

ARTICLE II  
Marriage Licenses  
[Adopted 10-25-1983 by Bill No. 188]

**§ 64-5. Additional license fee; purpose. [Amended 6-22-1993 by Bill No. 509]**

The Clerk of the Circuit Court shall charge an additional fee of \$25 to applicants for marriage licenses, which fee shall be used to fund a local program to deal with domestic violence.

**§ 64-6. Disbursement and use of fees.**

The Clerk shall disburse the additional fee collected on a monthly basis to the County Manager for payment to the Mid-Shore Council on Family Violence, Inc. The County Manager shall disburse accrued funds to the Mid-Shore Council on a quarterly basis; provided, however, that the Mid-Shore Council on Family Violence, Inc., shall use said funds to help provide the basic needs (food, shelter and clothing) of Talbot County citizens who are victims of such violence and that the Mid-Shore Council shall report to the Talbot County Council at each annual budget session the economic details relating to its programs and the use of the funds made available as a result of this article.

**§ 64-7. Future domestic violence programs.**

If the Mid-Shore Council on Family Violence, Inc., should cease to exist or fail to expend its funds as required hereby, the County Manager shall hold all accrued funds until the County Council for Talbot County, Maryland, approves a successor organization to administer domestic violence programs.

ARTICLE III  
Development Impact Fees  
[Adopted 12-14-2004 by Bill No. 967]

**§ 64-8. Definitions.**

In general, unless otherwise defined in this section, words and terms shall have the meanings assigned to them in Chapter 28 (Building Construction), Chapter 168 (Subdivision Regulations), and Chapter 190 (Zoning). In case of a conflict, any term in this article shall have the meaning defined in Chapter 64, Article III, Development Impact Fees.

**AFFORDABLE HOUSING** — Any residential dwelling unit that is sold for less than the maximum acquisition cost.

**AGRICULTURAL PURPOSES** — The production, processing, or harvesting of crops, vegetation, or animals for human or animal consumption or use, and includes without limitation horticultural and floricultural wholesale operations, greenhouses, sod production, wholesale nurseries, viticulture (grape growing), orchards and aquaculture.

**APPLICANT** — An individual, corporation, or other legal entity that applies for a building permit or zoning certificate in the County or a municipal corporation.

**APPROPRIATION or TO APPROPRIATE** — An action by the County Council to identify specific public facilities for which development impact fee funds may be used. Appropriation shall include, but is not limited to:

- A. Inclusion of a public facility in the adopted capital budget or capital program;
- B. Execution of a contract or other legal encumbrance for construction of a public facility using impact fee funds in whole or in part; or
- C. Actual expenditure of impact fee funds through payments made from an impact fee account or subaccount.

**BUILDING PERMIT** — A permit or other final approval required as a condition precedent to the construction, extension, conversion, alteration, or reconstruction of a structure required under:

- A. Chapter 28 (Building Construction) and Chapter 190 (Zoning); or
- B. The applicable building code or zoning ordinance of a municipal corporation.

**CAPITAL BUDGET** — The budget adopted by the County Council from time to time, for the purpose of identifying and financing needed capital improvements.

**CAPITAL IMPROVEMENTS** — Land acquisition, site development, site-related improvements, purchase of equipment, or construction of structures necessary for the expansion or construction of public facilities in the County, including all related costs.

**CAPITAL PROGRAM** — The schedule of capital improvements to be undertaken by the County as determined from time to time by the County Council or as set forth in the capital budget.

**COMMERCIAL USE** — Any development for commercial use of a site as defined under:

- A. Chapter 28 (Building Construction) and Chapter 190 (Zoning); or
- B. The applicable building code or zoning ordinance of a municipal corporation.

**CREDIT AGREEMENT** — An agreement made pursuant to this article, which provides for a credit of certain required development impact fees in exchange for the provision of dedicated lands or the construction of facilities that are consistent with, add to, or complement the county capital program.

**DEPARTMENT** — The Talbot County Department of Planning and Zoning and/or Department of Permits and Inspections.

**DEVELOPMENT IMPACT FEE or IMPACT FEE** — A fee levied pursuant to this article as a condition of issuance of a building permit or zoning certificate, and which is intended to fund capital improvements and public facilities in the County needed to serve new growth and development activity in the County and municipal corporations.

**EXEMPTION** — A waiver, either in whole or in part, in the amount of impact fees assessed against new development pursuant to the terms of this article, and based on the criteria set forth in § 64-12D.

**FINANCE OFFICER** — The Talbot County Finance Officer.

**FLOOR AREA** — The total horizontal area in square feet of all floors within the exterior walls of the building, including habitable or usable garage, basement, attic, or similar spaces, but not including vent shafts, unroofed inner courts, or unusable areas below ground or in attics.

**IMPACT FEE SUBAREA** — A geographically defined area in the County that has been designated by the County Council as an area in which new development will create the need for specified capital improvements to be funded in part or in whole by development impact fees.

**IMPACT FEE SUBAREA MAP** — The map of impact fee subareas adopted by the County Council in which development impact fees for specified capital improvements are imposed.

