

**CITY OF CAMDEN, SOUTH CAROLINA  
DEVELOPMENT IMPACT FEE ORDINANCE**

**AN ORDINANCE TO AMEND THE CITY OF CAMDEN CODE OF ORDINANCES  
TITLE IX, GENERAL REGULATIONS, BY ESTABLISHING CHAPTER 104:  
DEVELOPMENT IMPACT FEES**

**WHEREAS**, the City Council of the City of Camden (the “City Council”) as the governing body of the City of Camden, South Carolina (“the City”), believes that adequate Parks and Recreation Facilities, fire protection, and municipal facilities and equipment are vital and necessary to the health, safety, welfare, and prosperity of the City and its citizens; and

**WHEREAS**, substantial growth and new construction are taking place within the City and is anticipated to continue, and such growth creates substantial need for new infrastructure capacity; and

**WHEREAS**, future growth and new construction in the City place demands on Parks and Recreation Facilities, fire protection, and municipal facilities and equipment and those demands and needs should be met by shifting a portion of the capital costs for providing new capacity to serve new development, which creates, in whole or in part, these demands and needs; and

**WHEREAS**, by adoption of Resolution #2022-029 on August 23, 2022, Camden City Council directed the Planning Commission of the City of Camden (the “Planning Commission”) to conduct the necessary studies, and develop and recommended an ordinance implementing the Development Impact Fees (the “Development Impact Fee Ordinance”) in accordance with the requirements of the South Carolina Impact Fee Act; and

**WHEREAS**, the Planning Commission recommended to City Council a *Development Impact Fee Study Report for Camden* dated September 12, 2023, a *City of Camden Capital Improvements Plan* with projects eligible for impact fee funding dated September 12, 2023, and a *Housing Affordability Analysis in Support of a Development Impact Fee Study Report* in Camden dated September 12, 2023 for their consideration; and

**WHEREAS**, the Planning Commission and City Council have completed the work and examination required pursuant to and in compliance with the authority of the South Carolina Development Impact Fee Act, codified at Title 6, Article 9, of the Code of Laws of South Carolina 1976, as amended, to impose such fees.

**NOW, THEREFORE, BE IT ORDAINED**, by the City Council, that Title IX, *General Regulations*, be amended to establish *Chapter 104: Development Impact Fees*, as follows:

**Section 1.** By and through the enactment of this Ordinance, a new Chapter 104 of Title IX of the City of Camden, South Carolina, Code of Ordinances, shall be added as follows:

## **CHAPTER 104: DEVELOPMENT IMPACT FEES**

### **Sec. 104.01 – TITLE**

This ordinance shall be referred to as the “Development Impact Fee Ordinance for the City of Camden, South Carolina”.

### **Sec. 104.02. – AUTHORITY**

This ordinance is adopted pursuant to and in compliance with the authority of the South Carolina Development Impact Fee Act, codified at Title 6, Article 9, of the Code of Laws of South Carolina 1976, as amended (the “Act”), and is to be interpreted in accordance with such Act, or as it may be amended in the future.

### **Sec. 104.03 - FINDINGS**

The Camden City Council hereby declares that:

- (A) Adequate parks and recreation facilities, fire protection, and municipal facilities and equipment are vital and necessary to the health, safety, welfare, and prosperity of the City and its citizens. Substantial growth and new construction are taking place within the City and is anticipated to continue. This growth creates substantial need for new infrastructure capacity. Meeting these needs is very costly; however, failure to do so will result in an inadequate system of facilities and equipment to accommodate anticipated demand. This would make the City a less desirable place to live and do business and be detrimental to the health, safety, welfare, and prosperity of the City and its citizens.
- (B) To the extent that future growth and new construction in the City place demands on parks and recreation facilities, fire protection, and municipal facilities and equipment those demands and needs should be met by shifting a portion of the capital costs for providing new capacity to serve new development, which creates, in whole or in part, these demands and needs.
- (C) By Resolution #2022-029 dated August 23, 2022, the City Council directed the Planning Commission to conduct the necessary studies and develop a recommended Development Impact Fee ordinance in accordance with the requirements of the Act.
- (D) The Planning Commission recommended to City Council a *Development Impact Fee Study Report for Camden* dated September 12, 2023, a *City of Camden Capital Improvements Plan*

with projects eligible for impact fee funding dated September 12, 2023, and a *Housing Affordability Analysis in Support of a Development Impact Fee Study Report in Camden* dated September 12, 2023, each of which have been adopted by the City Council, as modified.

- (E) This ordinance is enacted to implement the findings and recommendations of the *Development Impact Fee Study Report for Camden* and endorse the list of capital projects eligible for impact fee-funding in the *City of Camden Capital Improvements Plan*.
- (F) The Development Impact Fees (as defined herein) prescribed in this ordinance are equitable, do not impose an unfair or disproportionate burden on Developers and new construction, and are in the best interests of the general welfare of the City and its citizens.
- (G) New facilities or equipment eligible for impact fee funding will benefit all new development or redevelopment in City limits. Therefore, it is appropriate to treat the entire City as one service area for calculating, collecting, and spending Development Impact Fees.
- (H) This ordinance provides the procedures for timely processing of applications for determination of appropriate Development Impact Fees applicable to all development inside City limits subject to the Development Impact Fees, and for the timely processing of applications for individual assessment of Development Impact Fees, credits, or reimbursements allowed or paid.
- (I) The maximum allowable parks and recreation Development Impact Fees determined in the *Development Impact Fee Study Report for Camden* has been reduced by twenty percent (20%) for the General Development Impact Fee Schedule summarized in Exhibit A of this ordinance, setting the fees at eighty percent (80%) of the maximum amount to provide a reasonable fee for residential investment and to ensure that the Development Impact Fees collected do not exceed the cost to provide capital facilities that accommodate new development.
- (J) The maximum allowable fire protection Development Impact Fees determined in the *Development Impact Fee Study Report for Camden* has been reduced by twenty percent (20%) for the General Development Impact Fee Schedule summarized in Exhibit A of this ordinance, setting the fees at eighty percent (80%) of the maximum amount to provide a reasonable fee for residential and non-residential investments and to ensure that the Development Impact Fee collected do not exceed the cost to provide capital facilities that accommodate new development.
- (K) The maximum allowable municipal facilities and equipment Development Impact Fee determined in the *Development Impact Fee Study Report for Camden* has been reduced by twenty percent (20%) for the General Development Impact Fee Schedule summarized in

Exhibit A of this ordinance, setting the fees at eighty percent (80%) of the maximum amount to provide a reasonable fee for residential and non-residential investments and to ensure that the Development Impact Fee collected do not exceed the cost to provide capital facilities and equipment that accommodate new development.

