

THE CITY OF FREDERICK
MAYOR AND BOARD OF ALDERMEN

ORDINANCE NO: G-21-16

AN ORDINANCE concerning

Park facilities development impact fees – Accessory dwelling units

FOR the purpose of establishing a reduced fee for accessory dwelling units; updating references; clarifying language; and otherwise pertaining to park facilities development impact fees in the City of Frederick.

BY repealing and reenacting, with amendments,
Section 11-2
The Code of the City of Frederick, 1966 (as amended)

SECTION I. NOW THEREFORE BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That Section 11-2 of The Code of the City of Frederick, 1966 (as amended) is hereby repealed and reenacted, with amendments, as follows:

Sec. 11-2. Park facilities development impact fee.

- (a) **Authorization.** Article XI-E of the Maryland Constitution, [Article 23A] the Local Government Article of the Annotated Code of Maryland, and the City of Frederick Charter authorize the city to enact ordinances for the protection and promotion of public safety, health, welfare, comfort, convenience and happiness.
- (b) **Purpose and intent.** ***
- (c) **Findings.** ***
- (d) **Applicability.** ***.
- (e) **Exemptions.**
 - (1) The following types of development are exempt from the provisions of this section.
 - (A) Alterations or expansions of an existing residential building, where no additional dwelling units are created and where the use is not changed.
 - (B) The construction of accessory buildings or [structures.] structures, except for accessory dwelling units.
 - (C) The on-site replacement of a destroyed or partially destroyed structure with a new building or structure where no additional dwelling units are created.
 - (D) The off-site replacement of a demolished structure with a new building or structure where no additional dwelling units are created, provided the

demolition and replacement are performed pursuant to a comprehensive replacement plan which is approved by the deputy director [of] **for** planning [and community development] prior to the demolition of the structure.

(E) The installation of a replacement mobile or modular home on a lot or other such site when a development impact fee for such site has previously been paid pursuant to this section.

(2) Any claim of exemption must be made by the applicant, in writing to the [department of permits and inspections,] **Building Department**, no later than the time of application for a building permit or permit for mobile home installation. Any claim not so made shall be deemed to be waived.

(f) **Definitions.** As used in this [chapter:] **section:**

(1) **Accessory dwelling unit means a secondary dwelling unit established in conjunction with and subordinate to a primary dwelling unit, whether a part of the same structure as the primary home or a detached dwelling unit on the same lot, as further defined and regulated in the Land Management Code.**

(2) Building permit means an official document issued by the [department of permits] **Building Department** which authorizes construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, moving or repair of a building or structure. Building permit, for the purposes of this [chapter, shall include] **section, includes** a mobile home permit for the installation or placement of a mobile or manufactured housing unit.

(3) **Community pool means a swimming pool maintained and operated by the management of a residential development for the use of the residents of that development.**

(4) Dwelling unit means one or more rooms in a building or a portion of a room, designed or intended to be used, or actually used, for occupancy by one family for living and sleeping quarters and containing one kitchen only, including a mobile home, but not hotel or motel units.

(5) Impact fee means any monetary exaction imposed by the city as a condition of or in connection with approval of a residential development project for the purpose of defraying all or some of the cost of or repayment of costs previously expended from other city funds for park development and improvement relating to the project. Residential development means any development undertaken which creates a new dwelling unit or units.

(6) Residential development means any development undertaken which creates a new dwelling unit or units.

[(g)] [Hearing required for establishing or increasing an impact fee. Prior to establishing or increasing any impact fee the mayor and board of aldermen shall hold a public hearing at which oral and written testimony may be given. Action to establish or increase any impact fee shall be taken only by ordinance or resolution.]

[(h)](g) Imposition and collection of impact fees.

- (1) Except as provided in this [section and any amendment thereto,] **section**, the city shall impose a park facilities development impact fee as a condition of approval of all new residential development. No building permit, final inspection, or certificate of occupancy may be approved unless the provisions of this section have been fulfilled.
- (2) Impact fees shall be imposed by including the following language in any document of development approval: "Approval of this project is conditioned upon payment to the city of all applicable impact fees."
- (3) Impact fees shall be collected by the [department of permits and inspections] **Building Department** prior to the issuance of a permit.

[(i)](h) Impact fee schedule.

- (1) The amount of the impact fee [shall be eight hundred sixty-eight dollars (\$868.00) per unit if the development does not have a home owners' association pool, and five hundred sixty-eight dollars (\$568.00) per unit if the development has a home owners' association pool. No development permit shall be issued until such fee has been paid.] **is as established in this paragraph.**
 - (A) **For a dwelling unit other than an accessory dwelling unit, the impact fee is:**
 - (i) **\$568 per unit in a development with a community pool; or**
 - (ii) **\$868 per unit in a development without a community pool.**
 - (B) **For an accessory dwelling unit, the fee is:**
 - (i) **\$199 per unit in a development with a community pool; or**
 - (ii) **\$304 in a development without a community pool.**
- (2) **A development permit will not be issued until the required fee has been paid.**

[(j)](i) Appeals. An applicant may appeal the amount of the impact fee imposed pursuant to this section by filing a written notice of appeal to the [director of planning and community development] **Director of Public Works** within ten (10) days of receiving notice of the amount of impact fee imposed by the [department of permits and inspections.] **Building Department**. The notice of appeal shall be entitled "Notice of Appeal of Impact Fee" and shall include a statement of the nature and reasons for the appeal. The applicant bears the burden of proof to demonstrate that the amount of the impact fee was not calculated according to the procedures established by this section.

[(k)](j) Impact fee accounts. ***

[(l)](k) Use of impact fee proceeds. ***

[(m)](l) Refunds. ***

[(n)] [Severability. If any section, subsection, sentence, clause, phrase or portion of the ordinance codified in this section is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section.]

SECTION VIII. AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That this ordinance shall take effect on October 18, 2021 and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

PASSED:

DATE:



August 19, 2021

**Michael C. O'Connor, President,
Board of Aldermen**

APPROVED:

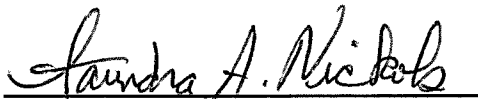
DATE:



August 19, 2021

Michael C. O'Connor, Mayor

Approved for Legal Sufficiency:



City Attorney