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**CITY OF NEWBERRY, FLORIDA**

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**COMPREHENSIVE IMPACT FEE ORDINANCE**

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**FIRST READING- JULY 24, 2023**

**SECOND READING AND ADOPTION- AUGUST 14, 2023**

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**ORDINANCE NO. 2023-14**

**AN ORDINANCE OF THE COMMISSION OF CITY COMMISSIONERS OF CITY OF NEWBERRY, FLORIDA, REGARDING IMPACT FEES; CREATING A NEW CHAPTER 87 OF THE CITY OF NEWBERRY CODE OF ORDINANCES ENTITLED IMPACT FEES; PROVIDING GENERAL DEFINITIONS; PROVIDING RULES OF CONSTRUCTION AND GENERAL LEGISLATIVE FINDINGS; PROVIDING ADMINISTRATIVE PROVISIONS RELATED TO THE IMPOSITION, COLLECTION, AND USE OF IMPACT FEES; PROVIDING FOR EXEMPTIONS, ALTERNATIVE IMPACT FEES, AND DEVELOPER CONTRIBUTION CREDITS; PROVIDING FOR IMPACT FEE REVIEW HEARINGS AND NOTICE REQUIREMENTS GOVERNING THE ADOPTION OF IMPACT FEES OR INCREASE OF IMPACT FEE RATES; PROVIDING FOR THE REVIEW OF IMPACT FEES AND FOR ADMINISTRATIVE COSTS; PROVIDING DEFINITIONS AND LEGISLATIVE FINDINGS RELATED TO TRANSPORTATION IMPACT FEES; PROVIDING FOR THE IMPOSITION, COLLECTION, AND USE OF TRANSPORTATION IMPACT FEES; PROVIDING DEFINITIONS AND LEGISLATIVE FINDINGS RELATED TO PUBLIC BUILDING IMPACT FEES; PROVIDING FOR THE IMPOSITION, COLLECTION, AND USE OF PUBLIC BUILDING IMPACT FEES; PROVIDING FOR NOTICE OF IMPACT FEE RATES; PROVIDING FOR SEVERABILITY, CODIFICATION, LIBERAL CONSTRUCTION, AND PROVIDING AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF NEWBERRY, FLORIDA:**

**SECTION 1. CREATION OF CHAPTER 87 OF THE CITY OF NEWBERRY CODE OF ORDINANCES, ENTITLED IMPACT FEES.** A new Chapter 87 of the City of Newberry Code of Ordinances, entitled Impact Fees, is hereby created to read as follows:

## CHAPTER 87 – IMPACT FEES

### ARTICLE I. GENERAL

**Section 87-1. Title.** This Chapter shall be known as the “City of Newberry Comprehensive Impact Fee Ordinance.”

**Section 87-2. General Definitions.** When used in this Chapter, the following terms shall have the following meaning, unless the context clearly requires otherwise:

**“Accessory Building or Structure”** shall mean a detached, subordinate Building, meeting all property development regulations, the use of which is clearly indicated and related to the use of the principal Building or incidental to the previous use to which the vacant land is devoted, and which is located on the same lot as the principal Building or use.

**“Administrative Costs”** shall mean the actual costs associated with the collection and administration of Impact Fees imposed pursuant to this Chapter.

**“Affordable Housing”** shall mean a Dwelling Unit which is offered for sale or rent to Low-Income Persons or Very-Low-Income Persons and which monthly rent or monthly mortgage payments, including taxes and insurance, do not exceed thirty (30) percent of that amount which represents the percentage of the median adjusted gross income for Low-Income Persons or Very-Low-Income Persons, as applicable.

**“Alternative Impact Fee”** shall mean any alternative Impact Fee calculated by an Applicant and approved by the City Manager pursuant to Section 87-21 hereof.

**“Alternative Impact Fee Study”** shall mean a study prepared by an Applicant and submitted to the City Manager pursuant to Section 87-21 hereof.

**“Annual Gross Household Income”** shall mean annual income for all members of the household as defined under the Section 8 housing assistance payments programs in 24 C.F.R. part 5; annual income as reported under the census long form for the recent available decennial census; or adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 for individual federal annual income tax purposes or as defined by standard practices used in the lending industry and utilized by the City in administration of any local housing assistance programs pursuant to grants from the Florida Housing Finance Corporation. Annual Gross Household Income shall be calculated by annualizing verified sources of income for the household as the amount of income to be received in a household during the 12-month period following the date of application.

**“Apartment”** shall mean a rental Dwelling Unit located within the same Building as other Dwelling Units.

**“Applicant”** shall mean a Person who applies for a Building Permit.

**“Building”** shall mean any structure, either temporary or permanent, designed or built for the support, enclosure shelter or protection of persons, chattels or property of any kind. This term shall include manufactured homes, trailers, Mobile Homes or any other vehicles serving in any way the function of a Building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a construction.

**“Building Permit”** shall mean an official document or certificate issued by or through the City, under the authority of ordinance or law, authorizing the construction or siting of any Building. “Building Permit” shall also include move-on permits or other

development approvals for those structures or Buildings, such as a Mobile Home, that do not require a Building Permit in order to be constructed or occupied.

**“Capital Facilities”** shall mean those facilities identified in this Chapter for which Impact Fees are imposed.

**“Capital Facilities Impact Construction”** shall mean land development which changes the use of land in a manner which increases the impact upon the Capital Facilities for which Impact Fees are imposed under this Chapter, as determined in accordance with the methodology set forth in the applicable Impact Fee Study.

**“Certificate of Occupancy”** shall mean the official document or certificate issued by or through the City under the authority of ordinance or law, authorizing the occupancy of any Building or parts thereof.

**“Commission”** shall mean the City Commission of the City of Newberry.

**“Comprehensive Plan”** shall mean the comprehensive plan of the City adopted and amended pursuant to the local Government Comprehensive Planning and Land Development Regulation Act as contained in chapter 163, Florida Statutes, or its statutory successor in function.

**“Condominium”** shall mean a single-family or time-sharing ownership unit that has at least one (1) other similar unit within the same Building structure. The term “condominium” includes all fee simple or titled multi-unit structures, including townhouses and duplexes.

**“City”** shall mean City of Newberry, Florida, a political subdivision of the State of Florida.

**“City Manager”** shall mean the chief administrative officer of the City or such person’s designee.

**“Dwelling Unit”** shall mean a Building, or a portion thereof, which is designed for residential occupancy, consisting of one (1) or more rooms which are arranged, designed or used as living quarters for one (1) family only. The terms shall not include hotels, motels, time-shares, tourist or trailer camps allowing a rental of less than three (3) months.

**“Encumbered”** shall mean monies committed by contract or purchase order in a manner that obligates the City to expend the encumbered amount upon delivery or completion of goods, services or real property provided by a vendor, supplier, contractor or Owner. The execution of an agreement with the Florida Department of Transportation or Alachua County by the City for the construction of improvements or additions to a designated state or county transportation facility within the City, with or without reimbursement, shall be considered to have Encumbered Transportation Impact Fees collected for that improvement or addition.

**“Equivalent Use”** shall mean a subject use that is similar to the historic use of a parcel of property.

**“Government Property”** shall mean property owned by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency or political subdivision thereof, a city, a special district, a school district, or a municipal corporation.

**“Impact Fee”** shall mean collectively and individually, the Impact Fees imposed pursuant to this Chapter.

**“Impact Fee Land Use Category”** shall mean those categories of land use incorporated in the Impact Fee rate schedules for each Impact Fee.



**“Impact Fee Study”** shall mean the impact fee study or studies adopted pursuant to Section 87-5 hereof.

**“ITE LUC”** shall mean the Impact Fee Land Use Category based on the publication Trip Generation Manual, 11<sup>th</sup> Edition, as supplemented, published by the Institute of Transportation Engineers, or the most recent edition thereof.

**“Low-Income Persons”** shall mean one or more natural persons, the total Annual Gross Household Income of which does not exceed 80% of the median annual income adjusted for family size for households within the Gainesville, FL Metropolitan Statistical Area as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

**“M.A.I. Appraiser”** shall mean a member of the American Institute of Real Estate Appraisers.

**“Mixed Use Construction”** shall mean construction in which more than one Impact Fee Land Use Category is contemplated, with each category consisting of a separate and identifiable enterprise not subordinate to or dependent on other enterprises within the construction. Any use equal to a minimum of twenty-five (25) per cent of the total space in a Building shall be assessed a fee based on that use.

**“Mobile Home”** shall mean the Impact Fee Land Use Category defined as all “manufactured buildings” and “Mobile Homes” as defined in chapter 553, Florida Statutes, or its statutory successor in function.