**INDUSTRIAL USE** — Any development for industrial use of a site as defined under:

- A. Chapter 28 (Building Construction) and Chapter 190 (Zoning); or
- B. The applicable building code or zoning ordinance of a municipal corporation.

**INSTITUTIONAL USE** — Any development for institutional use of a site as defined under:

- A. Chapter 28 (Building Construction) and Chapter 190 (Zoning); or
- B. The applicable building code or zoning ordinance of a municipal corporation.

**MAXIMUM ACQUISITION COST** — The highest purchase price for a residential dwelling unit at which residents of Talbot County remain eligible to participate in the "Maryland Mortgage Program" as established from time to time by the Maryland Department of Housing and Community Development, Community Development Administration (CDA).

**MIXED-USE DEVELOPMENT** — A new development consisting of both residential and nonresidential uses and structures, or one or more different types of nonresidential uses or structures, either on the same site or part of the same new development.

**NEW DEVELOPMENT** — Any development or development activity for which a building permit or zoning certificate is issued after the effective date of this article, and which either increases the number of dwelling units or which increases total nonresidential floor area. Accessory and replacement residential structures are excluded.

**NONRESIDENTIAL DEVELOPMENT** — Any development for commercial, industrial, or institutional use.

**OWNER-OCCUPIED AFFORDABLE HOUSING** — A residential dwelling unit that has been granted an affordable housing deferral that is occupied by the owner as the owner's primary residence for at least seven months of each calendar year.

**PERMIT OFFICIAL** — The Director of the Talbot County Department of Permits and Inspections.

**PLANNING OFFICER** — The Planning Officer of the Talbot County Department of Planning and Zoning.

**PUBLIC FACILITIES** — Public works, improvements, and facilities, including government facilities, bridges, streets and roads, parks and recreational facilities, libraries, schools, and storm drainage facilities required to accommodate new construction or development.

**PUBLIC FACILITIES EXPENDITURES** — Funds or resources appropriated or dedicated in connection with the planning, design, engineering, and construction of public facilities; planning, legal, appraisal, and other costs related to the acquisition of land, financing, and development costs, the costs of compliance with purchasing procedures and applicable administrative and legal requirements, and all other necessary or incidental costs to provide the public facility.

**RATE** — The rate or rates used to calculate development impact fees for nonresidential new development set forth in Appendix C.<sup>1</sup>

**RESIDENTIAL DEVELOPMENT** — Any new development for residential use.

**RESIDENTIAL USE** — Any use approved by the County or a municipal corporation that is for existing or proposed dwelling units, including, but not limited to, single-family, multifamily, duplex, manufactured, or modular homes, and apartments, including second-floor apartments.

**SITE-RELATED IMPROVEMENT** — Off-site capital improvements or facilities made necessary by new development, including, but not limited to, roadway construction, upgrades or improvements, and traffic control devices or measures.

**SMALL BUSINESS INCENTIVE RATE** — A rate, proportionally reduced from the standard rate, that is used to calculate development impact fees for nonresidential new development having a total floor area after construction, including pre-existing floor area, less than 5,000 square feet.

**ZONING CERTIFICATE** — A permit:

- A. For the use or occupancy of a structure where a building permit is not required but the development of the structure will produce additional dwelling units or will increase nonresidential floor area; and
- B. That is required under:
  - (1) Chapter 28 (Building Construction) or Chapter 190 (Zoning); or
  - (2) The applicable building code or zoning ordinance of a municipal corporation.

#### **§ 64-9. Purpose of article.**

**Purpose.** The purpose of this article is to promote the health, safety, and general welfare of the residents of the County and its municipal corporations, by:

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1. Editor's Note: Appendix C is on file in the office of the County Manager.

- A. Establishing uniform procedures for the imposition, calculation, collection, expenditure, and administration of development impact fees imposed on new development;
- B. Requiring all new residential and nonresidential development to contribute its fair and proportionate share towards the costs of capital improvements reasonably necessitated by such new development;
- C. Providing a means of financing public facilities needed to accommodate new development in a safe and timely manner;
- D. Ensuring that the new development paying development impact fees reasonably benefits from the appropriation of impact fees to fund public facilities provided to accommodate such new development;
- E. Implementing the Talbot County Comprehensive Plan and capital budget by seeking to ensure that adequate public facilities are available in a timely and well-planned manner; and
- F. Ensuring that all applicable legal standards and criteria are properly incorporated in these procedures.

**§ 64-10. Effect on other chapters.**

- A. Construction. This article may not be construed to alter, amend, or modify any provision of Chapter 28 (Building Construction), Chapter 168 (Subdivision Regulations), or Chapter 190 (Zoning) of this Code. The provisions of those chapters shall be operative and remain in full force and effect notwithstanding any contrary provisions, definitions, or intentions that are or may be expressed or implied in this article.
- B. Compliance with other law. Payment of development impact fees shall not entitle the applicant to a building permit or zoning certificate unless all other applicable federal, state, County, and municipal statutes, ordinances, and regulations concerning land use, zoning, planning, adequate public facilities, forest conservation, critical area, sewage disposal, platting, subdivision, and other laws, requirements, standards, and conditions have been met, and all applicable permit requirements have been fulfilled. All of the foregoing prerequisites are independent of and in addition to the requirement for payment of a development impact fee.
- C. Effect on land use/development regulations. This article, including the specific development impact fee ordinances for particular public facilities, shall not affect, in any manner, the permissible use of property, density or intensity of development, design and improvement standards, or other applicable standards or requirements of land development regulations of the County or any municipal corporation.