- (L) Property for which a valid Building Permit (as defined herein) has been issued prior to the effective date of this ordinance shall not be subject to new or updated Development Impact Fees.

#### **Sec. 104.04 - DEFINITIONS**

The following definitions apply within this ordinance consistent with the provisions set forth in the Act, or as it may be amended in the future. Where terms are not defined, the definitions used in the City of Camden Code of Ordinances shall apply.

- (A) Affordable Housing. Housing that is affordable to families whose incomes do not exceed eighty (80%) percent of the median income for the service zone established for the City.
- (B) Building Permit. A permit issued by the City permitting the construction of a building or structure within City limits.
- (C) Capital Improvement. Improvements with a useful life of five years or more, by new construction or other action, which increase the service capacity of the public facility. Public Facilities for the purpose of this ordinance include parks and recreation facilities and equipment; fire protection facilities, vehicles, and equipment; and municipal facilities, vehicles, and equipment.
- (D) Capital Improvements Plan (CIP). A multi-year planning tool used to identify capital projects and coordinate financing and implementation. The CIP also identifies capital improvements for which Development Impact Fees may be used as a funding source.
- (E) Certificate of Occupancy. A certificate allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with the City of Camden Code of Ordinances and all other applicable regulations.
- (F) Credits. Development Impact Fee deductions allowed to a Fee Payor for eligible Off-Site Improvements funded by the Fee Payor.
- (G) Developer. An individual, corporation, partnership, or other legal entity undertaking new Development.

- (H) Development. Construction or installation of a new building or structure, or a change in use of an existing building or structure, any of which creates additional demand and need for Public Facilities (i.e., parks and recreation, fire protection, or municipal facilities and equipment). A building or structure shall include, but not be limited to, modular buildings and manufactured housing. Development does not include alterations made to existing single-family homes.
- (I) Development Impact Fee. Collectively or individually, the Fire Protection Impact Fee, the Municipal Facilities and Equipment Impact Fee, and the Parks and Recreation Impact Fee, which constitute a financial payment imposed as a condition of issuing a Building Permit or development approval to pay a proportionate share of the cost of Public Facilities needed to accommodate future growth within the City for parks and recreation facilities, fire protection, and municipal facilities and equipment.
- (J) Fee Payor. Any person that pays or is required to pay a Development Impact Fee.
- (K) Fire Protection Impact Fee. A payment of money imposed as a condition of approval to pay a proportionate share of the cost Fire Protection Facilities identified to serve new Development.
- (L) Fire Protection Facilities. The System Improvements of the facilities for the City's Fire Department, as identified in the Capital Improvements Plan.
- (M) Housing Affordability Analysis. The analysis entitled *Housing Affordability Analysis in Support of a Development Impact Fee Study in Camden*, dated September 12, 2023 and on file with City Planning and Development Department and available upon request.
- (N) Impact Fee Study. The study entitled *Development Impact Fee Study Report for Camden* dated September 12, 2023, and on file with the City Planning and Development Department and available upon request.
- (O) Municipal Facilities and Equipment Impact Fee. A payment of money imposed as a condition of issuing a Building Permit or development approval to pay a proportionate share of the cost for Municipal Facilities identified to serve new Development.
- (P) Off-Site Improvements. Capital Improvements located outside of the boundaries of a Development that are required to serve the Development's demands and needs.
- (Q) Parks and Recreation Impact Fee. A payment of money imposed as a condition of issuing a Building Permit or development approval to pay a proportionate share of the cost for Parks and Recreation Facilities identified to serve new Development.

- (R) Parks and Recreation Facilities. The System Improvements of the facilities for the City's parkland, recreation facilities, parks and recreation amenities, trails, and open space, as identified in the Capital Improvements Plan.
- (S) Public Facilities. Includes all Fire Protection Facilities, Municipal Facilities, and Parks and Recreation Facilities identified in the Capital Improvements Plan as described in Section 104.05 hereof.
- (T) Square Feet (s.f.). As referred to in Exhibit A of this ordinance, means the sum (in square feet) of the area of each floor level, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores and offices, that are within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room (measured 6 foot, 6 inches minimum) regardless of their use. If a ground-level area of a building, or part thereof, within the principal outside faces of the exterior walls is not enclosed, this square footage definition considers it part of the overall square footage for the building. However, unroofed areas and unenclosed roofed-over spaces, except those contained within the principle outside faces of exterior walls, should be excluded from the area measurement. The area of any parking garage within a building shall not be included in the area measurement.
- (U) System Improvement. A capital improvement to a public facility that is designed to provide service to a service area.
- (V) System Improvement Costs. The costs incurred for construction and reconstruction of System Improvements, including design, acquisition, engineering, and other costs attributable to the System Improvements, and also including the cost of providing additional Public Facilities needed to serve new growth and development. System Improvement costs do not include:
- (1) construction, acquisition, or expansion of Public Facilities other than capital improvements eligible for impact fee funding that are identified in the Capital Improvements Plan;
  - (2) repair, operation, or maintenance of existing or new capital improvements;
  - (3) upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;
  - (4) upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;

- (5) administrative and operating costs of the governmental entity; or
  - (6) principle payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance capital improvements eligible for impact fee funding that are identified in the *City of Camden Capital Improvements Plan*.
- (W) Trust Account. Collectively or individually, the Parks and Recreation Impact Fee Trust Account, the Fire Protection Impact Fee Trust Account, and the Municipal Facilities and Equipment Impact Fee Trust Account, in which Fire Protection Impact Fees, the Municipal Facilities and Equipment Impact Fees, and the Parks and Recreation Impact Fees, respectively, are to be deposited as imposed and collected.

#### **Sec. 104.05 – SUPPORTING DOCUMENTATION**

This ordinance is based upon the conclusions and recommendations presented in the *Development Impact Fee Study Report for Camden, City of Camden Capital Improvements Plan, and Housing Affordability Analysis in Support of a Development Impact Fee Study in Camden* prepared consistent with the provisions set forth in the Act and adopted by City Council on [REDACTED]. All three documents are on file in the City Planning and Development Department and are incorporated into this ordinance by reference.

All Development Impact Fees collected pursuant to this ordinance shall be used to implement any or all of the Public Facilities deemed eligible for impact fee funding identified in the *City of Camden Capital Improvements Plan* as prioritized therein.

#### **Sec. 104.06 – JURISDICTION**

A Development Impact Fee shall apply to all new Development or redevelopment located within City limits.