**“Multi-Family”** shall mean the Impact Fee Land Use Category defined as a Building or a portion thereof, regardless of Ownership, containing more than one Dwelling Unit designed for occupancy by a single family, which units are not customarily offered

for rent for one day, including without limitation, duplexes, Apartments, Residential Condominiums, townhouses, and timeshares.

**“Owner”** shall mean the person holding legal title to the real property upon which Capital Facilities Impact Construction is to occur.

**“Person”** shall mean any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, property owners’ association, two (2) or more persons having a joint or common interest, governmental agency, or other legal entity.

**“Residential Construction”** shall mean Capital Facilities Impact Construction that is designed or intended to permit more Dwelling Units than the existing use of land contains, including the Multi-Family and Single-Family Detached Impact Fee Land Use Categories.

**“Single Family Detached”** shall mean the Impact Fee Land Use Category defined as a single Dwelling Unit located on an individual lot and not attached to any other Dwelling Unit, including, without limitation, duplexes and detached houses on lots less than fifty (50) feet wide, such as zero lot line homes.

**“Square Footage”** shall mean the gross area measured in square feet from the exterior faces of exterior walls or other exterior boundaries of a Building, excluding areas within the interior of the Building which are utilized for parking.

**“Very-Low-Income Persons”** shall mean one or more natural persons, the total Annual Gross Household Income of which does not exceed 50% of the median annual income adjusted for family size for households within the Gainesville, FL Metropolitan Statistical Area as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

**Section 87-3. Rules of Construction.** For the purposes of the administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply:

A. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table, or illustrative table, the text shall control.

B. The word “shall” is always mandatory and not discretionary and the word “may” is permissive.

C. Words used in the present tense shall include the future; and words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; use of the masculine gender shall include the feminine gender.

D. The phrase “used for” includes “arranged for,” “designed for,” “maintained for,” or “occupied for.”

E. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or” or “either . . . or,” the conjunction shall be interpreted as follows:

1. “And” indicates that all the connected terms, conditions, provisions or events shall apply.

2. “Or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

3. “Either . . . or” indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

F. The word “includes” shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

G. All time periods contained within this Chapter shall be calculated on a calendar day basis, including Sundays and legal holidays, but excluding the date of the Commission’s decision in the event of an appeal. In the event the due date falls on a Saturday, Sunday or legal holiday, the due date shall be extended to the next business day.

**Section 87-4. General Legislative Findings.** It is hereby ascertained, determined and declared that:

A. Pursuant to Article VIII, Section 2, Florida Constitution, the City of Newberry City Charter, and Sections 166.021 and 166.041, Florida Statutes, the City of Newberry City Commission has all powers of local self-government to perform City functions and render City services and facilities except when prohibited by law, including the authority to impose and collect Impact Fees through a City ordinance.

B. Section 163.3202(3), Florida Statutes, encourages the use of innovative land development regulations, including the use of Impact Fees, to implement the goals, objectives and policies of a City’s comprehensive plan.

C. Future growth represented by Capital Facilities Impact Construction will require improvements and additions to Capital Facilities to accommodate and maintain the levels of service adopted by the City, and accordingly, should contribute its fair share to the cost of improvements and additions to the Capital Facilities that are required to accommodate the use of such facilities by growth.

D. The required improvements and additions to the Capital Facilities needed to accommodate existing development at the adopted level of service shall be financed by revenue sources other than Impact Fees.

E. Implementation of an Impact Fee structure to require future Capital Facilities Impact Construction to contribute its fair share of the cost of improvements and additions to Capital Facilities is an integral and vital element of the management of growth.

F. The Administrative Costs imposed herein are limited to the actual costs of administration and collection of the Impact Fees imposed herein, in accordance with Section 163.31801, Florida Statutes, or its statutory successor in function.

G. The data set forth in the Impact Fee Studies that was employed in the calculation of the Impact Fee rates to be imposed in conformance with this Chapter is the most recent and localized data available for the applicable Capital Facilities as of the date of each Impact Fee Study.

H. Capital Facilities planning is an evolving process and the level of service adopted by the City for such Capital Facilities constitutes a balancing of anticipated need and the corresponding cost to implement such standard, based upon present knowledge and judgment. Therefore, in recognition of changing growth patterns, the needs of the community, and the dynamics of Capital Facilities planning, it is the intent of the Commission that the level of service and the cost of the various Capital Facilities be reviewed and adjusted periodically, pursuant to Section 87-27 hereof, to ensure that the Impact Fees imposed pursuant to this Ordinance are equitable and lawful based on the impact of growth upon these Capital Facilities.

I. This Chapter shall not be construed to permit the collection of Impact Fees from Capital Facilities Impact Construction in excess of the amount reasonably anticipated to offset the need for and demand on those Capital Facilities generated by such Capital Facilities Impact Construction.

J. Some of the Impact Fees collected by the City pursuant to this Chapter may be used to pay existing debt related to the construction of Capital Facilities or for previously approved projects. The Commission legislatively finds and determines that each of these Capital Facilities or previously approved projects that are funded by Impact Fees is proportional and has a rational nexus to the impacts generated by new development that contributes Impact Fees towards the funding of these facilities and that there is available capacity to serve those properties from the debt funded facilities or previously approved projects.

K. In Chapter 420, Florida Statutes, the Florida Legislature directly recognizes the critical shortage of Affordable Housing in the State of Florida for low income families, the problems associated with rising housing costs in the State, and the lack of available housing programs to address these needs. In recognition of these problems and the state's encouragement to local governments to work in partnership with the State and private sector to solve these housing problems, the City finds a need for local programs to stimulate and provide for the development of Affordable Housing for Low-Income and Very-Low Income Persons.

L. Pursuant to Section 163.31801(11), Florida Statutes, the Florida Legislature authorizes the Commission to provide an exception or waiver for the development or construction of Affordable Housing and further clarifies that if such an exception or waiver

is provided that the City is not required to use any other legally available City revenues to offset the impact from such exception or waiver program.

M. The Commission desires to provide incentives to develop and provide Affordable Housing stock within the City so that Low-Income and Very-Low Income Persons who desire to live and work in the City have access to housing and to offset the negative consequences of the shortage of such housing.

N. To accomplish this objective the Commission finds that it is fair and reasonable to exempt impact fees for Affordable Housing to reduce the burden of impact fees on Low-Income and Very-Low Income Persons and encourage the development of Affordable Housing within the City.

**Section 87-5. Adoption of Impact Fee Study.** The Commission hereby adopts and incorporates by reference the Impact Fee Study entitled, “City of Newberry Impact Fee Study,” prepared for the City by Benesch and dated November, 2022, including the assumptions, conclusions, and findings therein as to the determination of the anticipated costs of capital improvements and additions to Capital Facilities required to accommodate growth, which Impact Fee Study is on file with the office of the City Manager and available for public inspection.

**Section 87-6. Procedural Irregularities.** Any informality or irregularity in the proceedings in connection with the levy of any Impact Fee imposed under the provisions of this Chapter shall not affect the validity of the same after the approval thereof, and any Impact Fee as finally approved shall be competent and sufficient evidence that such Impact Fees were duly levied, that the Impact Fees were duly made and adopted, and that all other proceedings adequate to such Impact Fees were duly

had, taken, and performed as required by this Chapter; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.



## **ARTICLE II. ADMINISTRATIVE PROVISIONS**

### **Section 87-20. Payment of Impact Fees.**

A. At the issuance of a Building Permit for any Capital Facilities Impact Construction, an Applicant shall pay the appropriate Impact Fees as established by this Chapter.

B. The Impact Fees shall be calculated according to the rate in effect at the time of payment, unless otherwise specifically provided herein.

C. Upon receipt of a complete application for a Building Permit, the City shall calculate the applicable Impact Fee, incorporating any applicable credits granted by the City, which will be documented in a credit certificate. If a person has received a credit pursuant to this Chapter, a prior ordinance of the City, or development agreement, and such credit has not been utilized, that credit shall be subtracted from the otherwise applicable Impact Fee, if such credit applies.

D. A person may request at any time a nonbinding estimate of the Impact Fees due for a particular development; however, such estimate is subject to change when a complete application for a Building Permit is made.

E. In the event an Impact Fee is not paid as a condition of the issuance of a Building Permit for the affected Capital Facilities Impact Construction, the Impact Fee shall be collected prior to the issuance of Certificate of Occupancy or by any other method which is authorized by law, unless, otherwise exempted pursuant to this chapter.

