

1 **PARISH OF WEST FELICIANA**
2 **ORDINANCE NUMBER: _____**
3

4 **AN ORDINANCE TO ENACT CHAPTER 136 – IMPACT FEES, AND TO**
5 **PROVIDE FURTHER WITH RESPECT THERETO:**
6

7 The West Feliciana Parish Council hereby ordains:
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9 Chapter 136 is hereby enacted in the Code of Ordinances of the Parish of West
10 Feliciana to read as follows:
11

12 **CHAPTER 136 - IMPACT FEES**

13 **Sec. 136-1 - Authority.**

14 This article is enacted pursuant to the powers granted to the parish under the legally
15 adopted Home Rule Charter.

16 **Sec. 136-2 - Definitions.**

17 The following words, terms, and phrases, when used in this article, shall have the
18 meanings ascribed to them in this section, except where the context clearly indicates
19 a different meaning:

20 *Capital improvements* means land or facilities for the storage, treatment or
21 distribution of water; for the collection, treatment, reclamation or disposal of
22 wastewater; for the collection, treatment, reclamation or disposal of stormwater; for
23 flood-control purposes; for purposes of transportation and transit, including without
24 limitation, streets, street lighting and traffic-control devices and supporting
25 improvements, roads, roadside drainage, overpasses, bridges, airports, and related
26 facilities; for parks and recreational improvements; for public safety, including
27 police and fire facilities; for schools and child care facilities; for libraries, museums
28 and public art; for public buildings of all kinds; and for any other capital project
29 identified in the parish's capital improvements plan. The term "capital Improvement"
30 also includes design, engineering, inspection, testing, planning, legal land
31 acquisition and all other costs associated with construction of a public facility.

32 *Capital improvements plan* means the five-year (or other time-defined) plan for
33 capital improvements, adopted annually by the council, describing the approximate

1 location, size, time of availability and estimated cost of capital improvement projects
2 and identifies sources of funding for capital improvement projects.

3 *Capital improvements project list* means the list attached to the annual council
4 resolution setting the base fee amount for each specific impact fee. The list shall
5 describe the approximate location, size, time of availability and estimated cost of
6 each capital improvement to be funded from a particular fee account.

7 *Collection* means the point in time and place at which the impact fee is actually paid
8 over to the parish.

9 *Commitment* means earmarking impact fees to fund or partially fund capital
10 improvements serving new development projects.

11 *Dwelling unit* means one or more rooms in a building or a portion of a room,
12 designed, intended to be used, or used for occupancy by one family for living and
13 sleeping quarters, and containing one kitchen only, and includes mobile homes, but
14 not hotel or motel units.

15 *Growth area* means the geographic area within which impact fees are collected and
16 expanded for a particular type of capital improvement serving development projects
17 within such area.

18 *Impact fee* means any monetary exaction imposed by the parish as a condition of or
19 in connection with approval of a development project for the purpose of defraying
20 all or some of the cost of or repayment of costs previously expended from other
21 parish funds for capital improvements relating to the project.

22 *Impose* means to determine that a particular development project is subject to the
23 collection of impact fees as a condition of development approval.

24 *New development or development project* means and includes any project undertaken
25 for the purpose of development, including without limitation a project involving the
26 issuance of a permit for construction, reconstruction, or change of use, but not a
27 project involving the issuance of a permit to operate or to remodel, rehabilitate, or
28 improve an existing structure, nor the rebuilding of a structure destroyed or damaged
29 by an act of God, nor the replacement of one mobile home with another on the same
30 pad if no dwelling unit is added.

31 *Nonresidential development project* means all development other than residential
32 development projects.

33 *Residential development project* means any development undertaken to create a new
34 dwelling unit or units.

1 **Sec. 136-3 - Purpose and intent.**

- 2 a) The purpose of this Chapter is to require that new development pays for its fair
3 share of public facilities through the imposition of impact fees which will be used
4 to finance, defray, or reimburse all or a portion of the costs incurred by the parish
5 for public facilities which serve such development. The amount of each impact
6 fee shall be calculated based upon:
- 7 1) The gross square footage (for nonresidential development).
 - 8 2) The number of dwelling units (for residential development).
 - 9 3) The type of density and intensity of use (e.g., high, medium, and low).
 - 10 4) The amount and types of trip generation.
 - 11 5) Other appropriate methodologies which ensure that the fees are roughly
12 proportional to the impacts of the new development on public facilities.
- 13 b) The parish assumes responsibility for and will pay for with general parish
14 revenues all public facility needs for existing development.