#### **Sec. 104.07 – APPLICATION AND EXEMPTIONS**

The provisions of the ordinance shall apply to all new development or redevelopment within City limits for which a Building Permit or development approval is required except for the following:

- (A) rebuilding the same amount of floor space of a structure that was destroyed by fire or another natural catastrophe;
- (B) remodeling or repairing a structure with the same land use that does not result in an increase in the number of service units or place new demand on Parks and Recreation Facilities, Fire Protection, or Municipal Facilities and Equipment;

- (C) replacing a residential unit, including a manufactured home, with another residential unit on the same lot, unless it is demonstrated clearly that the new unit creates new demand for Parks and Recreation Facilities, Fire Protection, or Municipal Facilities and Equipment;
- (D) placing a construction trailer or temporary office on a lot during the period of construction on the same lot;
- (E) construction of an addition to a residential structure that does not increase new demand for Parks and Recreation Facilities, Fire Protection, or Municipal Facilities and Equipment generated by the same land use;
- (F) adding uses that are typically accessory to residential uses, such as a tennis court or a clubhouse, unless it is demonstrated clearly that the use creates new demand for Parks and Recreation Facilities, Fire Protection, or Municipal Facilities and Equipment;
- (G) all or part of a particular Development project if:
  - (1) the project is determined to create Affordable Housing; and
  - (2) the exempt Development's proportionate share of System Improvements is funded through a revenue source other than Development Impact Fees.
- (H) constructing a new elementary, middle, or secondary school; and
- (I) constructing a new volunteer fire department.

**Sec. 104.08 – PROVISIONS FOR AFFORDABLE HOUSING**

Because all or part of any particular development project may be exempt from Development Impact Fees for Affordable Housing, the following sets forth the administrative standards for determining what constitutes Affordable Housing and the procedures for exemption from one or more Development Impact Fees.

**(A) – MEDIAN FAMILY INCOME**

Affordable Housing is based upon eighty percent (80%) of the median family income for residents living within the City of Camden. Median family income shall be determined once a year utilizing the following procedure:



- (1) the most recently available figures from the US Census Bureau American Community Survey or Decennial Census, whichever is most current, will serve as the base year for this evaluation;
- (2) each subsequent year will be adjusted once annually thereafter during January of the calendar year based upon the previous year's published Consumer Price Index (CPI) increase, until the next US Census Bureau data set is published and this procedure is replicated.

**(B) – MAXIMUM EXPENDITURE**

The maximum expenditure for housing costs shall correspond to the Fannie Mae Foundation Mortgage Calculator multiplier of thirty percent (30%) of gross family income as used in the *Housing Affordability Analysis in Support of a Development Impact Fee Study in Camden*. Affordable Housing based upon eighty percent (80%) of median family income is;

- (1) Multifamily rental dwelling units of which the gross monthly rent cost does not exceed thirty percent (30%) of eighty percent (80%) of the gross median family monthly income.
- (2) Fee simple ownership dwelling units of which the cost of homeownership for the dwelling unit does not exceed thirty percent (30%) of eighty percent (80%) of the gross median family monthly income as reflected in the sales price using the Fannie Mae Foundation Mortgage Calculator (or comparable methodology) assuming a 20% down payment and a specified interest rate. The specified interest rate shall be determined by selecting the lowest 30-year fixed mortgage rate reported by area lending institutions as of the first week of January for any given year and shall remain so for the balance of the year.

**(C) – PROCEDURES FOR EXEMPTION FROM DEVELOPMENT IMPACT FEES**

- (1) A Developer seeking exemption from one or more Development Impact Fees for the construction of affordable multifamily rental dwelling units must identify the alternate source of funds for the impact fee and, unless the alternative source is from City resources, post a financial guarantee suitable to the City prior to the issuance of a Building Permit. The amount of the financial guarantee shall reflect the amount of Development Impact Fees due for all Affordable Housing units as if they were not Affordable Housing units. No Certificate of Occupancy for any of the units may be issued until the impact fees for the Affordable Housing units have been paid by the alternate source or from the proceeds of the financial guarantee.
- (2) A Developer seeking exemption from one or more Development Impact Fees for construction of a fee simple ownership dwelling unit shall identify the alternate source of funds for the impact fees and, unless the alternate source is from City resources, post a financial guarantee suitable to the City prior to the issuance of a Building Permit. The

amount of the financial guarantee shall reflect the amount of Development Impact Fees due for all Affordable Housing units as if they were not Affordable Housing units. No Certificate of Occupancy may be issued for the Affordable Housing dwellings until the impact fees have been paid by the alternate source or from the proceeds of the financial guarantee.

If the alternative source of funds for impact fees is from City resources, prior to the issuance of a Certificate of Occupancy by the City, the Developer shall file with the City a closing statement for the dwelling unit indicating an arm's length sales price no greater than allowed for Affordable Housing at the time of final sale and a recorded covenant, approved by the City, restricting the sales price of the dwelling, for a period of ten (10) years, to the original sales price, adjusted annually for inflation.

## **Sec. 104.09 – DETERMINATION OF FEES**

### **(A) – GENERAL PROVISIONS**

- (1) The City Planning and Development Department shall determine and collect all Development Impact Fees administered within City limits.
- (2) Upon the effective date of this ordinance, Development Impact Fees shall be charged to new development or redevelopment in accordance with the procedures set forth in this ordinance. The fees to be collected for a development will be determined at the time of application for a Building Permit. If the development is one that does not require a Building Permit, the impact fee for the development will be determined at the time of development approval. No Building Permit or development approval shall be issued for any development requiring the payment of Development Impact Fees until the fees have been remitted to the City Planning and Development Department, or in the case of Affordable Housing, the appropriate financial guarantees have been filed with the City Manager.

At the City Planning and Development Director's discretion, any Development Impact Fees may be remitted after the issuance of a Building Permit, but in all instances, the development impacts fees must be remitted to the City Planning and Development Department prior to the issuance of a Certificate of Occupancy.

Payment of such fees shall not relieve the Developer from obligations to comply with any other applicable City ordinances, regulations, or requirements including, but not limited to, the "Land Development Regulations" or "Zoning" Chapters of the City of Camden Code of Ordinances prior to receiving a Certificate of Occupancy.

- (3) All monies paid by the Fee Payor pursuant to this ordinance shall be identified as Development Impact Fees and promptly deposited in the appropriate Development Impact Fee trust fund described under Section 104.10 of this ordinance.

- (4) For the purpose of calculating Development Impact Fees, the land use types assumed in the General Development Impact Fee Schedule of this ordinance (i.e., Exhibit A) shall be defined in accordance with the definitions contained in the Institute of Transportation Engineers' *Trip Generation Manual*, Tenth Edition (see *Development Impact Fee Study Report for Camden, Appendix B*).
- (5) Payment of Development Impact Fees according to the General Development Impact Fee Schedule (i.e., Exhibit A), or independent impact fee calculation study accepted by City Council, shall constitute full and complete payment of the new Development's proportionate share of Public Facilities costs.
- (6) A Developer may negotiate and contract with the City to provide facilities or services in lieu of payment of Development Impact Fees in accordance with Section 6-1-1050 of the Act.