F. In the event that the Impact Fee is paid as a condition of the issuance of a Building Permit for a Capital Facilities Impact Construction and said Building Permit expires prior to completion of the Capital Facilities Impact Construction for which it was

issued, the Applicant may, within ninety (90) days of the expiration of the Building Permit, apply for a refund of the Impact Fee. Failure to timely apply for a refund of the Impact Fee shall waive any right to a refund.

1. The application for refund shall be filed with the City Manager and contain the following:

- a. The name and address of the applicant;
- b. The location of the property which was the subject of the Building Permit;
- c. The date the Impact Fee was paid;
- d. A copy of the receipt of payment for the Impact Fee; and
- e. The date the Building Permit was issued and the date of expiration.

2. After verifying that the Building Permit has expired and that the Capital Facilities Impact Construction has not been completed, the City Manager shall refund the Impact Fee paid for such Capital Facilities Impact Construction.

3. A Building Permit that is subsequently issued for a Capital Facilities Impact Construction on the same property that was the subject of a refund shall be subject to pay the Impact Fee as required by this Chapter.

G. The payment of the Impact Fees shall be in addition to all other fees, charges or assessments due for the issuance of a Certificate of Occupancy or Building Permit.

H. The obligation for payment of the Impact Fees shall run with the land.

## **Section 87-21. Alternative Impact Fees.**

A. In the event an Applicant believes that the impact to the Capital Facilities caused by the Capital Facilities Impact Construction is less than the impact established in an Impact Fee Study and the Impact Fees imposed herein, such Applicant may, prior to issuance of a Building Permit for such Capital Facilities Impact Construction, file an Alternative Impact Fee Study with the City Manager, along with an administrative review fee established by the City to cover the City's actual costs incurred in reviewing and processing such Alternative Impact Fee Study. The City Manager shall review the alternative calculations and make a determination within thirty (30) days of submittal as to whether such calculations comply with the requirements of this section.

B. For purposes of any alternative Impact Fee calculation, the Capital Facilities Impact Construction shall be presumed to have the maximum impact on the Capital Facilities.

C. The alternative Impact Fee calculation shall be based on data, information, and assumptions contained in this Chapter and the applicable Impact Fee Study as described in this Chapter. Alternatively, the alternative Impact Fee calculation may be based on independent sources, provided that:

1. The independent source is a generally accepted standard source of planning information and cost impact analysis performed pursuant to a generally accepted methodology of planning and cost impact analysis which is consistent with the applicable Impact Fee Study; or

2. The independent source is a professional study that utilizes the most recent localized data and is supported by a database adequate for the conclusions

contained therein, and such study is performed pursuant to a generally accepted methodology of planning and cost impact analysis that is consistent with the applicable Impact Fee Study.

D. There shall be a rebuttable presumption that an Alternative Impact Fee Study conducted more than two (2) years prior to the date of its submittal does not comply with the requirements of this Section.

E. If the City Manager determines that the data, information and assumptions utilized by the Applicant comply with the requirements of this Section and that the calculation of the alternative Impact Fee was by a generally accepted methodology that is consistent with the applicable Impact Fee Study, then the alternative Impact Fee shall be paid in lieu of the applicable fees adopted herein.

F. If the City Manager determines that the data, information and assumptions utilized by the Applicant to compute an alternative Impact Fee do not comply with the requirements of this Section, then the City Manager shall provide to the Applicant by certified mail, return receipt requested, written notification of the rejection and the reasons therefore.

**Section 87-22. Exemptions.** Subject to the Change in Size and Use provisions in Section 87-23 hereof, the following shall be exempted from the payment of Impact Fees imposed pursuant to this Chapter:

A. Alteration or expansion of an existing Dwelling Unit which does not result in any additional Dwelling Units or increase the number of families for which such Dwelling Unit is arranged, designed, or intended to accommodate for the purpose of providing living quarters.

B. The replacement or construction of an Accessory Building or Structure which will not create an additional impact on the Capital Facilities for which Impact Fees are imposed under this chapter.

C. The replacement of a Building or Dwelling Unit where no additional Square Footage or Dwelling Units are created and where the existing and replacement Building or Dwelling Units are located on the same lot. To be eligible for this exemption, official evidence including, but not limited to, aerial photos, property appraiser data, or Building Permit data, must be provided that confirms a Building of Equivalent Use existed within the parcel boundaries in which the replacement structure is to be located.

D. The issuance of a tie-down permit for a Mobile Home on which the applicable Impact Fee has previously been paid for the lot upon which the Mobile Home is to be situated. To be eligible for this exemption, official evidence including, but not limited to, aerial photos, property appraiser data, or Building Permit data, must be provided that confirms a Building of Equivalent Use existed within the parcel boundaries in which the replacement structure is to be located.

E. The construction of any Building on Government Property. However, any impact fee exemption issued for Government Property shall expire if the property ceases to meet the definition of Government Property contained in Section 87-2.

F. Any Residential Construction that qualifies as Affordable Housing and meets the following requirements:

1. Any Person seeking an Affordable Housing exemption shall file with the City Manager an application for exemption prior to the Impact Fee payment date in

Section 87-20 for the proposed Residential Construction. The application for exemption shall contain the following:

- a. The name and address of the Owner;
- b. The legal description of the Residential Construction;
- c. The number of bedrooms within the Residential Construction;
- d. The proposed selling price or the proposed rental price, as applicable;
- e. A notarized affidavit swearing or affirming that the Residential Construction qualifies as Affordable Housing and that it shall be occupied by Low-Income or Very-Low Income Persons; and
- f. Evidence that the Residential Construction is part of a Multi-Family project, which is funded by a governmental affordable housing program, if applicable.

2. For Residential Construction to receive an Affordable Housing exemption, it must meet all the restrictions of Affordable Housing as provided herein and these restrictions must continue for a period of at least thirty (30) years from the date of issuance of a Certificate of Occupancy. Such restrictions must either be contained within the deed for the Residential Construction; a recorded declaration of covenants and restrictions that run with the land; the terms, restrictions and conditions of a direct government grant or subsidy that will fund the Residential Construction; or within the terms of a development agreement between the City and the Owner. The City reserves

the right to audit the records of all Persons granted an Affordable Housing exemption throughout this thirty- (30-) year period to ensure continued compliance with the requirements set forth herein

3. If the Residential Construction meets the requirements for an Affordable Housing exemption, the City Manager shall issue an exemption. The exemption shall be presented in lieu of payment of the Impact Fees.

4. The amount of the Impact Fees shall not be increased to replace any revenue lost due to the Affordable Housing Exemption.

5. In the event the Residential Construction fails to meet the restrictions of Affordable Housing as provided herein within the 30-year period following the issuance of the Certificate of Occupancy such that the property no longer qualifies as Affordable-Housing and is no longer occupied by Low-Income or Very-Low Income Persons, the Impact Fees in effect at the time of the change in circumstances shall be immediately due.

**Section 87-23. Changes in Size and Use.** An Impact Fee shall be imposed and calculated for the alteration, expansion, or replacement of a Building or the construction of an Accessory Building or Structure if the alteration, expansion, or replacement of the Building or the construction of an Accessory Building or Structure results in a land use determined to generate greater impact to Capital Facilities than the present use under the applicable Impact Fee rate schedules adopted herein. The Impact Fee imposed shall be calculated as follows:

A. If the Impact Fee is calculated on a per Dwelling Unit basis or similar basis (e.g., per space, per room, etc.) and not on the basis of Square Footage, the Impact Fee imposed shall be the amount due under the applicable Impact Fee rate schedule for the Impact Fee Land Use Category resulting from the alteration, expansion or replacement, less the Impact Fee that would have been imposed under the applicable Impact Fee rate for the Impact Fee Land Use Category prior to the alteration, expansion or replacement.

B. If the Impact Fee is calculated on the basis of Square Footage, in the event the Square Footage of a Building is increased, the Impact Fee due for the increased Square Footage represented by the Capital Facilities Impact Construction shall be calculated by determining the Impact Fee due according to the Square Footage resulting from the alteration, expansion or replacement, less the Impact Fee that would have been imposed for the original Square Footage prior to the alteration, expansion or replacement.

C. If the Impact Fee is calculated on the basis of land use and not Square Footage, the Impact Fee imposed shall be the Impact Fee due under the applicable Impact Fee Land Use Category resulting from the alteration, expansion or replacement, less the Impact Fee that would be imposed under the applicable Impact Fee Land Use Category prior to the alteration, expansion or replacement.

D. If an Impact Fee is imposed for an Accessory Building or Structure because such Accessory Building or Structure is determined to generate a greater impact than the present use, the fee shall be that applicable to the Impact Fee Land Use Category for the primary Building.



