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LANCASTER, SC

STATE OF SOUTH CAROLINA

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ORDINANCE NO. 2021-1725

COUNTY OF LANCASTER

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AN ORDINANCE

OF THE COUNTY COUNCIL OF LANCASTER COUNTY, SOUTH CAROLINA ("COUNCIL") ESTABLISHING AND ADOPTING A PARKS & RECREATION DEVELOPMENT IMPACT FEE ("IMPACT FEE") TO BE IMPOSED ON ALL NEW DEVELOPMENT IN THE GREATER PANHANDLE REGION OF LANCASTER COUNTY; TO ENSURE THAT PARKS & RECREATION FACILITIES WILL BE AVAILABLE AND ADEQUATE TO ACCOMMODATE THE NEED EXPECTED TO BE GENERATED FROM NEW DEVELOPMENT IN THE GREATER PANHANDLE REGION OF LANCASTER COUNTY BASED ON THE COUNTY'S LEVEL OF SERVICE STANDARDS FOR PARKS & RECREATION FACILITIES AND CAPITAL IMPROVEMENTS PLAN (CIP), AND TO ASSIGN THE COSTS OF SUCH PARKS & RECREATION FACILITIES ON A PROPORTIONATE SHARE BASIS TO NEW DEVELOPMENT.

The County Council finds and determines that:

WHEREAS, Lancaster County ("County") has experienced population growth in the Greater Panhandle area and projections indicate that population growth and development will continue at a reasonable rate into the future; and

WHEREAS, the County has experienced impacts on public facilities resulting from this growth and development; and

WHEREAS, growth and development estimates for the County over the next 10 years indicate there will be a need for additional Parks & Recreation facility system improvements (park land, park improvements, and recreation centers) due to the growth and development; and

WHEREAS, the County has defined a level of service standard for Parks & Recreation facilities (park land, park improvements, and recreation centers); and

WHEREAS, this defined level of service standard and the projected population growth within the Greater Panhandle region results in an identified need for Parks & Recreation facility system improvement needs over the next 10 years as set forth in the capital improvement plan (CIP); and

WHEREAS, the cost of these Parks & Recreation facility system improvement needs as identified in the CIP is significant and expensive; and

WHEREAS, if property taxes, or bonds (backed only by property taxes) are used to finance the new Parks & Recreation facility system improvements (park land, park improvements, and recreation centers) needed to accommodate the demand generated by new development in the Greater Panhandle region of the County, these taxes would be paid largely by existing residents and businesses that have already paid for much of the Parks & Recreation facility system improvements they utilize; and

WHEREAS, County Council finds that it is fair and equitable for new development in the Greater Panhandle region of the County to fund new Parks & Recreation facility system improvements, in part, through a proportionate share Parks & Recreation development impact fee; and

WHEREAS, County Council finds the Parks & Recreation development impact fee will be imposed uniformly on all similar residential use types; and

WHEREAS, County Council having given consideration to the provision and financing of Parks & Recreation facility system improvements necessary to maintain levels of service, hereby finds and declares that the establishment and adoption of Parks & Recreation development impact fee to imposed on new development is necessary and desired, that the fee is proportionate and the fee is based on a CIP that sets forth the Parks & Recreation facility system improvements needed to maintain levels of service for Parks & Recreation facilities to accommodate new development in the Greater Panhandle region of the County; and