**(B) – PARKS AND RECREATION IMPACT FEE FORMULA**

Parks and Recreation Impact Fees collected within City limits shall be in accordance with the following formula:

$$\text{Development Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{CDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed Development.

P/HH = Average person per household estimate published by the US Census Bureau for various dwelling unit categories (see *Development Impact Fee Study Report for Camden, Appendix B*).

COST = The cost per capita for providing improvements to Parks and Recreation Facilities based on information presented in the *Development Impact Fee Study Report for Camden* adopted by City Council on [REDACTED]. The cost per capita is \$1,787.88.

CDR = For the purpose of this calculation, it is City Council policy to charge only eighty percent (80%) of the maximum allowable parks and recreation impact fee determined in the *Development Impact Fee Study Report for Camden*.

**(C) – DETERMINING PARK AND RECREATION IMPACT FEES**

The amount of Parks and Recreation Impact Fees attributable to a specific development shall be determined through the following process:

- (1) verify the type and number of new residential dwelling units for which the Building Permit is being sought;

- (2) determine whether any of the proposed residential dwelling units qualify as "Affordable Housing" and, if so, the number and type of such units;
- (3) determine the applicable residential dwelling unit category set forth in Exhibit A (as applicable) of this ordinance; and
- (4) multiply the discounted Development Impact Fee rate for the residential dwelling unit category by the number of net new units within the development and the average persons per household estimate.

**(D) – INDEPENDENT PARKS AND RECREATION IMPACT FEE CALCULATION**

In the event that a Fee Payor or City staff contend that the land use for which the Building Permit is being sought is not within those land uses identified in Exhibit A, or if the Fee Payor contends that the Exhibit A calculations are not accurate for its intended use, then the City Planning and Development Director, or its designee, shall make a determination as to the most comparable land use category to assume for calculating parks and recreation impact fees. If the Fee Payor disagrees with the determination of the City Planning and Development Director or if the City otherwise deems it appropriate, an independent impact fee calculation may be performed to quantify the fair share of System Improvement costs attributable to the development. Preparation of an independent impact fee calculation will immediately halt the Building Permit application process until such time that the necessary calculation is deemed complete by the City Planning and Development Director. If an independent calculation is requested, it must accompany the Building Permit application and be prepared in accordance with the following provisions:

- (1) Independent calculations for the determination of Parks and Recreation Impact Fees must be performed by a certified professional engineer, architect, landscape architect, planner or other duly qualified and licensed/certified professional approved by the City Planning and Development Director.
- (2) The independent calculation shall be subject to review and approval by the City Planning and Development Director, or its designee. In the event that the City Planning and Development Director elects to contract with a third party to review the independent calculation, the cost of the review shall be borne by the applicant based on the cost of the third-party review plus a ten percent (10%) administrative fee.
- (3) The City Planning and Development Director shall either approve or provide in writing the reasons for disapproval of the independent calculation study within thirty (30) days of its submittal for review.

- (4) Prior to commencing the study, the Developer's hired professional and the City Planning and Development Director, or its designee, shall agree upon the relevant factors and values that will be utilized in the independent calculation of impact fees.
- (5) The maximum allowable parks and recreation impact fee determined in the *Development Impact Fee Study Report for Camden* shall be reduced by twenty percent (20%) for the purposes of completing an independent impact fee calculation, setting the fees at eighty percent (80%) of the maximum amount.
- (6) The independent impact fee calculation shall be based on the following formula:

$$\text{Development Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{CDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed Development.

P/HH = Average person per household estimate approved by the City Planning and Development Director.

COST = The cost per capita for providing improvements to Parks and Recreation Facilities based on information presented in the *Development Impact Fee Study Report for Camden* adopted by City Council on [REDACTED]. The cost per capita is \$1,787.88.

CDR = For the purpose of an independent impact fee calculation, it is City Council policy to charge only eighty percent (80%) of the maximum allowable parks and recreation impact fee determined in the *Development Impact Fee Study Report for Camden*.

**(E) – FIRE PROTECTION IMPACT FEE FORMULA**

Fire Protection Impact Fees collected within City limits shall be in accordance with one of the following formulas:

- (1) Residential Development

$$\text{Development Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{CDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed Development.

P/HH = Average person per household estimate published by the US Census Bureau for various dwelling unit categories (See *Development Impact Fee Study Report for Camden, Appendix B*).

COST = The cost per capita for providing Fire Protection Facilities based on information presented in the *Development Impact Fee Study Report for Camden* adopted by City Council on [REDACTED]. The cost per capita is \$637.77.

CDR = For the purpose of this calculation, it is City Council policy to charge only eighty percent (80%) of the maximum allowable Fire Protection Impact Fee determined in the *Development Impact Fee Study Report for Camden*.

(2) Non-Residential Development

$$\text{Development Impact Fee} = ((\text{NNSF})/1000) \times (\text{ESR}) \times (\text{COST}) \times (\text{CDR})$$

Where:

NNSF = The amount of net new square feet generated by the proposed Development. In instances where a variable other than square feet is used to represent development intensity (such as hotel rooms or hospital beds or movie screens) than that variable should be used in lieu of square feet, and such variable is not divided by 1,000 as described in the formula above.

ESR = Average employee space ratio developed using information published in the Institute of Transportation Engineers *Trip Generation, Tenth Edition* (see *Development Impact Fee Study Report for Camden, Appendix B*).

COST = The cost per employee for providing fire protection based on information presented in the *Development Impact Fee Study Report for Camden* adopted by City Council on [REDACTED]. The cost per employee is \$247.79.

CDR = For the purpose of this calculation, it is City Council policy to charge only eighty percent (80%) of the maximum allowable Fire Protection Impact Fee determined in the *Development Impact Fee Study Report for Camden*.

**(F) – DETERMINING FIRE PROTECTION IMPACT FEES**

The amount of Fire Protection Impact Fees attributable to a specific development shall be determined through the following process:

- (1) verify the type and number of new residential dwelling units or the type and intensity of new non-residential square feet or other land use measuring criteria for which the Building Permit is being sought;

- (2) for residential development, determine whether any of the proposed residential dwelling units qualify as "Affordable Housing" and, if so, the number and type of such units;
- (3) determine the applicable land use type and impact fee per unit set forth in Exhibit A (as applicable) of this ordinance; and
- (a) multiply the discounted Development Impact Fee rate for the specified land use category by the number of net new units or net new square feet within the Development (as applicable) and the average persons per household or employee space ratio estimate (as applicable).