**Section 87-24. Accounting and Reporting of Impact Fee.**

A. The City shall submit with its annual financial report required under Section 218.32, Florida Statutes, or its financial audit report required under Section 218.39, Florida Statutes, a separate affidavit signed by its chief financial officer attesting, to the best of his or her knowledge, that all Impact Fees were collected and expended by the City in full compliance with the spending period provision provided in this Chapter and that funds expended from each Impact Fee trust fund were used only to acquire, construct, or improve specific infrastructure needs.

B. The revenues realized from Impact Fees imposed pursuant to this Chapter shall be identified in the City's budget as a separate account as required by state law. The City shall maintain adequate records to justify all expenditures from any Impact Fee trust fund and any accounts established within such trust fund and shall provide for reporting of Impact Fee rates, collections, expenditures, and Affordable Housing exemptions in accordance with state law.

**Section 87-25. Developer contribution credits.**

A. Subject to the terms and conditions of this Section, a credit shall be granted against an Impact Fee imposed by this Chapter for the donation of land or equipment, or the construction of Capital Facilities required pursuant to a Building Permit or other development permit or made voluntarily in connection with Capital Facilities Impact Construction. For the purposes of this section, "construction" includes associated costs, including design, engineering, permitting, and construction engineering/inspection (CEI). Such donations or construction shall be subject to the approval and acceptance of the City. No credit shall be given for the donation of land or construction unless such property

is conveyed in fee simple to the City without remuneration. No credit shall be given for the contribution, donation, or dedication of land or infrastructure that are Access Improvements or are On-site Improvements and required in accordance with the City's development regulations (i.e., internal subdivision roads, etc.).

B. Prior to issuance of a Building Permit, the Applicant shall submit a proposed plan for donations or contributions of the contemplated Capital Facilities to the City Manager. The proposed plan shall include:

1. A designation of the Capital Facilities Impact Construction for which the plan is being submitted;

2. A legal description of any land proposed to be donated and a written appraisal prepared in conformity with paragraph E. of this Section;

3. A list of the contemplated Capital Facilities improvements, apparatus, or equipment or apparatus sought to be donated;

4. An estimate of proposed construction costs certified by a professional architect or engineer;

5. A written statement of the actual cost for any equipment or apparatus sought to be donated; and

6. A proposed time schedule for completion of the proposed plan.

C. The City Manager shall tentatively approve or deny the proposed plan in accordance with paragraph D. of this Section and, if approved, establish the amount of credit in accordance with paragraph E. of this Section. The City Manager shall issue a preliminary decision within sixty (60) days after the filing of the proposed plan.

D. In reviewing the proposed plan, the City Manager shall determine:

1. If such proposed plan is in conformity with contemplated improvements and additions to the Capital Facilities;

2. If the proposed donation and/or construction contributions by the Applicant is consistent with the public interest. The final acceptance of any proposed donation of land or other contributions is at the sole discretion of the Commission; and

3. If the proposed time schedule is consistent with the City's capital improvement program for the Capital Facilities.

E. The amount of developer contribution credit shall be determined as follows:

1. The value of donated land shall be based upon a written appraisal of fair market value as determined by an M.A.I. appraiser who was selected and paid for by the Applicant, and who used generally accepted appraisal techniques. If the appraisal does not conform to the requirements of this Chapter and any applicable administrative regulations, the appraisal shall be corrected and resubmitted. In the event the City Manager accepts the methodology of the appraisal but disagrees with the appraised value, he or she may engage another M.A.I. appraiser at the City's expense and the value shall be an amount equal to the average of the two (2) appraisals. If either party does not accept the average of the two (2) appraisals, a third appraisal shall be obtained, with the cost of said third appraisal being shared equally by the City and the owner or applicant. The third appraiser shall be selected by the first two (2) appraisers and the third appraisal shall be binding on the parties.

2. The actual cost of donations of equipment or apparatus shall be determined by written receipts for the actual cost for any equipment or apparatus donated. The actual cost of construction to the Capital Facilities shall be based upon cost estimates

certified by a professional architect or engineer. However, in no event shall any credit be granted in excess of the estimated construction costs approved by the Commission unless the construction project is competitively bid, in which case, the credit shall be limited to the actual cost or one hundred twenty (120) percent of the bid amounts, whichever is less; and

3. The donations and construction contributions shall only provide improvements or additions to the Capital Facilities that are required to accommodate growth.

F. If a proposed plan is approved for credit by the City Manager, the Applicant or Owner and the Commission shall enter into a credit agreement which shall provide for the parties obligations and responsibilities, including, but not limited to:

1. The timing of actions to be taken by the Applicant and the obligations and responsibilities of the applicant, including, but not limited to, the applicable construction standards and requirements;

2. The obligations and responsibilities of the Commission including, but not limited to, inspection of the project;

3. The amount of the credit as determined in accordance with paragraph E. of this Section; and

4. Performance surety in the form of a performance bond or letter of credit in an amount equal to one hundred twenty (120%) of the subject Capital Facilities Impact Construction's total Impact Fees covered by the credit agreement.

G. A credit for the donation of land or equipment or apparatus, or a credit for the construction of an improvement or addition to the Capital Facilities shall be granted

at such time as the credit agreement is approved and executed by both the Commission and the Applicant or Owner; provided, however, that in the event the Applicant or Owner fails to convey the property which is the subject of the donation to the City or such property is not ultimately accepted by the City in accordance with the terms of the credit agreement, then the credit for donation shall be revoked and all Impact Fees shall immediately become due and payable. If the Impact Fees due are not fully paid, the City shall be entitled to draw down the amount of the Impact Fees not paid plus the Administrative Costs from the amount of the posted surety, and the City shall release the posted surety on any remaining balance. The administration of said contribution credits shall be the responsibility of the City Manager.

H. Any Applicant or Owner who submits a proposed plan pursuant to this Section and desires the immediate issuance of a Building Permit prior to approval of the proposed plan shall pay the Impact Fees as a condition of the issuance of the Building Permit. Any difference between the amount paid and the amount due, should the City Manager approve and accept the proposed plan, shall be refunded to the Applicant or owner.

I. The holder of any Impact Fee credits granted by the City shall be entitled to redeem such credits for the full benefit of the density or intensity represented by such credits as of the date of issuance, notwithstanding any subsequent increase in Impact Fee rates. The transferability of any Impact Fee credits granted by the City shall be in accordance with state law.

J. Impact Fee credits granted for one type of facility shall not be transferable as a credit against an Impact Fee levied for any other purpose.

## **Section 87-26. Review Hearings.**

A. An Applicant or owner who is required to pay an Impact Fee pursuant to this Chapter shall have the right to request a review hearing before the Commission. Such hearing shall be limited to the review of the following:

1. The application and calculation of the appropriate Impact Fee pursuant to this Chapter, including Administrative Determinations pursuant to Section 87-32.
2. Denial of an exemption pursuant to Section 87-22.
3. Any dispute regarding the application for credits pursuant to Section 87-25.
4. Rejection of an Alternative Impact Fee pursuant to Section 87-21.

B. Except as otherwise provided in this Chapter, such review hearing shall be requested by the applicant or owner within 30 days of written notice of the event sought to be reviewed. Failure to request a review hearing within the time provided shall be deemed a waiver of such right.

C. A request for review hearing shall be filed with the City Manager and shall contain the following information:

1. The name and address of the Applicant or owner;
2. The legal description of the property in question;
3. If issued, the date the Building Permit was issued;
4. A brief description of the nature of the construction being undertaken pursuant to the Building Permit;
5. If paid, the date the Impact Fee was paid; and

6. A statement of the reasons why the Applicant or owner is requesting the appeal.

D. Upon receipt of such request, a hearing shall be scheduled before the Commission at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the Applicant and owner written notice of the time and place of the hearing. Such hearing shall be held within 60 days of the date the request for hearing was filed, unless there are no regularly scheduled Commission meetings within 60 days of such date, in which event the hearing shall be held at the Commission's next regularly scheduled meeting.

E. The hearing shall be before the Commission and shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence. A determination shall be made in writing and issued within thirty (30) days of the hearing to the Applicant or owner.

F. Any Applicant or owner who requests a hearing pursuant to this Section and desires the immediate issuance of a Building Permit shall pay the Impact Fee as a condition of the issuance of the Building Permit, or if a Building Permit has been issued without the payment of the Impact Fee, the Applicant or owner shall pay the applicable Impact Fee prior to or at the time the request for hearing is filed. Said payment shall be deemed paid "under protest" and shall not be construed as a waiver of any review rights.

G. An Applicant or owner may request a hearing under this Section without paying the applicable Impact Fee, but no Building Permit shall be issued until such Impact

Fee is paid in the amount initially calculated or the amount approved upon completion of the review provided in this Section.