**§ 64-11. Establishment of impact fee subareas.**

- A. Establishment. The County Council may establish impact fee subareas to ensure that collection of development impact fees is more directly tied to the expenditure of such

fees for public facilities made necessary by new development. The impact fee subareas for collection and expenditure of development impact fees are set forth in Appendix A.<sup>2</sup>

- B. Amendment. The County Council may amend the boundaries of any impact fee subarea, from time to time, as necessary or desirable to carry out the purposes of this article or to comply with applicable legal requirements for collection/expenditure of development impact fees.

**§ 64-12. Applicability of development impact fees.**

- A. Affected area. This article shall apply to all new development within the County, including new development that takes place within the boundaries of any municipal corporation. Development impact fees for particular public facilities may apply to less than the entire County, as indicated herein.
- B. Type of development affected. Except as specifically exempt by the provisions of this article, this article shall apply to all new development.
- C. Type of development not affected.
- (1) No development impact fee shall be imposed on development for which a building permit or zoning certificate has been issued prior to the effective date of this article.
  - (2) No development impact fee shall be imposed on any new residential development that does not add a new dwelling unit; nor shall a development impact fee be imposed for alteration, expansion, or replacement of an existing dwelling unit where no additional dwelling unit is created.
  - (3) No development impact fee shall be imposed on the alteration or change of use of existing nonresidential structures where there is no increase in the nonresidential floor area.
  - (4) No development impact fee shall be imposed on developments that are the subject of a valid development rights and responsibilities agreement or other agreement to which the County is a party that contains provisions in conflict with this article, but only to the extent of the conflict or inconsistency.
  - (5) No development impact fee shall be imposed on the development of public facilities by the State of Maryland, the County, any municipal corporation, or the federal government.
- D. Exempt development. In accordance with the procedures set forth in § 64-21 of this article, the following land use types may be exempt, either in whole or in part, from the requirements of this article:
- (1) No development impact fees shall be imposed on farm structures, defined as any building or structure used for agricultural purposes.

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2. Editor's Note: Appendix A is on file in the office of the County Manager.

- (2) No development impact fees shall be imposed on housing constructed by a public housing authority or by a nonprofit organization whose primary purpose is to provide affordable housing.
  - (3) The Permit Official shall grant, deny or terminate all exemptions in writing, subject to appeal pursuant to § 64-22.
- E. Development impact fee subareas. Except as provided in § 64-19C, impact fees for certain public facilities shall be collected and spent within a defined geographical area. The impact fee subareas are described in § 64-11 of this article.
- F. Municipal corporations. The County shall collect development impact fees on new development within municipal corporations prior to issuance of a building permit or zoning certificate as required by this article. No municipal corporation shall issue a building permit or zoning certificate until the applicant demonstrates that all impact fees required by this article have been paid to the County.

**§ 64-12.1. Affordable housing.**

- A. Affordable housing reserve. The Council shall, as part of the annual budget process, establish an affordable housing reserve in the general fund to be used to defer impact fees otherwise payable on development and construction of affordable housing. In any budget year, the total amount of impact fees deferred on affordable housing shall not exceed the affordable housing reserve.
- B. Deferral of development impact fees.
- (1) Development impact fees shall be deferred on residential dwelling units that qualify as affordable housing under this article, provided all of the following conditions are met:
    - (a) Funds are available in the affordable housing reserve;
    - (b) The record title holder files an application for deferral on forms provided by the County before the issuance of a building permit;
    - (c) The record title holder, on behalf of himself and subsequent purchasers, agrees to pay the amount of any deferral in full, except for amounts that are forgiven pursuant to § 64-12.1B(2);
    - (d) The deferred development impact fee is paid when the residential dwelling unit is sold, transferred, or conveyed, except that the deferral may be continued and transferred to the initial purchaser if:
      - [1] The record title holder does not occupy or let the newly constructed residential dwelling unit prior to sale to the initial purchaser; and
      - [2] The initial purchaser agrees to pay the deferred development impact fee in full, except for amounts that are forgiven pursuant to § 64-12.1B(2), when the residential dwelling unit is sold, transferred, or conveyed.