15 **Sec. 136-4 - Findings.**

16 The parish government finds that:

- 17 a) The parish assumes the responsibility for and is committed to providing public
18 facilities at levels necessary to cure any existing deficiencies in already
19 developed areas.
- 20 b) Impact fees collected pursuant to this article shall not be used to cure existing
21 deficiencies in public facilities.
- 22 c) New residential and nonresidential development imposes increased and
23 excessive demands upon parish public facilities.
- 24 d) Planning, economic, and demographic studies project that new development will
25 continue and will place ever-increasing demands on the parish to provide public
26 facilities to serve the new developments.
- 27 e) The development potential and property values of properties in the designated
28 growth areas are strongly influenced by parish policy as expressed in the
29 development plan and as implemented by the parish zoning regulations set out in
30 chapter 135 and the parish zoning map.
- 31 f) To the extent that new development in designated growth areas places demands
32 upon the public facilities, those demands should be satisfied by shifting the

1 responsibility for financing the provision of such facilities from the public to the
2 developments creating the demands.

- 3 g) The parish council, after careful consideration of possible future growth and the
4 experience of other similarly situated parishes, finds that the imposition of impact
5 fees to finance specified major public facilities in designated growth areas, the
6 demand for which is created by new development, is in the best interests of the
7 general welfare of the parish and its residents, is equitable, and does not impose
8 an unfair burden on new development.

9 **Sec. 136-5 - Applicability**

10 Unless expressly exempted, this Chapter applies to all fees imposed by the parish to
11 finance public facilities attributable to new development, including without
12 limitation:

- 13 a) Sewer connection charges
14 b) Drainage fees
15 c) Transportation improvement fees

16 **Sec. 136-6 - Exemptions.**

17 The provisions of this chapter do not apply to:

- 18 a) Taxes and special assessments.
19 b) Fees for processing development applications.
20 c) Fees for enforcement of or inspections pursuant to regulatory ordinances.
21 d) Fees collected under development agreements.
22 e) Fees imposed pursuant to a reimbursement agreement between the parish and a
23 property owner for that portion of the cost of a public facility paid for by the
24 property owner which exceeds the need for the public facility attributable to,
25 reasonably related to, and roughly proportional to the development.
26 f) Fees to mitigate impacts on the environment.
27 g) Fees imposed, levied, or collected by other governmental agencies including the
28 federal government, state government and their respective subdivisions.

29
30 **Sec. 136-7 - Notice and hearing required for establishing or increasing an
31 impact fee.**

- 1 a) Impact fees shall be assessed and amended by ordinance.
- 2 b) Prior to the public hearing, the parish shall make available to the public data
- 3 showing the amount, or the estimated amount of the impact fee, and a summary
- 4 of the basis for the calculation of the impact fee amount.

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6 **Sec. 136-8 - Imposition, calculation, and collection of impact fees.**

- 7 a) Except as provided in this Chapter and any amendment to this Chapter, the parish
- 8 may impose impact fees as a condition of approval of all new development
- 9 projects. No preliminary or final subdivision map, parcel map, grading permit,
- 10 building permit, final inspection, or certificate of occupancy, or other
- 11 development permit, may be approved unless the provisions of this section have
- 12 been fulfilled.
- 13 b) Except for parish fiscal year 2021, the base amount of each impact fee for each
- 14 type of development project shall be calculated annually and adopted by the
- 15 parish council during the process of fiscal year budget approval.
- 16 c) For parish fiscal year 2021, individual ordinances establishing base impact fees
- 17 for different types of development projects may be introduced and approved by
- 18 individual ordinances throughout the year.
- 19 d) Impact fees shall be imposed by including the following language in any
- 20 document of development approval: "Approval of this development is
- 21 conditioned upon payment to the Parish of all applicable impact fees and
- 22 connection fees as provided in the Parish Codes."
- 23 e) Impact fees shall be collected by the development services department at a time
- 24 stated in the ordinance or resolution that established or amended each impact fee.

25 **Sec. 136-9 - Impact fee accounts and growth areas.**

- 26 a) The parish shall establish an impact fee account for each capital improvement for
- 27 which an impact fee is imposed. Furthermore, these accounts will also be
- 28 classified based on each growth area, as designated by a cooperative effort of the
- 29 parish president, the director of utilities, the director of public works and the
- 30 director of finance. Impact fees collected shall be deposited in each such account
- 31 according to the type of improvement and growth area. The funds of the account
- 32 shall not be commingled with other funds of the parish. Any account previously
- 33 established for the deposit of funds which would have been developer impact fees

1 under this article shall be deemed an impact fee account for the purposes of this
2 article.

3 b) Each impact fee account shall be interest-bearing, and the accumulated interest
4 shall become a part of the account.

5 c) The funds of each account shall be expended within the growth area exclusively
6 for the capital improvements for which the impact fees were collected.

7 **Sec. 136-10 - Use of impact fee proceeds.**

8 Impact fees shall be expended only for the type of capital improvements for which
9 they were imposed, calculated, and collected and according to the time limits and
10 procedures established in this article. Impact fees may be used to pay the principal,
11 interest and other costs of bonds, notes and other obligations issued or undertaken
12 by or on behalf of the parish to finance such improvements.

13 **Sec. 136-11 - Refunds.**

14 a) Except as described in subsection (b) of this section, upon application of the
15 property owner, the parish shall refund that portion of any impact fee which has
16 been on deposit over five years, and which is unexpended and uncommitted. The
17 refund shall be made to the then-current owner of lots or units of the development
18 project.