### **(G) – INDEPENDENT FIRE PROTECTION IMPACT FEE CALCULATION**

In the event that a Fee Payor or City staff contend that the land use for which the Building Permit is being sought is not within those land uses identified in Exhibit A, or if the Fee Payor contends that the Exhibit A calculations are not accurate for its intended use, then the City Planning and Development Director, or its designee, shall make a determination as to the most comparable land use category to assume for calculating fire protection impact fees. If the Fee Payor disagrees with the determination of the City Planning and Development Director or if the City otherwise deems it appropriate, an independent impact fee calculation may be performed to quantify the fair share of System Improvement costs attributable to the development. Preparation of an independent impact fee calculation will immediately halt the Building Permit application process until such time that the necessary calculation is deemed complete by the City Planning and Development Director. If an independent calculation is requested, it must accompany the Building Permit application and be prepared in accordance with the following provisions:

- (1) Independent calculations for the determination of fire protection impact fees must be performed by a certified professional engineer, architect, landscape architect, planner or other duly qualified and licensed/certified professional approved by the City Planning and Development Director.
- (2) The independent calculation shall be subject to review and approval by the City Planning and Development Director, or its designee. In the event that the City Planning and Development Director elects to contract with a third party to review the independent calculation, the cost of the review shall be borne by the applicant based on the cost of the third-party review plus a ten percent (10%) administrative fee.
- (3) The City Planning and Development Director shall either approve or provide in writing the reasons for disapproval of the independent calculation study within thirty (30) days of its submittal for review.

(4) Prior to commencing the study, the Developer's hired professional and the City Planning and Development Director, or its designee, shall agree upon the relevant factors and values that will be utilized in the independent calculation of impact fees. §

(5) The maximum allowable Fire Protection Impact Fee determined in the *Development Impact Fee Study Report for Camden* shall be reduced by twenty percent (20%) for the purposes of completing an independent impact fee calculation, setting the fees at eighty percent (80%) of the maximum amount.

(6) The independent impact fee calculation shall be based on one of the following formulas:

(a) Residential Development

$$\text{Development Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{CDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed Development.

P/HH = Average person per household estimate approved by the City Planning and Development Director.

COST = The cost per capita for providing Fire Protection Facilities based on information presented in the *Development Impact Fee Study Report for Camden* adopted by City Council on [REDACTED]. The cost per capita is \$637.77.

CDR = For the purpose of an independent impact fee calculation, it is City Council policy to charge only eighty (80%) of the maximum allowable Fire Protection Impact Fee determined in the *Development Impact Fee Study Report for Camden*.

(b) Non-Residential Development

$$\text{Impact Fee} = ((\text{NNSF})/1000) \times (\text{ESR}) \times (\text{COST}) \times (\text{CDR})$$

Where:

NNSF = The amount of net new square feet generated by the proposed Development. In instances where a variable other than square feet is used to represent development intensity (such as hotel rooms or hospital beds or movie screens) than that variable should be used in lieu of square feet, and such variable is not divided by 1,000 as described in the formula above.



ESR = Average employee space ratio approved by the City Planning and Development Director.

COST = The cost per employee for providing Fire Protection Facilities based on information presented in the *Development Impact Fee Study Report for Camden* adopted by City Council on [REDACTED]. The cost per employee is \$247.79.

CDR = For the purpose of an independent impact fee calculation, it is City Council policy to charge only eighty percent (80%) of the maximum allowable fire protection impact fee determined in the *Development Impact Fee Study Report for Camden*.

### **(H) – MUNICIPAL FACILITIES AND EQUIPMENT IMPACT FEE FORMULA**

Municipal Facilities and Equipment Impact Fees collected within City limits shall be in accordance with one of the following formulas:

#### **(1) Residential Development**

$$\text{Development Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{CDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed Development.

P/HH = Average person per household estimate published by the US Census Bureau for various dwelling unit categories (See *Development Impact Fee Study Report for Camden, Appendix B*).

COST = The cost per capita for providing municipal facilities and equipment based on information presented in the *Development Impact Fee Study Report for Camden* adopted by City Council on [REDACTED]. The cost per capita is \$206.25.

CDR = For the purpose of this calculation, it is City Council policy to charge only eighty percent (80%) of the maximum allowable Municipal Facilities and Equipment Impact Fee determined in the *Development Impact Fee Study Report for Camden*.

#### **(2) Non-Residential Development**

$$\text{Development Impact Fee} = ((\text{NNSF})/1000) \times (\text{ESR}) \times (\text{COST}) \times (\text{CDR})$$

Where:

NNSF = The amount of net new square feet generated by the proposed development. In instances where a variable other than square feet is used to represent development intensity (such as hotel rooms or hospital beds or movie screens) than that variable should be used in lieu of square feet, and such variable is not divided by 1,000 as described in the formula above.

ESR = Average employee space ratio developed using information published in the Institute of Transportation Engineers *Trip Generation, Tenth Edition* (see *Development Impact Fee Study Report for Camden, Appendix B*).

COST = The cost per employee for providing municipal facilities and equipment based on information presented in the *Development Impact Fee Study Report for Camden* adopted by City Council on [REDACTED]. The cost per employee is \$207.62.

CDR = For the purpose of this calculation, it is City Council policy to charge only eighty percent (80%) of the maximum allowable Municipal Facilities and Equipment Impact Fee determined in the *Development Impact Fee Study Report for Camden*.

#### **(I) – DETERMINING MUNICIPAL FACILITIES AND EQUIPMENT IMPACT FEES**

The amount of Municipal Facilities and Equipment Impact Fees attributable to a specific development shall be determined through the following process:

- (1) verify the type and number of new residential dwelling units or the type and intensity of new non-residential square feet or other land use measuring criteria for which the Building Permit is being sought;
- (2) for residential development, determine whether any of the proposed residential dwelling units qualify as "Affordable Housing" and, if so, the number and type of such units;
- (3) determine the applicable land use type and impact fee per unit set forth in Exhibit A (as applicable) of this ordinance; and
- (4) multiply the discounted Development Impact Fee rate for the specified land use category by the number of net new units or net new square feet within the development (as applicable) and the average persons per household or employee space ratio estimate (as applicable).

