designed or constructed to contain one dwelling unit which may be either detached or attached.

## **SECTION III - SCHOOL IMPACT FEES IMPOSED ON NEW RESIDENTIAL DWELLING UNITS**

In addition to all other charges prescribed by ordinance or resolution now or hereafter in effect, there shall be a public school impact fee charged to all residential dwelling units constructed within Chatham County after the effective date of this ordinance, including the

municipalities and their extra-territorial planning jurisdictions located within Chatham County. No person shall supply conditional power or occupy any residential dwelling unit until all applicable public school impact fees contained in the following schedule have been paid in full. No type of occupancy permit shall be issued for any residential dwelling unit constructed within Chatham County after the effective date of this ordinance until the public school impact fees hereby required have been paid in full. Payment of such fees shall not relieve the feepayer from the obligation to comply with any other applicable regulations of Chatham County or the municipalities located within Chatham County or the federal or state government.

#### **Schedule of Public School Impact Fees**

- A. For manufactured homes and single-family dwelling units the amount of the public school impact fee shall be \$3,500.00.
- B. For multi-family residential dwelling units, the amount of the public school impact fee shall be \$1,100.00 per residential unit.
- C. For each accessory dwelling unit the amount of the public school impact fee shall be \$1,100.00 in addition to the fee paid for the principal residential dwelling unit.
- D. For alterations to any non-residential structure that will convert it to a residential dwelling unit, the amount of public school impact fee shall be the same as set forth above.

#### **SECTION IV - PUBLIC SCHOOL IMPACT FEE EXCEPTIONS**

Public school impact fees as provided in Section 3 shall not be imposed in the following circumstances:

- A. The construction of buildings or structures, including alterations, repairs, renovations or additions thereto, which are to be occupied and used solely for non-residential purposes.
- B. The construction of residential dwelling units for which a building permit was obtained prior to the effective date of this ordinance.
- C. The alteration, repair, renovation or addition to an existing residential dwelling unit.
- D. The replacement of a residential dwelling unit with another residential dwelling unit upon the following circumstances and none other:
  - 1. Installation of a replacement manufactured home on a separate lot or mobile home park space when an educational facilities impact fee for such lot or space has been previously paid pursuant to this ordinance or where a residential manufactured home legally existed on such lot or space on or before the effective date of this ordinance. For the purposes of

this ordinance, "legally existed" shall mean that as of the effective date of this ordinance, that a manufactured home was located on the lot, or that one had been located on the lot and used as a residence within two years prior to the effective date of this ordinance.

2. Construction of a residential dwelling unit on a separate lot when an educational facilities impact fee for such lot or space has been previously paid pursuant to this ordinance or where a residential dwelling unit legally existed on such lot or space on or before the effective date of this ordinance. For the purposes of this ordinance, "legally existed" shall mean that as of the effective date of this ordinance, that a residential dwelling unit was located on the lot, or that one had been located on the lot and used as a residence within two years prior to the effective date of this ordinance.

3. A residential dwelling unit may be replaced with a dwelling unit of the same or dissimilar dwelling type. For example, a manufactured home may be replaced with a manufactured home. Likewise, a manufactured home may be replaced with a site-built structure. In either case, however, the number of dwelling units may not be increased without payment of the additional impact fee for each such additional dwelling unit.

4. Relocation of a residential dwelling unit within Chatham County due to the exercise of eminent domain.

E. The construction of accessory buildings and structures, including, but not limited to, garages, decks, storage buildings, and similar structures, provided they are not designed or used for residential purposes.

F. Construction of a housing facility (whether assisted living or independent living) provided there are legal provisions that prohibit children under the age of eighteen (18) from staying overnight in the facility for more than fourteen (14) days in any consecutive twelve (12) month period. If such a facility changes its requirements such that children under the age of eighteen (18) are allowed to stay overnight in the facility for more than fourteen (14) days in any consecutive twelve (12) month period then at that time the educational impact fee shall be paid in the amount applicable at the time of the conversion.