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

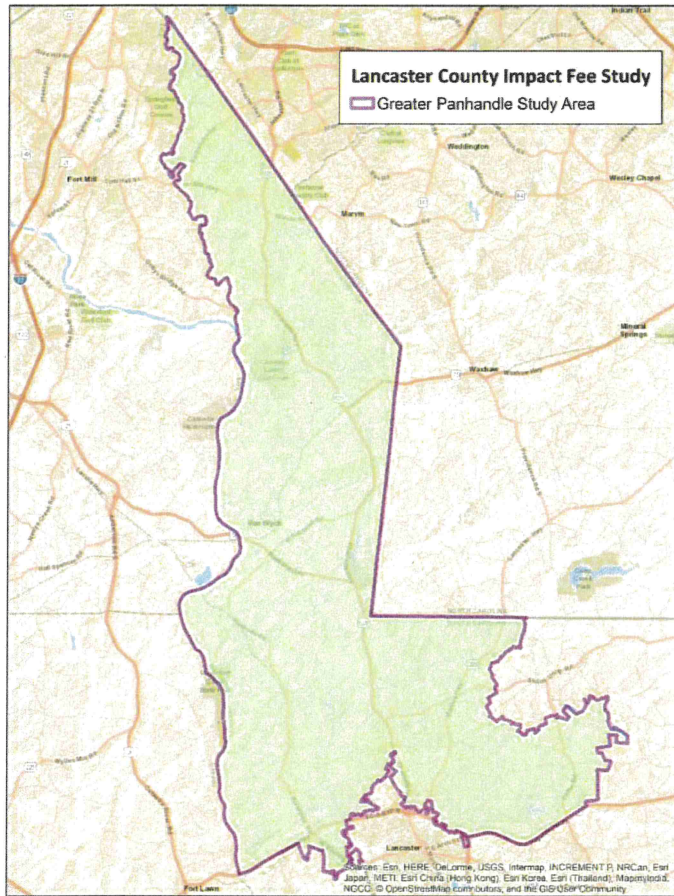
SECTION I. ADOPTION AND IMPOSITION OF PARKS & RECREATION IMPACT FEES.

Pursuant to Ordinance No. 2021-1705 and the impact fee procedures in the Code of Ordinances, Lancaster County, South Carolina ("County Code"), Chapter 17, this Parks & Recreation development impact fee shall be adopted and imposed on all new development in the Parks & Recreation Service Area.

SECTION II. ESTABLISHMENT OF SERVICE AREA.

There is one service area for Parks & Recreation development impact fees. The service area includes the entire Greater Panhandle and is known as the "Parks & Recreation Service Area".

A. Map of Parks & Recreation Service Area



SECTION III. INCORPORATION OF SUPPORT STUDY.

The County relies on the level of service standard, land use assumptions, methodologies, service units, system improvement costs, formula, and analyses for Parks & Recreation development impact fees, and the capital improvement plan (CIP) for Parks & Recreation facility system improvements set out in *Development Impact Fee Study* prepared by Tischler Bice, dated June 23, 2021 (hereinafter "Parks & Recreation development impact fee study"). The Parks & Recreation development impact fee study 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 Parks & Recreation facility system improvement needs.

SECTION IV. IMPOSITION OF PARKS & RECREATION IMPACT FEES.

- A. The Parks & Recreation development impact fee shall be imposed on all new development in the Parks & Recreation Service Area, unless the development is exempted, or an exception or waiver is granted pursuant to the Code of Ordinances, Lancaster County, South Carolina ("County Code"), Section 17-9 of the County Code.
- B. The Parks & Recreation development impact fee 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.

SECTION V. PARKS & RECREATION DEVELOPMENT IMPACT FEE SCHEDULE.

- A. Pursuant to this Ordinance and in accordance with the impact fee procedures in Chapter 17 of the County Code, the State Development Impact Fee Act, and the Parks & Recreation development impact fee study and CIP, Parks & Recreation impact development fees shall be imposed in the Parks & Recreation Service Area.
- B. The following general procedure shall be followed upon receipt of an application for a building permit for new development:
 - (1) For residential development, identify the type of housing development and number of dwelling units, and then calculate the fee based on the Residential Parks & Recreation Development Impact Fee Schedule;

- i. Residential Parks & Recreation Development Impact Fee Schedule

Development Type	Parks & Recreation
Residential (per housing unit)	
Single Family Detached	\$784
Single Family Attached	\$666
Multifamily	\$557

Development Impact Fee Schedule Annual Update. The development impact fees shall be adjusted annually to reflect the effects of inflation on the costs for facilities set forth in the Development Impact Fee Study and CIP dated July 19, 2021. The fee schedule shall be adjusted 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. The impact fee schedule annual adjustment update will become effective on July 1st of each year. If July 1st falls on a weekend or county holiday, the fee adjustment will become effective on the next business day thereafter.

SECTION VI. INDIVIDUAL ASSESSMENT OF DEVELOPMENT IMPACT.

- A. In-lieu of calculating the Parks & Recreation development impact fees by reference to the fee schedule, a feepayer may request that the amount of the required Parks & Recreation development impact fees be determined by reference to an Individual Assessment of Development Impact for the proposed development.
- B. If a feepayer requests the use of an Individual Assessment of Development Impact, the feepayer 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 feepayer's expense.