#### **(J) – INDEPENDENT MUNICIPAL FACILITIES AND EQUIPMENT IMPACT FEE CALCULATION**

In the event that a Fee Payor or City staff contend that the land use for which the Building Permit is being sought is not within those land uses identified in Exhibit A, or if the Fee Payor contends

that the Exhibit A calculations are not accurate for its intended use, then the City Planning and Development Director, or its designee, shall make a determination as to the most comparable land use category to assume for calculating Municipal Facilities and Equipment Impact Fees. If the Fee Payor disagrees with the determination of the City Planning and Development Director or if the City otherwise deems it appropriate, an independent impact fee calculation may be performed to quantify the fair share of System Improvement costs attributable to the development. Preparation of an independent impact fee calculation will immediately halt the Building Permit application process until such time that the necessary calculation is deemed complete by the City Planning and Development Director. If an independent calculation is requested, it must accompany the Building Permit application and be prepared in accordance with the following provisions:

- (1) Independent calculations for the determination of Municipal Facilities and Equipment Impact Fees must be performed by a certified professional engineer, architect, landscape architect, planner or other duly qualified and licensed/certified professional approved by the City Planning and Development Director.
- (2) The independent calculation shall be subject to review and approval by the City Planning and Development Director, or its designee. In the event that the City Planning and Development Director elects to contract with a third party to review the independent calculation, the cost of the review shall be borne by the applicant based on the cost of the third-party review plus a ten percent (10%) administrative fee.
- (3) The City Planning and Development Director shall either approve or provide in writing the reasons for disapproval of the independent calculation study within thirty (30) days of its submittal for review.
- (4) Prior to commencing the study, the Developer's hired professional and the City Planning and Development Director, or its designee, shall agree upon the relevant factors and values that will be utilized in the independent calculation of impact fees.
- (5) The maximum allowable Municipal Facilities and Equipment Impact Fee determined in the *Development Impact Fee Study Report for Camden* shall be reduced by twenty percent (20%) for the purposes of completing an independent impact fee calculation, setting the fees at eighty percent (80%) of the maximum amount.
- (6) The independent impact fee calculation shall be based on one of the following formulas:
  - (a) Residential Development

$$\text{Development Impact Fee} = (\text{NNDU}) \times (\text{P/HH}) \times (\text{COST}) \times (\text{CDR})$$

Where:

NNDU = The number of net new dwelling units generated by the proposed Development.

P/HH = Average person per household estimate approved by the City Planning and Development Director.

COST = The cost per capita for providing municipal facilities and equipment based on information presented in the *Development Impact Fee Study Report for Camden* adopted by City Council on [REDACTED]. The cost per capita is \$206.25.

CDR = For the purpose of an independent impact fee calculation, it is City Council policy to charge only eighty percent (80%) of the maximum allowable Municipal Facilities and Equipment Impact Fee determined in the *Development Impact Fee Study Report for Camden*.

(b) Non-Residential Development

$$\text{Development Impact Fee} = ((\text{NNSF})/1000) \times (\text{ESR}) \times (\text{COST}) \times (\text{CDR})$$

Where:

NNSF = The amount of net new square feet generated by the proposed Development. In instances where a variable other than square feet is used to represent development intensity (such as hotel rooms or hospital beds or movie screens) than that variable should be used in lieu of square feet, and such variable is not divided by 1,000 as described in the formula above.

ESR = Average employee space ratio approved by the City Planning and Development Director.

COST = The cost per employee for providing Municipal Facilities and Equipment based on information presented in the *Development Impact Fee Study Report for Camden* adopted by City Council on [REDACTED]. The cost per employee is \$207.62.

CDR = For the purpose of an independent impact fee calculation, it is City Council policy to charge only eighty percent (80%) of the maximum allowable Municipal Facilities and Equipment Impact Fee determined in the *Development Impact Fee Study Report for Camden*.

**(K) – SPECIAL CASES**

The City Planning and Development Department shall take the following special cases into account when calculating Development Impact Fees for a Building Permit application:

- (1) When an application for a Building Permit has been made that contains two or more land uses in any combination, including two or more land uses within a single building or structure, the total Development Impact Fee assessment shall be the sum of the products, as calculated above, for each land use unless an independent impact fee calculation is performed, and approved for use by the City Planning and Development Director, or its designee, consistent with Sub-Sections 104.09(D), 104.09(G), or 104.09(J) of this Chapter.
- (2) In the case of a change, redevelopment, or modification of a land use which requires a Building Permit, and which is not exempted from Development Impact Fees under Section 104.07 of this Chapter, the impact fee calculation shall be based upon the net increase in new or proposed land use as compared to the existing or previous land use.
- (3) In the case of a demolition or termination of an existing use or structure, Development Impact Fees for future redevelopment shall be based upon the net increase in Development Impact Fees for the new or proposed land use as compared to the existing actual active previous land use since its original occupancy. Credit for the prior use shall not be transferable to another location.
- (4) In the case of relocating an existing land use, Development Impact Fees shall be assessed to the relocated use at its new location. Future redevelopment of the old location from which the use was removed will receive a credit against Development Impact Fees assessed equal to the impact fees that would have been assessed against the relocated use. Credits shall not be transferable to the new location.
- (5) Before a Building Permit application may become eligible for the provisions set forth in Section 104.09.11, subparagraphs (b) through (d) of this Chapter, a Developer shall provide reasonably sufficient evidence that a previous land use had been actively maintained on the site within twelve (12) months of the date of application for a Building Permit. Such evidence may include proof of utility records, records for the use sought to be shown, or other documentation.
- (6) Any claim of existing or previous use must be made no later than the time for application of a Building Permit. Any claim made after such time shall be deemed invalid.

#### **Sec. 104.10 – IMPACT FEE TRUST ACCOUNTS**

Development Impact Fees collected pursuant to this ordinance shall be kept separate from other revenue of the City. There are hereby established the Parks and Recreation Impact Fee Trust Account, the Fire Protection Impact Fee Trust Account, and the Municipal Facilities and Equipment Impact Fee Trust Account. Parks and Recreation Impact Fees, Fire Protection Impact Fees, and Municipal Facilities and Equipment Impact Fees collected pursuant to this ordinance shall be kept in the Parks and Recreation Impact Fee Trust Account, the Fire Protection Impact

Fee Trust Account, and the Municipal Facilities and Equipment Impact Fee Trust Account, respectively. All Development Impact Fees collected shall be properly identified by property address noted on the approved Building Permit, date of payment, and by the appropriate Trust Account.

Any funds on deposit not immediately necessary for expenditure shall be maintained in an interest-bearing account prior to expenditure on eligible projects. Interest earned on Development Impact Fees in deposit must be considered revenue to the Trust Account for which income is earned and must be subject to all restrictions placed on the use of Development Impact Fees pursuant to this ordinance.