- (e) The Finance Office maintains a record for the subject property containing:
- [1] The amount of deferral;
  - [2] The tax map and parcel number; and
  - [3] The record title holder's and initial purchaser's name and address.
- (2) Deferrals for owner-occupied affordable housing shall be forgiven at the rate of 15% of the original amount per year, pro-rated for each portion of any three-hundred-sixty-five-day period of occupancy.
- (3) No more than 10% of the remaining affordable housing reserve may be granted to any single applicant in any fiscal year.
- (4) No more than 20% of the units in any subdivision or any phase thereof shall qualify for deferral of impact fees under this article.
- C. Termination of deferrals. Deferred impact fees for affordable housing terminate, and except to the extent that owner-occupied affordable housing deferrals have been forgiven, deferred impact fees are due and payable immediately when the residential dwelling unit is sold, transferred, or conveyed.
- D. Accounting for deferred amounts. The Finance Officer shall transfer the amount of deferred impact fees from the general fund affordable housing reserve to the appropriate impact fee categories in accordance with the provisions of § 64-21 of this article. When deferred impact fees are collected under § 64-12.1C above, the funds shall be deposited into the general fund.
- E. Decision and appeals. The Permit Official shall deny all applications that do not meet any condition imposed in this article. The Permit Official shall grant, deny, or terminate all applications and deferrals in writing, subject to appeal pursuant to § 64-22.
- F. Administrative procedures and guidelines. The County Council, by resolution, may adopt administrative procedures and guidelines to implement the affordable housing exemption created in this section.

**§ 64-12.2. Small business incentive rate.**

- A. Applicability. The small business incentive rate applies to nonresidential new development having a total floor area after construction of less than 5,000 square feet. Total floor area includes any pre-existing floor area.
- B. Formulas. The small business incentive rate and corresponding development impact fee are determined by the following formulas:

## KEY

n = new nonresidential floor area, in square feet

r = rate in dollars/cents, from "Total Rate" in Appendix "C" <sup>3</sup>

e = existing floor area, in square feet

S = small business incentive development impact fee

- (1) For new construction:  $(n/5,000 \text{ sq. ft.} \times r)n = S$
- (2) For additions to or expansion of existing structures:  $(e + n/5,000 \text{ sq. ft.} \times r)n = S$
- C. Small business incentive reserve. The Council shall annually establish a small business incentive reserve in the general fund. In any budget year, the total amount of impact fees reduced pursuant to the small business incentive rate formulas shall not exceed the amount of the small business incentive reserve.
- D. Procedure. Development impact fees shall be reduced for small businesses, provided the new development qualifies for the small business incentive rate and all of the following conditions are met:
- (1) Funds are available in the small business incentive reserve;
- (2) Application is made before the issuance of a building permit on forms provided by the County.
- E. Transfer of amount of reduction. The Finance Officer shall transfer the amount of reduction from the general fund small business incentive reserve to the appropriate impact fee categories in accordance with the provisions of § 64-21 of this article.
- F. Decision and appeals. The Permit Official shall deny all applications that do not meet any condition imposed in this article. The Permit Official shall grant or deny all applications in writing, subject to appeal pursuant to § 64-22.

### § 64-13. Annual review and adjustments.

- A. Annual review. On or before April 30, of each year after adoption of this article, and prior to County Council adoption of the Annual Budget and Capital Program, the Finance Officer, or designee, shall coordinate the preparation and submission of an annual report to the County Council on the subject of development impact fees.
- B. Annual report. The County Council shall receive the annual report and may take such action as it deems appropriate. The annual report may include any or all of the following:
- (1) Recommendations for amendments, if appropriate, to these procedures or to specific ordinances adopting development impact fees for particular public facilities;

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3. Appendix C is on file in the office of the County Manager.

- (2) Proposed changes to the Talbot County Capital Program, including the identification of additional public facility projects anticipated to be funded wholly or partially with development impact fees;
- (3) Proposed changes to the boundaries of impact fee subareas;
- (4) Proposed changes to development impact fee schedules as set forth in the ordinances imposing and setting development impact fees for particular public facilities;
- (5) Proposed changes to any development impact fee calculation methodology; and
- (6) Any other data, analysis, or recommendations as the Finance Officer, or designee, may deem appropriate, or as the County Council may request.

C. Annual adjustment.

- (1) On July 1 of each year after adoption of this article, the amount of any development impact fee shall be automatically adjusted to account for inflationary increases in the cost of providing public facilities utilizing the most recent twenty-city annual national average data from the Engineering News Record Construction Cost Index. The adjustments shall apply to all permits issued on or after July 1 of each year.
- (2) The Finance Officer shall make the automatic annual adjustment unless the County Council has determined an alternate adjustment in its annual review.
- (3) Nothing herein shall prevent the County Council from electing to retain existing development impact fees or from electing to waive the inflation adjustment for any given fiscal year.

**§ 64-14. Imposition and enforcement of development impact fees.**

- A. In general. The County or a municipal corporation shall not issue a building permit or zoning certificate for new development until the development impact fees required under this article have been calculated and paid. The amount of the development impact fee is the amount of the fee in effect on the date of issuance of the building permit or zoning certificate.
- B. Lien. In the event new development is undertaken without payment of all applicable development impact fees, the development impact fees shall:
  - (1) Be a lien against the site of development;
  - (2) Be levied, collected, and enforced in the same manner as real property taxes imposed by the County; and
  - (3) Have the same priority and bear the same interest and penalties as real property taxes.

- C. Payment. If real property on which a development impact fee is due and unpaid is sold, in the absence of an agreement to the contrary between the contract seller and the contract purchaser, the seller shall pay the development impact fee prior to or at settlement.
- D. Actions to recover. In the event a development impact fee is not paid as required by this article, the County Attorney may institute an action to recover the fee and enjoin any further construction and all use of the property until the fee is paid. Any persons who fail to pay a development impact fee as required by this article shall be responsible for payment of enforcement costs, including court costs, litigation expenses, and reasonable attorney's fees.