**Section 87-27. Review Requirement.**

(A) This Chapter and the Impact Fee Studies described herein shall be reviewed by the Commission at least every four (4) years from the effective date of this Ordinance. The initial review and each review thereafter shall consider new estimates of population and other socioeconomic data, changes in construction, land acquisition and related costs, and adjustments to the assumptions, conclusions or findings set forth in such Impact Fee Studies.

(B) The purpose of this review is to evaluate and revise, if necessary, the Impact Fees to ensure that they do not exceed the reasonably anticipated costs associated with the Capital Facilities necessary to offset the demand generated by the new construction.

(C) In the event the review of this Chapter and the Impact Fee Studies required by this Section alters or changes the assumptions, conclusions and findings of the Impact Fee Studies adopted herein or alters or changes the amount or classification of the Impact Fees, such studies shall be amended and updated to reflect the assumptions, conclusions and findings of such reviews.

**Section 87-28. Declaration of Exclusion from Administrative Procedures Act.** Nothing contained in this Chapter shall be construed or interpreted to include the City in the definition of agency contained in Section 120.52, Florida Statutes, or to otherwise subject the City to the application of the Administrative Procedures Act, chapter



120, Florida Statutes. This declaration of intent and exclusion shall apply to all proceedings taken as a result of or pursuant to this chapter.

**Section 87-29. Notice of Impact Fee Rates.** Prior to the adoption of this Ordinance or any subsequent action by the City having the effect of increasing the rate of any Impact Fee provided for in this Chapter, imposing an Impact Fee for the first time, or revising the methodology for the calculation of an Impact Fee, the City Manager shall provide for notice to be published once in a newspaper of general circulation within the City providing: (A) a brief and general description of the affected Impact Fee, (B) a description of the geographic area in which the Impact Fee will be collected; (C) the Impact Fee rates to be imposed for each Impact Fee Land Use Category for the applicable Impact Fee; and (D) the date of implementation of the Impact Fee rates set forth in the notice, which date shall not be less than ninety (90) days after the date of publication of the notice.

**Section 87-30. Refunds of Impact Fees.**

A. The Impact Fees collected pursuant to this Chapter shall be returned to the then-current owner of the property on behalf of which such fee was paid, if such fees have not been expended or encumbered prior to the end of the fiscal year immediately following the tenth (10<sup>th</sup>) anniversary of the date upon which such fees were paid. Refunds shall be made only in accordance with the following procedure:

1. The then-current owner shall petition the City for the refund within ninety (90) days following the end of the calendar quarter immediately following the tenth anniversary of the date of payment of the Impact Fee.

2. The petition for refund shall be submitted to the City Manager and shall contain:

- a. A notarized sworn statement that the petitioner is the present owner of the property on behalf of which the Impact Fee was paid;
- b. A copy of the dated receipt issued for payment of the Impact Fee or such other record as would evidence payment; and
- c. A certified copy of the latest recorded deed or a copy of the most recent ad valorem tax bill.

3. Within ninety (90) days from the date of receipt of a petition for refund, the City Manager will advise the petitioner and the Commission of the status of the Impact Fee requested for refund, and if such Impact Fee has not been expended or encumbered within the applicable time period, then it shall be returned to the petitioner. For the purposes of this Section, fees collected shall be deemed to be spent or encumbered on the basis of the first fee in shall be the first fee out.

B. In the event that a legal challenge is filed in connection with the payment of any Impact Fee, the ten-year period referenced in this Section shall not begin to run until completion of the associated litigation and appeals.

**Section 87-31. Administrative Costs.** The City may retain up to one (1) percent of all Impact Fees collected pursuant to this Chapter or the actual costs of administration and collection, whichever is less, as an administrative fee to defray the costs of collecting and administering the Impact Fees.

**Section 87-32. Administrative Determinations.**

A. In the event the Capital Facilities Impact Construction does not fall within an established Impact Fee Land Use Category set forth herein, the City Manager shall administratively determine the impact to be generated by the proposed Capital Facilities Impact Construction and shall calculate the appropriate Impact Fees utilizing the methodology contained in the applicable Impact Fee studies. The City Manager shall utilize as a standard in this determination the impact assumed in the most similar Impact Fee Land Use Category or any other generally accepted standard source of planning and cost impact analysis.

B. In the event a Capital Facilities Impact Construction involves a Mixed Use Construction, the City Manager shall calculate the Impact Fees based upon the impact to be generated by each separate Impact Fee Land Use Category included in the proposed Mixed Use Construction.

C. Any Applicant aggrieved by the decision of the City Manager rendered pursuant to this Section may seek review pursuant to Section 87-26.

### ARTICLE III. TRANSPORTATION IMPACT FEES

**Section 87-40. Definitions applicable to Transportation Impact Fees.** In addition to the general definitions contained in Section 87-2 hereof, the following terms shall have the following meanings as used in this Article:

**“Access Improvements”** shall mean improvements designed and constructed to provide safe and adequate ingress and egress from a Capital Facilities Impact Construction, which include, but are not limited to, rights-of-way, easements, paving, turn lanes, deceleration and acceleration lanes, traffic control devices, signage and markings, and drainage and utilities. Access Improvements shall not include improvements to the Major Transportation System occurring beyond the point(s) of connection for the Capital Facilities Impact Construction.

**“Arterial Road”** shall mean a road classified by the Florida Department of Transportation utilizing the definition established in Section 334.03(1), Florida Statutes, or its statutory successor in function. For the purposes of this Article an “Arterial Road” shall include those portions of an intersection with a Local Road that are a necessary and integral element of the design of the traffic flow on the Arterial Road.

**“City Road System”** shall mean the Arterial Roads and Collector Roads within the City that are not a part of the County Road System or State Highway System, plus associated bike lanes, sidewalks, transit facilities, and other multi-modal facilities for non-vehicular modes of transportation.

**“Collector Road”** shall mean a road classified by the Florida Department of Transportation utilizing the definition established in Section 334.03(4), Florida Statutes, or its statutory successor in function. For the purposes of this Article, a “Collector Road”

shall also include those portions of an intersection with a Local Road that are a necessary and integral element of the design of the traffic flow on the Collector Road.

**“County Road System”** shall mean the road system of Alachua County, Florida, as defined in Section 334.03(8), Florida Statutes, lying within the City, but excluding Local Roads and including associated bike lanes, sidewalks, transit facilities, and other multi-modal facilities for non-vehicular modes of transportation.

**“External Trip”** shall mean any vehicular trip which either has its origins from or its destination to the Capital Facilities Impact Construction and which impacts the Major Transportation System.

**“Local Road”** shall mean a road classified by the Florida Department of Transportation utilizing the definition established in Section 334.03(14), Florida Statutes, or its statutory successor in function.

**“Major Transportation System”** shall mean those roads and associated bike lanes, sidewalks, transit facilities, and other multi-modal facilities for non-vehicular modes of transportation that are within the City Road System, the County Road System, or the State Highway System.

**“Off-Site Improvements”** shall mean road improvements located outside of the boundaries of a Capital Facilities Impact Construction which are required by the City in order to serve External Trips, but not including Access Improvements.

**“On-Site Improvements”** shall mean road improvements located within the boundaries of a Capital Facilities Impact Construction which are required by the City to provide safe and adequate ingress and egress for the project, but not including Access Improvements.

**“State Highway System”** shall mean the road system of the State of Florida as defined in Section 334.03(24), Florida Statutes, lying within the City.

**“Transportation Impact Fee”** shall mean the Impact Fee imposed pursuant to this Article to fund growth necessitated capital improvements to the Major Transportation System.

**“Transportation Impact Fee Study”** shall mean the portion of the Impact Fee Study adopted in Section 87-5 relating to the Transportation Impact Fee.

**“Trip”** shall mean a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end). The word "Trip" shall have the meaning which it has in commonly accepted traffic engineering practice.

**“Trip Generation”** or “Trip Generator Rate” shall mean the maximum average daily trip generation rates at peak hour for the applicable trip generation land use category, as adjusted by the transportation Impact Fee Study.

**“Trip Generation Land Use Category”** shall mean the trip generation land use categories established in Trip Generation Manual, 11th Edition, as supplemented, published by the Institute of Transportation Engineers, or the most current edition thereof.

**Section 87-41. Legislative Findings Applicable to Transportation Impact Fees.** In addition to the general legislative findings contained in Section 87-4, the Commission hereby specifically ascertains, determines, and declares as follows:

A. Development necessitated by the growth contemplated in the Comprehensive Plan and the Transportation Impact Fee Study will require improvements and additions to the Major Transportation System to accommodate the traffic generated by such growth and maintain the standards of service adopted by the City.