#### **Sec. 104.11 – LIMITATION ON EXPENDITURES OF FUNDS COLLECTED**

##### **(A) – ELIGIBLE SYSTEM IMPROVEMENT COSTS**

Funds from Development Impact Fee Trust Accounts shall be expended only for the Public Facilities and System Improvements identified as eligible for impact fee funding in the *City of Camden Capital Improvements Plan*, incorporated herein by reference. No funds shall be used for administrative or operating costs associated with imposing any of the Development Impact Fees. Eligible components of a public facility may include, but are not limited to, the following:

- (1) design and construction plan preparation;
- (2) right-of-way acquisition;
- (3) construction of new facilities, structures, or amenities that provide additional capacity;
- (4) purchase of new vehicles or equipment (with a purchase price in excess of \$100,000) that provide additional capacity;
- (5) construction of new bridges;
- (6) construction of new drainage facilities associated with capital improvements;
- (7) purchase and installation of traffic signalization;
- (8) construction of new curbs, medians, and shoulders;
- (9) relocating utilities to accommodate new capital improvements; and
- (10) principle payments, interest, and other finance charges on bonds or other indebtedness issued by or on behalf of the City for financing any or all Public Facilities.

**(B) – RATIONALE NEXUS TEST**

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

**(C) – EXPENDITURE OF FUNDS**

Development Impact Fee funds shall be expended in the order in which they were collected. The disbursement of such funds shall require approval of the City Council, upon recommendation of the City Manager or its designee.

**(D) – REIMBURSEMENT**

Development Impact Fee funds not obligated for expenditure within three (3) years of the date that they are scheduled to be expended in the *City of Camden Capital Improvements Plan* shall be returned, with actual interest earned, to the record owner of the property for which the fees were collected, on a first-in, first-out basis.

**Sec. 104.12 – CREDITS AND REIMBURSEMENTS**

**(A) – GENERAL PROVISIONS**

- (1) A Developer shall be entitled to a credit against Development Impact Fees assessed pursuant to this Chapter for City-approved monetary or in-kind contributions toward some or all of the Public Facilities included in the *City of Camden Capital Improvements Plan* that are eligible for impact fee funding.
- (2) Development Impact Fees shall not be imposed on a Fee Payor or Developer who has entered into an agreement with the City for certain contribution, payment, construction, or dedication of land up to the cash value of the specific improvements identified within the agreement. Any difference between total Development Impact Fees due for the development and the cash value of the executed agreement remain eligible for collection pursuant to the rules and requirements of this ordinance.

- (3) A Fee Payor shall be reimbursed for contributions of land or facilities that exceed its proportionate share of the cost of Public Facilities when such excess contribution is made at the request of the City.

**(B) – APPLICATION FOR CREDIT AGREEMENT**

- (1) The determination of the amount of any credit shall be undertaken through submission of an Application for Credit Agreement, which shall be submitted through the City Planning and Development Department for review by the City Planning and Development Director, or its designee.
- (2) The Application for Credit Agreement shall include the following information:
  - (a) The following documentation must be provided if the proposed application involves a credit for any cash contribution:
    - (i) a certified copy of the development agreement in which the contribution was agreed; and
    - (ii) proof of payment (if already made); or
    - (iii) proposed method of payment (if not already made).
  - (b) The following documentation must be provided if the proposed application involves credit for dedication of land:
    - (i) a drawing and legal description of the land;
    - (ii) the appraised fair market value of the land at the date a Building Permit application is sought for the land use(s), prepared by a professional Real Estate Appraiser who is a member of the member Appraisal Institute (MAL) or who is a member of Senior Residential Appraisers (SRA); and
    - (iii) a certified copy of the development agreement in which the land was agreed to be dedicated (if applicable).
  - (c) The following documentation must be provided if the proposed application involves credit for construction:
    - (i) The proposed construction documents of the specific construction project prepared and certified by a duly qualified and licensed engineer in the State of South Carolina;



- (ii) The projected costs for the suggested improvements, which shall be based on local information for similar improvements, along with the construction schedule for the completion of said improvements. Such estimated cost shall include construction or reconstruction of the project, the cost of labor and materials, the cost of all lands, property, rights, easements, and franchises acquired, financing charges, interest prior to and during construction and for one (1) year after completion of construction, costs of plans and specifications, surveys of estimates of costs and revenues, costs of professional services, and all of the expenses necessary or incidental to determining the feasibility or practicability of such construction or reconstruction.
- (3) Within fourteen (14) days of receipt of the proposed Application for Credit Agreement, the City Planning and Development Director, or its designee, shall determine if the application is complete. If it is determined that the proposed agreement is not complete, the City Planning and Development Director shall send written notification to the applicant outlining the deficiencies. The City Planning and Development Director shall take no further action on the proposed Application for Credit Agreement until all such deficiencies have been corrected or otherwise settled.
- (4) Once the City Planning and Development Director determines that the proposed Application for Credit Agreement is complete, it shall be reviewed within thirty (30) days by a committee of designated staff composed of the City Manager, City Finance Director, City Public Works Director, and City Fire Chief (together known as the Credit Review Committee).
- (5) If the Application for Credit Agreement is approved by the Credit Review Committee, a Credit Agreement shall be prepared and signed by the applicant and the City Manager. It shall specifically outline the contribution, payment, construction, or land dedication, the time by which it shall be complete, dedicated, or paid, and any extensions thereof, and the dollar credit the applicant shall receive for the contribution, payment, or construction against Development Impact Fees. The agreement may also include provisions for rescinding the credit and issuing stop work orders if the dedication and/or work and/or construction are not timely accomplished.
- (6) A Fee Payor affected by the decision of the Credit Review Committee regarding Credits may appeal such decision pursuant to Section 104.14 of this Chapter.

#### **Sec. 104.13 – PENALTIES**

City Council shall have the following remedies, which may be exercised individually or collectively, for collecting Development Impact Fees. The failure to pursue any remedy at any time shall not be deemed as a waiver of City rights to pursue any remedy at such other time as may be deemed appropriate.

- (A) Interest and Penalties. The City may, at its discretion, seek funds in addition to the amount of calculated Development Impact Fees due prior to award of a Certificate of Occupancy for reasonable interest and penalties for non-payment or late payment of required funds. Penalties for unpaid Development Impact Fees shall be administered consistent with Section 157.212(C)(3) in the City of Camden Code of Ordinances, which declares the violation a criminal misdemeanor penalty subject to a fine determined by the court for each offense.
- (B) Withholding Certificate of Occupancy. The City may withhold a Certificate of Occupancy until full and complete payment has been made by the Developer of Development Impact Fees due for the Development.
- (C) Withholding Utility Service. The City may withhold the provision of utility services to a development until the required Development Impact Fees have been paid in full.
- (D) Lien. The City may impose a lien on the Developer's property for failure of the Developer to pay required Development Impact Fees in full.
- (E) Other. The City may pursue the collection of the Development Impact Fees, including interest, by way of civil process in the Court of Kershaw County.