**§ 64-15. Calculation of development impact fees; fee schedule.**

- A. In general. The County or municipal corporation within which new development is located shall notify an applicant of the applicable development impact fee requirements at the time of application for a building permit or zoning certificate. The Permit Official shall calculate development impact fees and the applicant shall pay the same to the County prior to the issuance of a building permit or zoning certificate.
- B. Calculation.
- (1) Upon receipt of an application or copy of a municipal application for a building permit or zoning certificate, the Permit Official shall determine:
    - (a) Whether the proposed new development constitutes a residential or nonresidential use;
    - (b) The specific type of residential or nonresidential development, if applicable;
    - (c) If residential, the number of new dwelling units;
    - (d) If nonresidential, the number of additional square feet of floor area (rounded up to the nearest square foot) and the proposed use; and
    - (e) If applicable, the development impact fee subarea or subareas in which the new development is located.
  - (2) For proposed new development for which no specific land use type is listed in this article, the Permit Official shall apply the land use type as defined in the Institute of Traffic Engineers Trip Generation Manual (1997 ed.) that is most similar to the proposed new development in terms of impact on public facilities, based on the predominant characteristics of the proposed new development.
  - (3) The calculation of development impact fees due from a mixed-use development shall be based upon the development impact fee for each public facility generated by each land use type in the mixed-use development. The Permit Official shall determine the area, number of units, type of use, and other criteria necessary to calculate the development impact fee based on uses, sizes, and configuration shown on the building plans.

- (4) The calculation of development impact fees due from a phased new development shall be based upon the development impact fees due for each specific land use within the phase of development for which building permits or zoning certificates are requested.
- (5) The calculation of development impact fees for nonresidential development shall utilize graduated rates for square feet of total floor area within each separate size classification shown on Appendix C.<sup>4</sup> For example, a 123,000 square foot Com/Shop Ctr. would pay three separate rates, one rate for floor area under 50,000 square feet, a second rate for floor area between 50,001 and 100,000 square feet, and a third rate for floor area over 100,001 square feet. For mixed-use developments, total nonresidential floor area within each size and use category shall be aggregated for each phase of development. The total amount of nonresidential floor area from each phase of development shall be added, cumulatively, to determine the graduated rate(s) for successive phases.
- (6) After making these determinations, the Permit Official shall calculate the applicable development impact fee by multiplying the number of new dwelling units or new floor area, by the amount of the applicable development impact fee per unit of development, and incorporating any applicable credit made pursuant to § 64-17 of this article.

**§ 64-16. Site-specific analysis.**

- A. In general, if the type of land use proposed for new development is not expressly listed in this article, the Permit Official shall:
  - (1) Identify the most similar land use type that is listed in the Institute of Traffic Engineers Trip Generation Manual (1997 ed.) and calculate the development impact fee based on that land use.
  - (2) If there is no similar land use listed, the applicant shall calculate the fee pursuant to an independent development impact fee analysis. The applicant shall provide this analysis on a form supplied by the County for such purpose.
  - (3) The applicant shall be responsible, at its sole expense, for preparing the independent impact analysis, which shall be reviewed for approval by the Permit Official prior to payment of the fee.
  - (4) The independent impact analysis shall measure the impact that the proposed development will have on the particular public facilities for which the impact fee is being assessed, shall be based on the same methodologies used in the development of this article; shall be in accordance with standard methodologies for the evaluation of impacts upon public facilities created by new development; and shall be performed by a person or firm with sufficient professional training and experience in the preparation of such analyses.

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4. Editor's Note: Appendix C is on file in the office of the County Manager.

- (5) After review of the independent impact analysis submitted by the applicant, the Permit Official shall accept or reject the analysis and provide written notice to the applicant of his decision within 60 working days. If the Permit Official rejects the independent impact analysis, or any part of it, the written notice shall provide an explanation of the reasons for rejection.
  - (6) The Permit Official shall calculate the development impact fee according to either the analysis of the Permit Official or the independent impact analysis submitted by the applicant and accepted by the Permit Official.
- B. Appeal. The Permit Official's decision under this section shall constitute a final administrative decision subject to appeal as provided in § 64-22.

**§ 64-17. Development impact fee credits.**

- A. Applicability. The Planning Officer shall grant a credit against any development impact fee imposed by this article upon any new development where the applicant has negotiated and entered into a credit agreement with the County to dedicate land or construct capital improvements that:
- (1) Are consistent with, add to, or complement the County's capital program;
  - (2) Are funded by development impact fee revenue;
  - (3) Are of the same category of public facility impacted by the proposed new development; and
  - (4) Will be constructed or dedicated in accordance with a schedule set forth in the Capital Program or credit agreement.
  - (5) No credit shall exceed development impact fees imposed by this article for the proposed new development.
- B. Procedure. The determination of the credit shall be undertaken through the submission of a proposed credit agreement to the Planning Officer, which shall include the following:
- (1) A proposal to dedicate specific capital assets or to construct specific capital improvements that will be dedicated or constructed in lieu of the required development impact fee, and the time by which the capital assets will be dedicated or the capital improvements will be constructed; and
  - (2) The fair market value of the assets to be dedicated, supported by independent appraisal(s), and the projected costs for the suggested capital improvements, which shall be based on local information for similar capital improvements, along with a construction timetable for the completion thereof. Such estimated costs shall include the cost of construction, labor and materials, lands, easements and rights, surveys, plans and specifications, engineering and legal services, and all other expenses necessary or incident to such construction.