- C. Each Individual Assessment of Development Impact shall be based on the level of service standard and the same system improvement costs for Parks & Recreation facility system improvements used in the Parks & Recreation development impact fee study and CIP, shall use the formula for calculating the development impact fee used in the Parks & Recreation development impact fee study and CIP, and shall document the relevant methodologies and assumptions used (no adjustments in the assumption of credits shall be made). The burden shall be on the feepayer requesting the Individual Assessment of Development Impact to demonstrate by competent evidence that the data and assumptions used in the Parks & Recreation development impact fee study and CIP and reflected in the Parks & Recreation Development Impact Fee Schedule, 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 Director or a designee, and may be accepted, rejected, or accepted with modifications by the Director or a designee as the basis for calculating Parks & 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 Parks & Recreation facility system improvements created by the proposed new development than the applicable fees in the Parks & Recreation Development Impact Fee Schedule, then the development impact fees due under this Ordinance shall be calculated according to such assessment.

SECTION VII. CREDITS

- A. Any developer/feepayer obligated pay a Parks & Recreation development impact fee under this section may apply for credit against Parks & Recreation development impact fees otherwise due, up to but not to exceed the full obligation for the fees proposed to be paid pursuant to the provisions of this Ordinance for any contribution or construction for Parks & Recreation facility system improvements that are accepted by the County Council for Parks & Recreation facility systems improvements identified in the CIP.
- C. Valuation of Credits
 - (1) Credit for land dedication for Parks & Recreation facility system improvements, at the feepayer'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 feepayer.
 - (2) Credit for construction of a Parks & Recreation facility buildings shall be valued by the County Council based on construction costs estimates submitted by the feepayer. 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 contributions for Parks & Recreation facility system improvements shall be based on the value of the contribution at the time it is made by the feepayer.
- D. When Credits Become Effective
 - (1) Credits for land dedication for Parks & Recreation facility system improvements 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 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 Parks & Recreation facility buildings shall become effective after the credit is approved by County Council pursuant to this section, (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 County requirements.
- (3) Credits for contributions shall become effective after the contribution is approved by the County Council pursuant to this section, and the contribution is provided to and accepted by the County Council.
- (4) Credits for dedication of land, construction, or contributions for Parks & Recreation facility system improvements shall be transferable within the same development for Parks & 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 for registration.
- (5) The total amount of the credit shall not exceed the amount of the Parks & 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. The Credit Agreement/Development Agreement shall specifically outline the contribution or construction of buildings for Parks & 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 & Recreation development impact fees the feepayer shall receive for the contribution or construction of Parks & Recreation buildings.
- (7) The County Council may enter into a Capital Contribution Front-Ending Agreement with any developer/feepayer who proposes to construct Parks & Recreation facility system improvements in the CIP, to the extent the fair market value of the construction of those Parks & Recreation facility system improvements exceed the obligation to pay Parks & 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 & Recreation facility system improvements constructed.

SECTION VIII. TRUST FUND FOR PARKS & RECREATION DEVELOPMENT IMPACT FEES.

The County hereby establish segregated Parks & Recreation Development Impact Fee Trust Fund Account. All Parks & Recreation development impact fees collected by the County shall be placed in their respective Trust Fund Account. Each Trust Account 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 Parks & Recreation development impact fee funds.

SECTION IX. EXPENDITURE OF FEES FOR SYSTEM IMPROVEMENTS.

Parks & Recreation development impact fee funds shall be used by the County in accordance with the development impact fee procedures in Chapter 17 of the County Code, solely and exclusively for Parks & Recreation facility system improvements as set forth in the Parks & Recreation development impact fee study and CIP. System improvements generally include the following: buildings that expand the capacity of the Parks & Recreation system.

SECTION X. DEVELOPER RIGHTS.

The developer, pursuant to the State Development Impact Fee Act and the county impact fee procedures in Chapter 17 of the County Code, shall have the following rights, any or all of which may be exercised only in accordance with the impact fee procedures in Section 17-8 of the County Code.