#### **Sec. 104.14 – APPEAL PROCESS**

A Developer shall have the following rights for appeal of Development Impact Fees imposed by the City on their development pursuant only to this Chapter:

##### **(A) – ADMINISTRATIVE APPEAL**

- (1) A Developer may file an administrative appeal with the City Manager regarding the payment of Development Impact Fees, independent calculation of impact fees, or Credits or reimbursements by filing a written Notice of Appeal. Said Notice shall be filed within thirty (30) days of the decision sought to be appealed. The filing of an appeal will immediately halt the Building Permit application process, unless the Developer posts a bond or submits an irrevocable letter of credit for the full amount of the Development Impact Fees as calculated by the City to be due. All Notices of Appeal shall include a full explanation of the reasons for the appeal, specifying the grounds therefore, and containing any documentation that the Developer desires to be considered. The appeal shall contain the name and address of the Developer filing the appeal and shall state their capacity to act as a representative or agent if they are not the owner of the property to which Development Impact Fees or Credits pertain.
- (2) Within thirty (30) days following receipt of the written Notice of Appeal, the City Manager will review the Appellant's written report, supporting documentation and departmental staff reports. The thirty (30) day review period may be extended if additional information is

needed from the Appellant in order to render a decision. Upon completion of the administrative review, the City Manager will provide a written response to the Appellant constituting a final administrative determination.

- (3) Any person desiring to appeal the final administrative determination of the City Manager regarding payment of Development Impact Fees or Credits shall file a written Notice of Appeal to the City Council. Said Notice of Appeal to City Council shall be filed with the Clerk of City Council within fifteen (15) days following receipt of the final administrative determination. Receipt shall be construed to have occurred when the final administrative decision is deposited in the United States mail postage prepaid to the person whose name and address is identified in the original Notice of Appeal.
- (4) The City Clerk of Council will schedule all impact fee appeals for the first City Council meeting following ten (10) days from receipt of the Written Notice of Appeal to the City Council. Postponements of the City Council appeal date may be granted by the City Manager if they are requested in writing at least ten (10) days in advance of the scheduled City Council meeting date.
- (5) When an Appeal is scheduled for oral presentation before the City Council, the Appellant and City staff shall each be given ten (10) minutes at the oral argument to present the Appeal and to discuss the submitted written record.

#### **(B) – PAYMENT UNDER PROTEST**

A Fee Payor may pay Development Impact Fees under protest. Payment under protest does not preclude the Developer from filing an administrative appeal nor is the fee payer estopped from receiving a refund of an amount considered to have been collected illegally. A Fee Payor, at its option, may also post a bond or submit an irrevocable letter of credit for the amount of Development Impact Fees due instead of making a cash payment under protest, pending the outcome of an appeal.

#### **(C) – MEDIATION**

City Council shall provide for mediation by a qualified independent party, upon voluntary agreement by both the Developer and the City, to address a disagreement related to Development Impact Fees calculated by the City. Neither a request for, nor participation in, mediation shall preclude a Fee Payor from pursuing other Developer rights or remedies otherwise available by law.

#### **Sec. 104.15 – REFUNDS**

##### **(A) – GENERAL PROVISIONS**

Funds not obligated for expenditure within three years of the date that they are scheduled to be expended in the Capital Improvements Plan shall be refunded to the record owner of property for which the Development Impact Fees were paid, with actual interest earned, on a first-in, first-out basis. For the purpose of determining whether funds have been spent or encumbered, the first money placed in a Trust Account shall be deemed to be the first money taken out of that account when withdrawals have been made

### **(B) – REFUND PROCESS**

- (1) The owner of property eligible for a refund of one or more Development Impact Fee payments shall submit to the City Planning and Development Director a notarized sworn statement that the person is the current owner of the property for which a refund is due, a certified copy of the latest recorded deed, and a copy of the most recent ad valorem tax bill for the property.
- (2) When a right to a refund exists, the City shall send a refund to the current owner of record within ninety (90) days after it is determined by City Council that a refund is due.
- (3) All refunds shall include the pro rata portion of the interest earned while on deposit in the specific Development Impact Fee Trust Account.
- (4) A record owner of property for which one or more Development Impact Fee refunds are due has standing to sue for such refund pursuant to Section 6-1-1020(D) of the Act if there has not been a good-faith effort towards a timely payment of a refund pursuant to Subparagraph (b) of Section 104.15.02 in the Chapter.

### **Sec. 104.16 – REVIEW**

City Council shall be responsible for preparing and publishing an annual report describing the amount of Development Impact Fees collected, appropriated, and spent during the preceding fiscal year.

Planning Commission shall be responsible for a holistic review and update of the *Development Impact Fee Study Report for Camden, City of Camden Capital Improvements Plan, Housing Affordability Analysis in Support of a Development Impact Fee Study in Camden*, and the *Development Impact Fee Ordinance for the City of Camden* in the same manner and on the same review cycle as the City of Camden Comprehensive Plan.

### **Sec. 104.17 – TERMINATION OF DEVELOPMENT IMPACT FEE**

Development Impact Fees for the City of Camden shall be terminated within twenty (20) years after the effective date of this ordinance, or when sufficient fees have been collected to fund all of the projects eligible for Development Impact Fee funding identified in the *City of Camden Capital Improvements Plan*, whichever shall first occur, unless:

- (a) City Council adopts a revised *Development Impact Fee Study Report for Camden* or amends the *City of Camden Capital Improvements Plan* for a subsequent amount of time; or
- (b) City Council adopts an updated *Development Impact Fee Ordinance for the City of Camden* pursuant to the substantive and procedural requirements set forth in the Act, as amended.

**Sec. 104.18 – LIBERAL CONSTRUCTION**

The provisions of this ordinance shall be liberally construed to effectively carry out its purpose in the interest of further promoting and protecting public health, safety, welfare, and convenience.

**Section 2.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court, such section, subsection, sentence, clause, phrase, or portion of this ordinance shall be deemed to be a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions of this ordinance nor impair or nullify the remainder of these provisions which shall continue in full force and effect.

**Section 3.** If the application of any provision of this ordinance to any Development is declared to be invalid by a decision of any court, the intent of City Council is that such decision shall be limited only to the specific Development expressly involved in the controversy, action, or proceeding in which such decision of invalidity was rendered. Such decision shall not affect, impair, or nullify this Chapter as a whole or the application of any provision of this ordinance to any other new development.

**Section 4.** This Ordinance shall take effect immediately upon its enactment by the Council.

[Remainder of this page intentionally left blank.]

DONE AND ORDAINED IN COUNCIL ASSEMBLED, this 24th day of Oct, 2023.

CITY OF CAMDEN, SOUTH CAROLINA

By: Alfred Mae Drakeford  
Alfred Mae Drakeford, Mayor

(SEAL)

Attest:

By: Dan S

City Clerk  
City of Camden, South Carolina

First Reading: OCT. 10, 2023  
Public Hearing: OCT. 10, 2023  
Second Reading: OCT 24, 2023