- (3) The proposed plan and cost estimates shall be prepared by a person or persons qualified in the provision of the particular capital improvement, impact analysis, and economics.

C. Determination.

- (1) Within 60 working days of the submission of the proposed credit agreement, the Planning Officer shall determine if the proposed agreement is complete. If it is determined that the proposed credit agreement is not complete, the Planning Officer shall send a written statement to the applicant outlining the deficiencies, and no further action shall be taken until all deficiencies have been corrected.
- (2) Once the Planning Officer determines the proposed credit agreement is complete, within 60 working days, the Planning Officer shall recommend approval of the agreement if the Planning Officer, with concurrence of the County Engineer, determines that the proposed capital improvements are consistent with, add to, or complement the County's Capital Program as it applies to the specific category of capital improvement, and the value of the assets to be dedicated or the construction costs of the suggested capital improvements equals or exceeds the amount of development impact fees otherwise payable. If, within this time period, the Planning Officer or the County Engineer determines that either the suggested capital improvements are not consistent with, do not add to, or do not complement the County's Capital Program, or that the proposed dedication, appraisal(s), construction costs, or schedule are not consistent with the requirements of this article or are otherwise unacceptable, the Planning Officer, with the concurrence of the County Engineer, shall propose changes to the agreement, construction, costs or schedule that are consistent with this article and the County's Capital Program.
- (3) If the Planning Officer, with the concurrence of the County Engineer, recommends approval of the proposed credit agreement, or if the changes proposed by the Planning Officer with the concurrence of the County Engineer are acceptable to the applicant, the credit agreement shall be prepared and forwarded to the County Council for final review and consideration. The County Council may approve, disapprove, or modify the proposed credit agreement, in whole or in part, and may make any decision or determination that, in its judgment, may be necessary or prudent to protect the public interest or promote the purposes of this article.
- (4) Upon execution of the credit agreement, the balance of development impact fees due, if any, shall be paid in accordance with this article, and title to any land dedicated shall be conveyed to the County pursuant to the credit agreement.
- (5) If the credit agreement requires dedication of assets other than land, the applicant shall execute such deeds, leases, easements, and other instruments in a form satisfactory to the County Attorney as may be necessary to convey the same to the County for public purposes no later than the time the development impact fees would otherwise be due.

- D. Timing of conveyance. Any land awarded credit under this section shall be conveyed no later than the time at which development impact fees are required to be paid. The portion of the development impact fee represented by a credit for construction shall be deemed

paid when the construction is completed and accepted by the County for maintenance or when adequate security for the completion of the construction has been provided.

- E. Bond and surety. The credit agreement shall include a payment and performance bond, surety, or other acceptable assurance that the project will be completed as proposed and that all payments required to be made by the applicant will be paid in full and on time in accordance with the credit agreement and construction contract documents. The bond, surety, or other assurance shall be in a form and amount acceptable to the County Engineer and County Attorney.
- F. Appeal. Any aggrieved person may appeal the County Council's decision to approve, deny, or modify a proposed credit agreement under this section by filing an appeal in accordance with § 64-22 of this article.

**§ 64-18. Administration of development impact fees.**

- A. Collection. The Permit Official shall collect all applicable development impact fees at or before the time of issuance of a County or municipal building permit or zoning certificate unless:
  - (1) The applicant is determined to be entitled to a full credit, pursuant to § 64-17 of this article;
  - (2) The applicant has been granted an exemption of the impact fee pursuant to § 64-12D(2) of this article;
  - (3) The applicant has been granted a deferral of the impact fee pursuant to § 64-12.1 of this article;
  - (4) The applicant has been determined to be not subject to the payment of a development impact fee; or
  - (5) The applicant has filed an appeal and has posted with the County a letter of credit or other surety acceptable to the Permit Official in the amount of the development impact fee, as calculated by the Permit Official, in a form approved by the County Attorney.
- B. Accounting for development impact fees. The person required to pay development impact fees shall provide the Department of Permits and Inspections with an accounting of the amount of development impact fees required under this article for each type of land use and each category of public facility.
- C. Development impact fee accounts. The Finance Officer shall establish a development impact fee account for each category of public facilities for which development impact fees are imposed. Such account shall clearly identify the category, account, or fund for which the development impact fee has been imposed. Subaccounts shall be established for individual impact fee subareas. All development impact fees collected by the County shall be deposited in the appropriate development impact fee account or subaccount, which shall be interest-bearing. All interest earned on funds deposited to such account shall be credited to and considered funds of the account. The funds of each such account

shall be capable of being accounted for separately from all other County funds, over time. The Finance Officer shall establish and implement necessary accounting controls to ensure that the development impact fee funds are properly deposited, accounted for, and appropriated in accordance with this article, and any other applicable legal requirements.