G. Campers are exempt when they do not have school age children residing for a period of greater than nine months.

## **SECTION V - COLLECTION OF FEES**

### **A. CREATION OF PUBLIC SCHOOL BENEFIT CAPITAL IMPROVEMENT RESERVE FUND**

Public school impact fees collected by Chatham County pursuant to this ordinance shall be kept separate from other revenues of the County. In order that the impact fees paid pursuant to this ordinance shall be expended on school capital improvements benefiting new residential development, there shall be established a Capital Improvement Reserve Fund. All impact fees generated by new residential construction must be expended on improvements that are located

within the county.

## **B. RESPONSIBILITY FOR FEE COLLECTION**

All public school impact fees are due to Chatham County and shall be paid prior to the date that conditional power is provided to a dwelling unit, or the date of final inspection, whichever occurs first. Any municipality issuing a building permit for a residential unit to be constructed in Chatham County shall collect the School Impact Fee prior to the date conditional power is provided to a dwelling unit, or the date of final inspection, whichever occurs first; and shall remit the same to the Chatham County Finance Office within 15 days after the end of each month unless a different payment schedule is agreed to by Chatham County and the municipality. The impact fees shall be collected prior to the inspection required for conditional power or the final inspection, whichever occurs first. All public school impact fees shall be properly identified and transferred for deposit in the Capital Improvement Reserve Fund.

## **C. LIMITATION ON EXPENDITURE OF FUNDS**

Funds withdrawn from the Capital Improvement Reserve fund shall be used solely in accordance with the following provisions:

1. Funds shall be used for capital costs associated with the construction of new public school space, including new buildings or additions to existing buildings or otherwise converting existing buildings into new public school space where the expansion is related to new residential growth. Such capital costs include actual building construction; design, engineering, and legal fees; land acquisition and site development; equipment and furnishings; infrastructure improvements; debt service payments and payments under leases through which to finance such costs.

2. Funds may be used for providing reimbursements as permitted in Section V.E.

3. No funds shall be used for public school operating expenses, periodic or routine maintenance, or the administration of this public school impact fee program.

4. Funds shall be expended, if at all, within ten (10) years of collection, the time frame coinciding with the Public School Facilities Capital Improvements Program (CIP) school impact fee period. The disbursement of public school impact fee funds shall require only the approval of the Board of County Commissioners.

## **D. INTEREST ON FEES**

Any public school impact fee funds on deposit and not immediately necessary for expenditure shall be invested as allowed in N.C. General Statute, Section 159-30 for other public moneys. All income derived shall be deposited in the applicable reserve fund.

## **E. REFUND OF FEES**

Any funds not expended within the time established in Section V.C.4 shall be returned to the feepayer or the landowner if the address of the feepayer provided to Chatham County is not current, with interest at the appropriate rate.

If the Schedule of Public School Impact Fees as contained in Section III is increased, no additional fees shall be collected from new construction for which valid building permits exist. However, if the building permit expires and a new building permit is issued, the increased fees must be paid prior to obtaining conditional power or the date of final inspection, whichever occurs first.

Where an impact fee has been collected erroneously or where an impact fee has been paid, and the feepayer subsequently files for and is granted an exception as permitted in Section IV, the fee shall be refunded to the feepayer.

When an impact fee has been collected and the feepayer requests a refund because the dwelling unit is not going to be constructed or located on the property and the inspection permit is valid, then the impact fee shall be refunded minus any processing fee.

#### **F. ANNUAL REPORT**

A report shall be made by the County Manager, or his designee, to the Board of County Commissioners each year showing where public school impact fees have been collected, what projects have been constructed with such fees, and what refunds have been made. The report shall also include an evaluation of this ordinance, including its effectiveness and enforcement.

The Board of County Commissioners shall review the report to determine whether new residential development is being benefited by the fees. If the Board of County Commissioners determines that new residential development is not being benefited, then it shall readjust the capital improvements program to correct this condition. If, after review of the annual report, the Board of County Commissioners determines that adjustments are required in the Schedule of impact fees, then it shall direct the County Manager and staff to prepare a report which outlines recommended changes for its consideration.