B. There is a rational nexus between future growth, as represented by Capital Facilities Impact Construction, and the need to construct improvements and additions to the Major Transportation System to accommodate the traffic generated by such growth and maintain the standards of service currently provided by the Major Transportation System. The Transportation Impact Fees adopted herein for each Impact Fee Land Use Category are proportional to impact expected to be generated by the Capital Facilities Impact Construction.

C. The Commission has determined that ad valorem tax revenue and other revenues will not be sufficient to provide the capital improvements and additions to the Major Transportation System that are necessary to accommodate Capital Facilities Impact Construction occurring within the City.

D. The City has a responsibility to provide and maintain certain roads within the incorporated areas of the City that comprise the Major Transportation System. The Major Transportation System benefits all Capital Facilities Impact Construction occurring within the City, and, therefore, Transportation Impact Fees shall be imposed on Capital Facilities Impact Construction occurring in all incorporated areas of the City.

E. The required improvements and additions to the Major Transportation System needed to accommodate existing traffic at the level of service adopted by the City shall be financed by revenue sources of the City other than Transportation Impact Fees.

F. The Commission expressly finds that improvements and additions to the Major Transportation System provide a benefit to all Capital Facilities Impact Construction within the City in excess of the Transportation Impact Fee.

G. Implementation of the Transportation Impact Fee to require Capital Facilities Impact Construction to contribute its fair share of the cost of required capital improvements and additions to the Major Transportation System is an integral and vital element of the regulatory plan of growth management incorporated in the Comprehensive Plan of the City.

H. The purpose of this Article is to require payment of Transportation Impact Fees by those who engage in Capital Facilities Impact Construction and to provide for the funding of the cost of capital improvements and additions to the Major Transportation System that are required to accommodate such growth. This Article shall not be construed to permit the collection of Transportation Impact Fees in excess of the amount reasonably anticipated to offset the demand on the Major Transportation System generated by such Capital Facilities Impact Construction.

I. This Article shall not be construed to permit the expending or encumbering of any monies collected through Transportation Impact Fees for the construction of improvements or additions to roads that are not contained within the Major Transportation System.

J. The imposition of a Transportation Impact Fee is to provide a source of revenue to fund the construction or improvement of the Major Transportation System necessitated by growth as delineated in the capital improvement element of the Comprehensive Plan.

#### **Section 87-42. Imposition of Transportation Impact Fees.**

A. Effective on the dates indicated below, all Capital Facilities Impact Construction occurring within the incorporated area of the City shall pay the following



# Transportation Impact Fee as a condition of issuance of a Building Permit for such Capital

## Facilities Impact Construction:

ITE LUC	Land Use	Unit	Effective 11/27/2023	Effective 10/01/2024	Effective 10/01/2025	Effective 10/01/2026	Effective 10/01/2027
<b>RESIDENTIAL:</b>							
210	Single Family (Detached) <1,500 sf	du	\$3,005	\$3,506	\$4,006	\$4,507	\$5,008
	Single Family (Detached) 1,500 to 2,499 sf	du	\$3,379	\$3,942	\$4,505	\$5,068	\$5,631
	Single Family (Detached) 2,500 sf and greater	du	\$3,815	\$4,451	\$5,086	\$5,722	\$6,358
220	Multi-Family, 1-3 Stories	du	\$2,289	\$2,671	\$3,052	\$3,434	\$3,815
221/222	Multi-Family, 4 Stories or more	du	\$1,535	\$1,791	\$2,046	\$2,302	\$2,558
240	Mobile Home/RV Unit (Park Only)	du	\$1,250	\$1,458	\$1,666	\$1,875	\$2,083
<b>LODGING:</b>							
310	Hotel	room	\$1,502	\$1,753	\$2,003	\$2,254	\$2,504
320	Motel	room	\$724	\$844	\$965	\$1,085	\$1,206
<b>RECREATION:</b>							
430	Golf Course	hole	\$11,824	\$13,794	\$15,765	\$17,735	\$19,706
445	Movie Theater	1,000 sf	\$10,216	\$11,919	\$13,622	\$15,324	\$17,027
492	Health/Fitness Club	1,000 sf	\$10,865	\$12,676	\$14,487	\$16,298	\$18,109
<b>INSTITUTIONS:</b>							
520	Elementary School (Private)	student	\$384	\$448	\$512	\$576	\$640
522	Middle/Jr High School (Private)	student	\$359	\$419	\$479	\$539	\$599
525	High School (Private)	student	\$376	\$439	\$502	\$564	\$627
560	Church	1,000 sf	\$1,744	\$2,034	\$2,325	\$2,615	\$2,906
565	Day Care Center	1,000 sf	\$4,665	\$5,443	\$6,220	\$6,998	\$7,775
<b>MEDICAL:</b>							
610	Hospital	1,000 sf	\$3,630	\$4,235	\$4,840	\$5,445	\$6,050
620	Nursing Home	bed	\$448	\$522	\$597	\$671	\$746
<b>OFFICE:</b>							
710	General Office	1,000 sf	\$3,342	\$3,899	\$4,456	\$5,013	\$5,570
720	Medical Office 10,000 sq ft or less	1,000 sf	\$7,671	\$8,950	\$10,228	\$11,507	\$12,785
	Medical Office greater than 10,000 sq ft	1,000 sf	\$11,006	\$12,841	\$14,675	\$16,510	\$18,344
<b>RETAIL:</b>							
822	Retail/Shopping Center <40,000 sfgla	1,000 sfgla	\$2,416	\$2,818	\$3,221	\$3,623	\$4,026
821	Retail/Shopping Center 40,000 to 150,000 sfgla	1,000 sfgla	\$4,732	\$5,520	\$6,309	\$7,097	\$7,886
820	Retail/Shopping Center >150,000 sfgla	1,000 sfgla	\$4,987	\$5,818	\$6,649	\$7,480	\$8,311
840/841	New/Used Automobile Sales	1,000 sf	\$5,801	\$6,768	\$7,735	\$8,702	\$9,669

ITE LUC	Land Use	Unit	Effective 11/27/2023	Effective 10/01/2024	Effective 10/01/2025	Effective 10/01/2026	Effective 10/01/2027
849	Tire Superstore	bay	\$5,144	\$6,001	\$6,858	\$7,716	\$8,573
850	Supermarket	1,000 sf	\$6,992	\$8,158	\$9,323	\$10,489	\$11,654
862	Home Improvement Superstore	1,000 sf	\$2,927	\$3,415	\$3,903	\$4,391	\$4,879
880/881	Pharmacy with and w/out Drive-Thru	1,000 sf	\$4,394	\$5,127	\$5,859	\$6,592	\$7,324
890	Furniture Store	1,000 sf	\$1,348	\$1,573	\$1,798	\$2,022	\$2,247
<b>SERVICE:</b>							
912	Bank w/Drive-Thru	1,000 sf	\$7,507	\$8,758	\$10,010	\$11,261	\$12,512
931	Fine Dining/Quality Restaurant	1,000 sf	\$13,399	\$15,632	\$17,865	\$20,098	\$22,331
932	High-Turnover (Sit-Down) Restaurant	1,000 sf	\$14,996	\$17,496	\$19,995	\$22,495	\$24,994
934	Fast Food Restaurant w/Drive-Thru	1,000 sf	\$36,164	\$42,191	\$48,218	\$54,246	\$60,273
941	Quick Lubrication Vehicle Shop	bay	\$6,734	\$7,856	\$8,978	\$10,101	\$11,223
943	Automobile Parts and Service Center	1,000 sf	\$2,798	\$3,265	\$3,731	\$4,198	\$4,664
944	Gas Station w/Convenience Store <2,000 sq ft	fuel pos.	\$4,750	\$5,542	\$6,334	\$7,125	\$7,917
945	Gas Station w/Convenience Store 2,000 to 5,499 sq ft	fuel pos.	\$7,306	\$8,523	\$9,741	\$10,958	\$12,176
	Gas Station w/Convenience Store 5,500+ sq ft	fuel pos.	\$9,560	\$11,153	\$12,746	\$14,340	\$15,933
947	Self-Service Car Wash	stall	\$4,147	\$4,838	\$5,529	\$6,220	\$6,911
<b>INDUSTRIAL:</b>							
110	General Industrial	1,000 sf	\$1,501	\$1,751	\$2,001	\$2,251	\$2,501
140	Manufacturing	1,000 sf	\$1,466	\$1,711	\$1,955	\$2,200	\$2,444
150	Warehouse	1,000 sf	\$525	\$613	\$700	\$788	\$875
151	Mini-Warehouse	1,000 sf	\$304	\$354	\$405	\$455	\$506

B. The Transportation Impact Fee shall be paid in addition to all other Impact Fees and is intended to provide funds only for Off-Site Improvements. Access Improvements and On-site Improvements, including required right-of-way dedication, will be provided by the Applicant in accordance with the City's rules and regulations.