**§ 64-19. Appropriation of development impact fees.**

- A. In general. Development impact fee funds may be appropriated for public facilities, for public facilities expenditures, and for the payment of principal, interest, and other financing costs on contracts, bonds, notes, or other obligations issued by or on behalf of the County or other applicable local governmental entities to finance such public facilities and public facility expenditures. All appropriations from development impact fee accounts shall be detailed in a budget adopted by the County Council.
- B. Restrictions on appropriations. Development impact fees shall be appropriated only:
- (1) For the particular category of public facilities for which they were imposed, calculated, and collected. Development impact fees shall not be appropriated for funding any expenditure that would be classified in an accounting as a maintenance or repair expense or for operational or personnel expenses associated with the provision of a public facility;
  - (2) Where applicable, within the impact fee subarea where collected, unless the development impact fee funds will be appropriated for a public facility necessitated by or serving the new development as provided in § 64-19C below; and
  - (3) Within six years of the beginning of the fiscal year immediately succeeding the date of collection, unless the development impact fee funds will be appropriated in accordance with § 64-19D below.
- C. Appropriation of development impact fee funds outside of subarea where collected. Notwithstanding § 64-19B(2) of this article, where the County is divided into impact fee subareas for the collection and expenditure of a particular development impact fee, development impact fee funds may be appropriated for a public facility located outside of the subarea where collected only if the demand for the public facility is generated in whole or in part by the new development in the subarea where collected, or if the public facility will actually serve the new development in the subarea where collected. However, development impact fees may only be appropriated for a public facility located outside of the subarea where collected if the benefits to new development outside the subarea are incidental.
- D. Appropriation of development impact fee funds beyond six years of collection. Notwithstanding § 64-19B(3) of this article, development impact fee funds may be appropriated beyond six years from the beginning of the fiscal year immediately succeeding the date of collection if:
- (1) The appropriation is for a public facility or capital improvement that requires more than six years to plan, design, and construct; and

- (2) The demand for the public facility is generated in whole or in part by the new development; or
- (3) The public facility will actually serve the new development; and
- (4) The capital program prepared by the County for a particular category of public facility has used a longer time frame.

**§ 64-20. Refund of development impact fees.**

- A. Expiration or revocation of building permit or zoning certificate. An applicant who has paid a development impact fee for a new development for which the necessary building permit or zoning certificate has expired or for which the building permit or zoning certificate has been revoked prior to construction shall be eligible to apply for a refund of development impact fees.
- B. **Failure of County to use or appropriate development impact fee funds within time limit.** The current property owner may apply for a refund of development impact fees paid by an applicant if the County has failed to use or appropriate the development impact fees collected from the applicant within the time limit established in § 64-19B(3) of this article unless such funds are used or appropriated in accordance with § 64-19D of this article.
- C. **Abandonment of development after initiation of construction.** An applicant who has paid a development impact fee for a new development for which a building permit or zoning certificate has been issued and pursuant to which construction has been initiated, but which construction is abandoned prior to completion and issuance of a certificate of occupancy, shall not be eligible for a refund unless the uncompleted building is completely demolished.
- D. **Administrative fee.** A two-percent administrative fee, not to exceed \$500, shall be deducted from the amount of any refund granted and shall be retained by the County to defray the administrative expenses associated with the processing of a refund application.
- E. Procedure and submittal requirements.
  - (1) **Applications for a refund** shall be made on a form provided by the County for such purposes and shall include specific amounts claimed from particular development impact fee categories and all other information required below.
  - (2) Upon receipt of a complete application for a refund, the Permit Official shall review the application and documentary evidence submitted by the applicant as well as such other information as the Permit Official may request, and shall make a written determination whether a refund is due.
  - (3) Following an affirmative determination, the Permit Official shall notify the Finance Officer, who shall issue a refund from the appropriate development impact fee account or subaccount. In calculating the amount of a refund, the Permit Official and Finance Officer shall not include any interest.

- (4) Applications for refunds due to abandonment of a new development prior to completion or due to expiration or revocation of a building permit or zoning certificate shall be made within 60 days following expiration or revocation of the building permit or zoning certificate. The applicant shall submit:
- (a) Evidence of the amount of the development impact fees paid by public facilities category and receipts evidencing such payments; and
  - (b) Documentation evidencing the expiration or revocation of the building permit or zoning certificate prior to construction;
  - (c) Documentation evidencing compliance with the requirements of § 64-20C of this article, if applicable.
- (5) Applications for refunds due to the failure of the County to appropriate, expend, or encumber development impact fees within the time limits established in § 64-19B(3) or § 64-19D of this article shall be made by the current property owner(s) on forms provided by the County and shall be made within 180 days of the expiration of such time limit. If a portion of the impact fees collected have been appropriated, expended, or encumbered before the date of application, any refund to eligible property owners shall be distributed on a pro-rata basis. The refund applicant shall submit:
- (a) Evidence that the refund applicant is the property owner or the authorized agent of the property owner;
  - (b) The amount of the development impact fees paid by public facility category and receipts evidencing such payments; and
  - (c) Documentation of the County's failure to appropriate, expend, or encumber development impact fee funds for relevant public facilities within the time limits established in § 64-19B(3) or § 64-19D of this article.
- F. Forfeiture of refund. Failure to apply for a refund within the deadlines set forth in this section shall constitute a forfeiture of any fees available for refund to the property owner or applicant.
- G. Method of refund payment. The County may, at its option, make refunds of development impact fees by direct payment, by offsetting such refunds against other development impact fees due from the applicant or property owner for the same category of public facilities for new development on the same property, or by other means subject to agreement with the applicant or property owner.
- H. Appeal. The decision of the Permit Official shall be a final administrative decision subject to appeal as provided in § 64-22.