### **SECTION VI - CREDITS**

A developer who conveys land for a public school site or constructs new public school facilities received and accepted by Chatham County or the Chatham County Board of Education, may, at the election of the Board of County Commissioners, be credited with the value of the land or improvements constructed against the public school impact fee due for new residential development constructed by the developer. Said credit shall not be assignable or transferable without the consent of the County.

The value of land conveyed or facilities constructed by a landowner and accepted by the County, or the school board for purposes of this section shall be determined by an appraisal based on the fair market value of the land or facilities as established by the County. No facilities shall be accepted unless the construction is in accordance with all applicable county, municipal,

school board, and State standards. Any land conveyed for credit under this section shall be conveyed no later than the time at which public school impact fees are required to be paid. The portion of the public school impact fee represented by a credit for construction shall be deemed paid when the construction is completed and accepted for maintenance or when adequate security for the completion of the construction has been provided.

## **SECTION VII - PENALTIES**

In addition to any other remedy allowed by N.C. General Statute 153A-123, the failure to pay a public school impact fee is hereby declared to subject the person responsible for payment of the public school impact fee to a civil penalty. The amount of the penalty shall be equal to the amount of the unpaid school impact fee, plus an interest charge of one-half percent (1/2%) per month compounded monthly and a service charge of one hundred dollars (\$100.00).

The County may assess this penalty against the landowner when a new dwelling has been provided conditional power or a final inspection completed without payment of the public school impact fee. However, no service charge will be assessed when the County staff has made an error in the fee determination. Furthermore, no penalty shall be assessed until the person or persons alleged to be in violation are served by registered mail, certified mail - return receipt requested or personal service with notice to pay.

The County Attorney is hereby authorized to institute a civil action in the name of the County of Chatham in the appropriate division of the General Court of Justice in Chatham County for recovery of the penalty. All moneys recovered shall be deposited in the appropriate reserve fund.

## **SECTION VIII – APPEALS**

All appeals from the enforcement and interpretation of this ordinance shall be to the Chatham County Board of Adjustment the same as is provided in and governed by the provisions of Sections 18.4 and 18.5 of the Chatham County Zoning Ordinance

The decisions of the Chatham County Board of Adjustment relating to appeals may be reviewed by the Superior Court in Chatham County upon compliance with the provisions of Section 18.5 of the Chatham County Zoning Ordinance

## **SECTION IX - LEGAL STATUS PROVISIONS**

Except as provided hereinafter all ordinances and clauses of ordinances in conflict herewith are hereby repealed to the extent of said conflict. If any clause or section of this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of this ordinance which can be given separate effect, and, to this end, the provisions of this ordinance are declared to be severable.

This ordinance shall not diminish any prior contractual or special or conditional use district zoning obligation to pay for or install road, park or other improvements required by Chatham County or a municipality located therein, nor shall the fulfillment of those obligations diminish any applicable public school impact fee owed to or to become due to the County. This ordinance shall not diminish any prior obligation of the County or a municipality located therein to reimburse persons for roads, parks or other improvements, nor shall the fulfillment of those obligations by the County or a municipality diminish any applicable credit owed to the feepayer.

**The ordinance adopted by the Chatham County Board of County Commissioners on June 7, 1999, imposing an impact fee shall remain in full force and effect except as modified herein either expressly or by necessary implication; and all fees collected pursuant to that ordinance shall be subject, in all respects, to the provisions of that ordinance. However, no fees shall accrue under the ordinance adopted June 7, 1999 after the effective date of this ordinance.**

#### **SECTION X - EFFECTIVE DATE**

This ordinance shall be effective on and after the 19<sup>th</sup> day of October 1999. This ordinance shall only apply to residential dwelling units for which building permits are issued on and after the effective date hereof.

Adopted this 18<sup>th</sup> day of October 1999.  
Revised January 2, 2001  
Revised October 7, 2002  
Revised April 15, 2005  
Revised May 01, 2005  
Revised July 01, 2005  
Revised November 19, 2007  
Revised June 20, 2011  
Revised February 20, 2012

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Chairman, Chatham County Board  
of Commissioners

ATTEST:

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Clerk, Chatham County Board  
of Commissioners

### **Amendments Effective January 2, 2001**