19 b) If fees in any impact fee account are unexpended or uncommitted for four or more
20 years after deposit, the parish council shall make findings, at least once each
21 fiscal year while such condition prevails, to identify the purpose to which such
22 fees shall be put and to show a roughly proportional and reasonable relationship
23 between the fee and the purpose for which it was collected. If the council makes
24 such findings, the fees are exempt from the refund requirement.

25 c) The parish may refund by direct payment, by offsetting the refund against other
26 impact fees due for development projects by the owner on the same or other
27 property, or otherwise by agreement with the owner.

28 **Sec. 136-12 - Audits.**

29 A developer or property owner may request an audit to determine whether the impact
30 fee imposed is roughly proportional to or exceeds the amount reasonably necessary
31 to finance capital improvements attributable to the development project. The parish
32 council shall then retain a qualified, independent auditor, who shall determine
33 whether the fee is appropriate. The parish may require as a condition of the right to
34 such an audit, that the property owner pay for the cost of the audit and deposit with

1 the parish a sum equal to the reasonable estimated cost of the audit. Once a decision
2 has been reached by the independent auditor, it shall be mailed to the property owner
3 by certified mail. The decision of the independent auditor is final unless appealed to
4 the council by the property owner as provided by this article.

5 **Sec. 136-13 - Protests and appeals.**

6 a) A person may protest or challenge the imposition of a fee imposed pursuant to
7 this article by filing, with the parish council clerk within ten days following
8 mailing of notice of the auditor's decision to the appellant, a written notice of
9 appeal with a full statement of the grounds, and an appeals fee as may be fixed
10 from time to time by ordinance of the parish council. The parish may continue
11 processing the development application if the notice of appeal is accompanied
12 with a bond or other security in an amount equal to the impact fee.

13 b) The appellant bears the burden of proof to demonstrate that the amount of the fee
14 was not calculated according to the procedures established in this article.

15 c) At a regular meeting following the filing of the appeal, the parish council shall
16 fix a time and place for hearing the appeal and the parish council clerk shall mail
17 notice of hearing to the appellant at the address given in the notice of appeal. The
18 hearing shall be conducted at the time and place stated in the notice and the
19 determination of the council shall be announced at the conclusion of the hearing
20 or at the next regular meeting of the council. The determination of the parish
21 council shall be final.

22 **Sec. 136-14 - Statute of limitations.**

23 Any judicial action or proceeding to attack, review, set aside or annul the
24 reasonableness, legality, or validity of any impact fee must be filed and service of
25 process effected within 90 days following the date of imposition of the fee or the
26 final determination of the parish council, whichever is later.

27 **Sec. 136-15 - Amendment procedures.**

28 At least once each year, prior to the parish council's adoption of the budget and
29 revisions to the capital improvements project list, the director of finance shall report
30 to the parish council with:

31 a) Recommendations for amendments to this article and to other parts of this Code
32 and to ordinances that originally established impact fees.

33 b) Proposals for changes to the capital improvements project list, identifying capital
34 improvements to be funded, in whole or in part, by impact fees.

- 1 c) Proposals for changes in the boundaries of growth areas.
- 2 d) Proposals for changes to impact fee rates and schedules.

3

4 **Sec. 136-16 - Credits.**

5 a) A property owner who dedicates land or agrees to participate in an assessment
6 district or otherwise contributes funds for capital improvements, as defined in
7 this article, may be eligible for a credit for such contribution against the impact
8 fee otherwise due.

9 b) The director of public works, director of utilities and/or the parish president shall
10 determine:

- 11 1) Whether the contribution meets capital improvement needs for which the
12 particular impact fee has been imposed.
- 13 2) Whether the contribution will substitute for or otherwise reduce the need for
14 capital improvements to be anticipated to be provided with impact fee funds.
- 15 3) The value of the developer contribution.

16 In no event, however, shall the credit exceed the amount of the otherwise applicable
17 impact fee.

18 c) Any application for credit must be submitted at or before the time of development
19 project approval on forms provided by the parish. The application shall contain a
20 declaration of those facts, under oath, along with the relevant documentary
21 evidence which qualifies the property owner for the credit.

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23 Section 2 - This ordinance shall take effect five (5) days after its publication in the
24 Official Journal.

25

26 Introduced by: Parish President Kenneth Havard at the special meeting of the
27 West Feliciana Parish Council on the 15th day of July, 2021.

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29 Publication of Summary and Notice of Public Hearing on _____.

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31 Full reading and passage _____.

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33 Moved for adoption by _____. Seconded by _____.

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FOR:

AGAINST:

ABSTAIN:

ABSENT:

ATTEST:

John Thompson DATE
 WEST FELICIANA PARISH COUNCIL CHAIR

Emily Cobb DATE
 WEST FELICIANA PARISH COUNCIL SECRETARY