C. No Transportation Impact Fee shall be assessed upon the issuance of a commercial retail shopping center Building Permit, foundation permit, or a nonretail multiuse Building Permit for an unfinished Building; i.e., a Shell Permit. Instead, each individual use shall thereafter be assessed the applicable Transportation Impact Fee

based on the calculations set forth below upon subsequent issuance of a Building Permit to finish each unit. All Transportation Impact Fees for these shell Buildings will be collected no later than the issuance of a Building Permit for the finishing of the Building.

**Section 87-43. Use of Transportation Impact Fees.**

A. The Commission hereby establishes the “Transportation Impact Fee Trust Account.”

B. All Transportation Impact Fees shall be deposited into the Transportation Impact Fee Trust Account immediately upon receipt and such funds shall be maintained separate and apart from all other City accounts.

C. The monies deposited into the Transportation Impact Fee Trust Accounts shall be used solely for the purpose of providing growth-necessitated capital improvements to the Major Transportation System.

D. The monies deposited into the Transportation Impact Fee Trust Accounts shall be used solely for the purpose of providing capacity-expanding capital improvements and facilities to the Major Transportation System. Such improvements and facilities may include, but is not limited to:

1. Design and construction plan preparation;
2. Any permitting or application fees necessary for the construction;
3. Right-of-way acquisition, including any costs of acquisition or condemnation;
4. Construction of new through lanes;
5. Construction of new turn lanes;
6. Construction of new bridges;

7. Design and construction of new drainage facilities in conjunction with new roadway construction;
8. Purchase and installation of traffic signalization;
9. Construction of new curbs, medians and shoulders;
10. Relocating utilities to accommodate new roadway construction;
11. Construction management and inspection;
12. Surveying, soils and materials testing;
13. Repayment of monies transferred or borrowed from any budgetary fund of the City, which were used to fund any of the growth-necessitated improvements and additions to the Major Transportation System;
14. Actual costs related to the administration, collection and implementation of the respective Transportation Impact Fees;
15. Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to fund growth-necessitated improvements and additions to the Major Transportation System;
16. Fees for professional services, including but not limited to engineering, surveying, soils and materials testing, legal, appraisals and construction management;
17. Construction of new sidewalks, bikeways, transit facilities, trails and similar facilities along existing or new roads that are or will comprise a part of the Major Transportation System when part of a capital improvement project adding new capacity to the subject Transportation;

18. Funding provided to the state or county through a joint project agreement or other interlocal agreement for improvements to a facility within the Major Transportation System otherwise meeting the requirements of this section.

E. Funds on deposit in the Transportation Impact Fee Trust Accounts shall not be used for any expenditures that would be classified as maintenance or repair expenses.

F. Any funds on deposit that are not immediately necessary for expenditure shall be maintained in accordance with the City's investment policy. Any income derived from such investments shall be deposited in the applicable Transportation Impact Fee Trust Account and used as provided herein.

G. A report will be prepared annually by the City reflecting the collection and expenditures of the Transportation Impact Fees by the City during the previous year.

## ARTICLE IV. PUBLIC BUILDINGS IMPACT FEES

### **Section 87-50. Definitions Applicable to Public Buildings Impact Fees.**

In addition to the general definitions contained in Section 87-2, the following terms shall have the following meanings in the application of the Public Buildings Impact Fees:

**“Administrative Buildings System”** shall mean the Buildings, land, vehicles, and capital equipment owned by the City and used to provide necessary City administration and other services provided by the City’s departments, including, but not limited to administration, fire and rescue, public works, recreation, and streets and roads.

**“Public Buildings Impact Fee”** shall mean the Impact Fee imposed pursuant to this Article to fund growth-necessitated capital improvements to the Administrative Buildings System.

**“Public Building Impact Fee Study”** shall mean the portion of the Impact Fee Study adopted in Section 87-5 relating to the Public Buildings Impact Fee.

**Section 87-51. Legislative Findings Applicable to Public Buildings Impact Fees.** In addition to the general legislative findings contained in Section 87-4, the Commission hereby specifically ascertains, determines, and declares as follows:

A. Development necessitated by the growth contemplated in the Comprehensive Plan will require improvements and additions to the Administrative Buildings System to accommodate the new development generated by such growth and maintain the standards of service provided by the City.

B. There is a rational nexus between future growth, as measured by new Residential Construction, and the need to expand the Administrative Buildings System through the acquisition and construction of new Public Buildings in order to maintain the

standards of service currently provided by the Administrative Buildings System. The Public Buildings Impact Fees adopted herein for each Impact Fee Land Use Category are proportional to impact expected to be generated by the Residential Construction.

C. The Commission has determined that ad valorem tax revenue and other revenues will not be sufficient to provide the capital improvements and additions to the Administrative Buildings System that are necessary to accommodate new Capital Facilities Impact Construction within the City.

D. The City has the responsibility to provide Public Buildings within the City. Capital Facilities Impact Construction occurring within incorporated areas of the City impacts upon and benefits from the Administrative Buildings System; therefore, the Public Buildings Impact Fee shall be imposed in all incorporated areas of the City.

E. Future growth, as represented by Capital Facilities Impact Construction, should contribute its fair share to the cost of improvements and additions to the Administrative Buildings System that are required to accommodate the impact generated by such growth.

F. The required improvements and additions to the Administrative Buildings System needed to eliminate any deficiencies shall be financed by revenues other than Public Buildings Impact Fees.

G. Implementation of the Public Buildings Impact Fee to require Capital Facilities Impact Construction to contribute its fair share of the cost of required capital improvements and additions to the Administrative Buildings System is an integral and vital element of the regulatory plan of growth management of the City.

H. The Commission expressly finds that the improvements and additions to the Administrative Buildings System to be funded by the Public Buildings Impact Fee provide a benefit to all Capital Facilities Impact Construction within the City in excess of the Public Buildings Impact Fee.

I. The purpose of this Article is to require payment of Public Buildings Impact Fees by those who engage in Capital Facilities Impact Construction and to provide for the cost of capital improvements to the Administrative Buildings System which are required to accommodate such growth. This Article shall not be construed to permit the collection of Public Buildings Impact Fees in excess of the amount reasonably anticipated to offset the demand on the Administrative Buildings System generated by such Residential Construction.

J. The imposition of the Public Buildings Impact Fee promotes the general welfare of the citizens of the City, serves a public purpose, and is to provide a source of revenue to fund the construction or improvement of the Administrative Buildings System necessitated by growth as delineated in the capital improvement element of the Comprehensive Plan.

**Section 87-52. Imposition of Public Buildings Impact Fees.**

A. Effective on the dates indicated below, all Capital Facilities Impact Construction occurring within the incorporated area of the City shall pay the following Public Buildings Impact Fee as a condition of issuance of a Building Permit for such Capital Facilities Impact Construction:



ITE LUC	Land Use	Unit	Effective 11/27/2023	Effective 10/01/2024	Effective 10/01/2025	Effective 10/01/2026	Effective 10/01/2027
<b>RESIDENTIAL:</b>							
210/220/ 221/222/ 240	Residential						
	- Less than 1,500 sf	du	\$646	\$753	\$861	\$968	\$1,076
	- 1,500 to 2,499 sf	du	\$788	\$920	\$1,051	\$1,183	\$1,314
	- 2,500 sf or greater	du	\$886	\$1,034	\$1,182	\$1,329	\$1,477
<b>TRANSIENT, ASSISTED, GROUP:</b>							
310	Hotel	room	\$205	\$239	\$273	\$307	\$341
320	Motel	room	\$134	\$156	\$178	\$201	\$223
620	Nursing Home	bed	\$481	\$561	\$642	\$722	\$802
<b>RECREATIONAL:</b>							
430	Golf Course	hole	\$383	\$447	\$510	\$574	\$638
445	Movie Theater	1,000 sf	\$1,764	\$2,058	\$2,352	\$2,646	\$2,940
492	Health/Fitness Club	1,000 sf	\$1,140	\$1,330	\$1,520	\$1,710	\$1,900
<b>INSTITUTIONAL:</b>							
520	Elementary School (Private)	student	\$44	\$52	\$59	\$67	\$74
522	Middle/Jr High School (Private)	student	\$40	\$47	\$54	\$60	\$67
525	High School (Private)	student	\$35	\$41	\$47	\$53	\$59
560	Church	1,000 sf	\$182	\$213	\$243	\$274	\$304
565	Day Care Center	1,000 sf	\$361	\$421	\$481	\$541	\$601
<b>MEDICAL:</b>							
610	Hospital	1,000 sf	\$583	\$680	\$778	\$875	\$972
<b>OFFICE:</b>							
710	General Office	1,000 sf	\$432	\$504	\$576	\$648	\$720