**§ 64-21. Exemptions, deferrals, or reductions of development impact fees.**

- A. Application for exemption. Pursuant to § 64-12D of this article, applications for exemptions shall be filed with the Permit Official on forms provided by the County.

- B. Review of an application for exemption. Upon receipt of a complete application for exemption, the Permit Official shall determine whether the proposed new development qualifies for an exemption pursuant to the provisions of § 64-12D. In determining whether an exemption is appropriate, the Permit Official shall consider only whether the proposed new development constitutes one of the uses described in § 64-12D, and whether, if necessary, any covenants, easements, or other required documentation has been submitted, in a form satisfactory to the County Attorney, where necessary to demonstrate compliance with § 64-12D.
- C. Public housing authority or nonprofit housing exemption. Public housing authority exemptions or nonprofit housing exemptions granted in accordance with the provisions of § 64-12D(2) shall be processed according to § 64-21F.
- D. Affordable housing deferral. Affordable housing deferrals granted in accordance with the provisions of § 64-12.1 shall be processed according to § 64-21F.
- E. Small business incentive rate reduction. Small business incentive rate reductions granted under § 64-12.2 shall be processed according to § 64-21F.
- F. Notification to Finance Office. If the Permit Official determines that the proposed development qualifies for a public housing or nonprofit housing exemption under § 64-12D(2) or an affordable housing deferral under § 64-12.1, or a small business incentive rate reduction under § 64-12.2, he shall notify the Finance Officer:
- (1) Of the total amount of the impact fee that would be imposed on the new development absent the exemption, deferral, or reduction;
  - (2) That the exemption, deferral, or reduction has been approved;
  - (3) Of the amount by which the development impact fee has been exempted, deferred, or reduced; and
  - (4) That a funding source other than development impact fees or other development exactions shall be used to fund the appropriate development impact fee account or subaccount in the amount exempted, deferred, or reduced.
- G. Effect of grant of exemption, deferral, or reduction. If the Permit Official grants an exemption, deferral, or reduction of development impact fees otherwise due, the Finance Officer shall transmit funds equal in amount to those exempted, deferred, or reduced from a source other than impact fees into the appropriate development impact fee account or subaccount no later than the beginning of the fiscal year following the calendar year in which the exemption or deferral was granted.

#### **§ 64-22. Appeals.**

Any person aggrieved by a final decision of a County official or the County Council may take an appeal. Appeals from decisions of a County official shall be to the County Board of Appeals in accordance with the provisions of § 190-179 of the Talbot County Code. Appeals from decisions of the County Council shall be to the Circuit Court for Talbot County.

**§ 64-23. Amount of impact fees.**

Residential and nonresidential development impact fees shall be paid as required by this article, as amended from time to time, in the amounts set forth below:

- A. Residential impact fees. Residential new development shall be subject to the development impact fees set forth in Appendix B.<sup>5</sup>
- B. Nonresidential impact fees. Nonresidential new development shall be subject to the development impact fees set forth in Appendix C.<sup>6</sup>

ARTICLE IV  
**Application and Project Fees**  
[Adopted 5-8-2007 by Bill. No. 1057]

**§ 64-24. Applicability.**

This article applies to every chapter, article, and section of the Talbot County Code (the "Code").

**§ 64-25. Findings and purpose.**

- A. Applications. Technological and scientific advances have made review of applications for permits and other approvals or requests increasingly sophisticated and time-consuming. Oftentimes, reviews involve technical expertise or specialized knowledge not possessed by County officials, staff, boards or commissions, or involve projects so substantial or complex that reviews take an inordinate amount or proportion of staff time, which interferes with the staff's ability to process other applications. In those instances, independent third-party reviews materially assist in better understanding technical and scientific issues, or in timely completion, and thereby promote a full, fair, and prompt evaluation of the application. The cost of securing independent third-party reviews is properly part of the application process and should be borne by the applicant, not by County taxpayers generally.
- B. Projects. Assuring compliance with applicable federal, state, and local laws, regulations, and other requirements imposed upon any approval may involve substantial amounts of staff time and other County resources. The cost of assuring compliance is properly part of the project's final approval, and should be borne by the applicant, not by County taxpayers generally.

**§ 64-26. Definitions.**

The following definitions apply to this article:

**APPLICANT** — A person, firm, or corporation filing an application.

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5. Editor's Note: Appendix B is on file in the office of the County Manager.

6. Editor's Note: Appendix C is on file in the office of the County Manager.