- A. Administrative Appeal. The developer/applicant may file an administrative appeal with the County Administrator with respect to a County decision related to the imposition, calculation, collection, processing, or expenditure of a Parks & Recreation development impact fee at any time; provided, however, that such appeal must comply with the provisions and requirements the County impact fee procedure in Section 17-7 of the County Code. 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 impact fee process, unless the developer/applicant posts a bond or submits an irrevocable letter of credit for the full amount of development fees as calculated by the County.
- B. Payment under Protest. The developer/applicant may pay the County-calculated Parks & Recreation development impact fees under protest, pursuant to the County impact fee procedures as set forth in Section 17-7 of the County Code. 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 amount of the development impact fee due, all as set forth in the impact fee procedures as set forth in Section 17-7 of the County Code.
- 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 only to address a disagreement related to the Parks & Recreation development impact fees, as calculated by the County, 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 Ordinance, the County impact fee procedures in Section 17-7 of the County Code, or other remedies available by law.

SECTION XI. COUNTY REMEDIES.

- A. The County pursuant the State Development Impact Fee Act and the County Development Impact Fee Procedures Chapter 17 of the County Code, to the extent authorized pursuant to the intergovernmental agreements entered into with the County pursuant to this Ordinance, 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

17-8 of the County Code;

- (1) Interest and Penalties. The County may, in its discretion, add reasonable interest and penalties for nonpayment or late payment to the amount of the calculated Parks & Recreation development impact fees due, pursuant to the impact fee procedures in Section 17-8 of the County Code.
 - (2) Withholding Building or Development Permit or Development Approval or Certificate of Occupancy. The County 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 & Recreation development impact fees due.
 - (3) Lien. The County may impose a lien on the developer's property, pursuant to the impact fee procedures in Section 17-8 of the County Code, for failure of the developer/applicant to timely pay the required Parks & Recreation development impact fees in full.
- B. The County 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 rights to pursue any remedy or remedies at such other time as may be deemed appropriate.

SECTION XII. INTERGOVERNMENTAL AGREEMENTS.

Prior to imposition of the Parks & Recreation development impact fee pursuant to this Ordinance, the County shall enter into intergovernmental agreements with the participating municipalities, which intergovernmental agreements shall:

- A. Specify the reasonable share of funding of joint system improvements for Parks & Recreation facility system improvements by each governmental unit; and
- B. Provide for the collection of the Parks & Recreation 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 Parks & Recreation development impact fee funds from the municipality to the County; and
- D. Provide for the timely expenditure of the Parks & Recreation development impact fee funds by the County in accordance with the CIP.

SECTION XIII. TERMINATION OF THE PARKS & RECREATION IMPACT FEES.

The Parks & Recreation development impact fees shall terminate upon the completion/conclusion/purchase of all the Parks & Recreation development impact fee-funded facility system improvements as set forth in the CIP unless:

- A. The County adopts a CIP for a subsequent time; or
- B. The County adopts an updated Parks & Recreation development impact fee pursuant to

the substantive and procedural requirements of the State Development Impact Fee Act.

SECTION XIV. **LIBERAL CONSTRUCTION.**

The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes in the interest of furthering, promoting, and protecting the public health, safety, and welfare.

SECTION XV. **CONFLICT**

To the extent of any conflict between other County ordinances and these Procedures, these Procedures shall be deemed to be controlling; provided, however, that these Procedures are not intended to amend or repeal any existing County ordinance, resolution, or regulation.

SECTION XVI. **SEVERABILITY.**

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

SECTION XVII. **EFFECTIVE DATE**

- A. The Ordinance shall become effective on October 1, 2021.
- B. If a development project has received approval of a site-specific development plan, as defined in S.C. Code Ann. §6-29-1520, prior to the effective date of this Ordinance, the development project is not subject to the development impact fee.

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ADOPTED this 19th day of July, 2021

**COUNTY COUNCIL OF
LANCASTER COUNTY**

By: [Signature]
Steve Harper, Chairman

By: [Signature]
Billy Mosteller, Secretary

ATTEST:

[Signature]
Sherrie Simpson, Clerk to Council

Approved as to form:

[Signature]
John K. DuBose, III, County Attorney

First Reading:	March 22, 2021
Second Reading	April 12, 2021
Third and Final Reading	July 19, 2021
Public Hearing	June 28, 2021