ITE LUC	Land Use	Unit	Effective 11/27/2023	Effective 10/01/2024	Effective 10/01/2025	Effective 10/01/2026	Effective 10/01/2027
720	Medical Office 10,000 sq ft or less	1,000 sf	\$544	\$634	\$725	\$815	\$906
	Medical Office greater than 10,000 sq ft	1,000 sf	\$779	\$909	\$1,039	\$1,169	\$1,299
<b>RETAIL:</b>							
822	Retail/Shopping Center <40,000 sfgla	1,000 sfgla	\$931	\$1,086	\$1,242	\$1,397	\$1,552
821	Retail/Shopping Center 40,000 to 150,000 sfgla	1,000 sfgla	\$1,154	\$1,346	\$1,538	\$1,731	\$1,923
820	Retail/Shopping Center >150,000 sfgla	1,000 sfgla	\$632	\$738	\$843	\$949	\$1,054
840/841	New/Used Automobile Sales	1,000 sf	\$704	\$821	\$938	\$1,056	\$1,173
849	Tire Store/Auto Repair	bay	\$761	\$888	\$1,015	\$1,142	\$1,269
850	Supermarket	1,000 sf	\$1,096	\$1,278	\$1,461	\$1,643	\$1,826
862	Home Improvement Superstore	1,000 sf	\$864	\$1,008	\$1,152	\$1,296	\$1,440
880/881	Pharmacy/Drug Store with & without Drive-Thru	1,000 sf	\$824	\$961	\$1,098	\$1,236	\$1,373
890	Furniture Store	1,000 sf	\$143	\$167	\$190	\$214	\$238
<b>SERVICES:</b>							
912	Bank w/Drive-Thru	1,000 sf	\$659	\$769	\$879	\$989	\$1,099
931	Fine Dining/Quality Restaurant	1,000 sf	\$2,392	\$2,790	\$3,189	\$3,587	\$3,986
932	High-Turnover (Sit-Down) Restaurant	1,000 sf	\$2,258	\$2,635	\$3,011	\$3,388	\$3,764
934	Fast Food Restaurant w/Drive-Thru	1,000 sf	\$4,080	\$4,760	\$5,440	\$6,120	\$6,800
941	Quick Lubrication Vehicle Shop	bay	\$717	\$837	\$956	\$1,076	\$1,195

ITE LUC	Land Use	Unit	Effective 11/27/2023	Effective 10/01/2024	Effective 10/01/2025	Effective 10/01/2026	Effective 10/01/2027
943	Automobile Parts and Service Center	1,000 sf	\$481	\$561	\$642	\$722	\$802
944	Gas Station w/Convenience Store <2,000 sq ft	fuel pos.	\$655	\$764	\$873	\$982	\$1,091
945	Gas Station w/Convenience Store 2,000-5,499 sq ft	fuel pos.	\$1,029	\$1,201	\$1,372	\$1,544	\$1,715
945	Gas Station w/Convenience Store 5,500+ sq ft	fuel pos.	\$1,345	\$1,569	\$1,794	\$2,018	\$2,242
947	Self-Service Car Wash	stall	\$432	\$504	\$576	\$648	\$720
<b>INDUSTRIAL:</b>							
110	General Light Industrial	1,000 sf	\$223	\$260	\$297	\$334	\$371
140	Manufacturing	1,000 sf	\$259	\$302	\$345	\$388	\$431
150	Warehousing	1,000 sf	\$53	\$62	\$71	\$80	\$89
151	Mini-Warehouse	1,000 sf	\$22	\$26	\$30	\$33	\$37

B. The Public Buildings Impact Fee shall be paid in addition to all other Impact Fees and is intended to provide funds only for capacity capital improvements to the Administrative Buildings System.

### **Section 87-53. Use of Public Buildings Impact Fees.**

A. The Commission hereby creates the “Public Buildings Impact Fee Trust Account.”

B. All Public Buildings Impact Fees shall be deposited into the Public Buildings Impact Fee Trust Account immediately upon receipt and such funds shall be maintained separate and apart from all other City accounts.

C. The monies deposited into the Public Buildings Impact Fee Trust Accounts shall be used solely for the purpose of providing growth-necessitated capital improvements and facilities to the Administrative Buildings System. Such improvements and facilities may include, but are not limited to:

1. Design and construction plan preparation;
2. Any permitting or application fees necessary for the construction;
3. Site development and on-site and off-site improvements incident to the construction thereto;
4. Land acquisition, including any cost of acquisition or condemnation;
5. Design and construction of new public buildings;
6. Design and construction of new drainage facilities required by the construction of public buildings or improvements thereto;
7. Relocating utilities required by the construction of new public buildings or improvements or additions thereto;
8. Landscaping;
9. Construction management and inspection;
10. Surveying, soils and materials testing;
11. Acquisition of capital equipment for the Administrative Buildings System;
12. Repayment of monies borrowed from any budgetary fund of the City that were used to fund growth-necessitated capital improvements and additions to the Administrative Buildings System;

13. Actual costs related to the administration, collection, and implementation of the Public Buildings Impact Fees;

14. Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the City to fund growth-necessitated improvements and additions to the Administrative Buildings System; and

15. Fees for professional services, including, without limitation, architecture, engineering, surveying, landscaping, soils and materials testing, legal, appraisals, and construction management.

D. Funds on deposit in the Public Buildings Impact Fee Trust Account shall not be used for any expenditure that would be classified as a maintenance or repair expense.

E. Any funds on deposit which are not immediately necessary for expenditure shall be maintained in accordance with the City's investment policy. Any income derived from such investments shall be deposited in the Public Buildings Impact Fee Trust Account and used as provided herein.

F. A report will be prepared annually by the City reflecting the collection and expenditures of the Public Buildings Impact Fees by the City during the previous year.

## **SECTION 2. NOTICE OF IMPACT FEES.**

A. No later than August 29, 2023, the City Manager is hereby directed to publish a notice once in a newspaper of general circulation within the City which notice shall include: (A) a brief and general description of the Impact Fees, (B) a description of the geographic area in which the Impact Fees will be collected; (C) the Impact Fee rates to be imposed for each Impact Fee Land Use Category; and (D) the date of implementation of the Impact Fee rates set forth in the notice, which date shall not be earlier than ninety (90) days after the date of publication of the notice. In the event, this notice is not published by August 29, 2023, then the initial November 27, 2023, implementation dates for the Impact Fees shall be adjusted to ensure that the Impact Fee rates are not implemented earlier than ninety (90) days after the date of publication of the notice.

B. The obligations herein for the payment of the Impact Fees shall apply to all Capital Facilities Impact Construction that applies for a Building Permit on or after the November 27, 2023, implementation date.

### **SECTION 3. MISCELLANEOUS.**

A. If any clause, section or provision of this Ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said chapter shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

B. It is the intention of the Commission, and it is hereby ordained that the relevant provisions of this Ordinance shall become and be made a part of the City of Newberry Code of Ordinances; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

C. The terms and provisions of this Ordinance shall be liberally construed to affect the purpose for which it is adopted.

D. This Ordinance shall be effective upon final passage; provided the imposition and collection of the Impact Fees adopted herein shall become effective as provided in Section 2 hereof.

**DONE THE FIRST READING**, by the City Commission of the City of Newberry, Florida, at a regular meeting, this 24th day of July, 2023.

**DONE THE PUBLIC NOTICE**, in a newspaper of general circulation in the City of Newberry, Florida, but the City Clerk of the City of Newberry, Florida on this 3rd day of August, 2023.

**DONE THE SECOND READING, PUBLIC HEARING, AND ADOPTED ON FINAL PASSAGE**, by an affirmative vote of a majority of a quorum present of the City Commission of the City of Newberry, Florida, at a regular meeting, this 14th day of August, 2023.

**BY THE MAYOR OF THE CITY OF NEWBERRY,  
FLORIDA**

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Honorable Jordan Marlowe, Mayor

**ATTEST BY THE CLERK OF THE  
CITY COMMISSION OF THE CITY OF  
NEWBERRY, FLORIDA:**

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Judy S. Rice, City Clerk

**APPROVED AS TO FORM:**

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City Attorney's Office