

RECORD OF ORDINANCES

Ordinance No. 2007-45 (AS AMENDED) Passed August 21 20 07

**AN ORDINANCE ADOPTING IMPACT FEE AMOUNTS AND
THE PROCEDURES FOR THE IMPOSITION, CALCULATION,
COLLECTION, EXPENDITURE, AND ADMINISTRATION OF
IMPACT FEES TO BE IMPOSED ON NEW DEVELOPMENT;
PROVIDING FOR SEVERABILITY; AND REPLACING
ORDINANCE 2005-79**

WHEREAS, by Ordinance 2005-79, adopted September 20, 2005, the City of Pickerington approved the imposition of impact fees for new development; and

WHEREAS, City Council determined Section 1486.08, Exemptions; Waivers required clarification.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
CITY OF PICKERINGTON, FAIRFIELD-FRANKLIN COUNTIES,
OHIO, A MAJORITY OF ITS MEMBERS CONCURRING:**

Section 1: Pickerington City Council hereby rescinds Ordinance 2005-79, and replaces it with an Ordinance adopting impact fee amounts and the procedures for the imposition, calculation, collection, expenditure, and administration of impact fees to be imposed on new development, attached hereto as "Exhibit A" and incorporated herein.

Section 2: This Ordinance shall take effect and be in force from the earliest date permitted by law.

APPROVED BY: 

David B. Shaver, Mayor

DATE OF APPROVAL: August 21, 2007

EFFECTIVE DATE: September 20, 2007

ATTEST: 

Lynda D. Yartin, Municipal Clerk

SPONSOR: **RIGGS**

APPROVED AS TO FORM
AND LEGALITY OF PURPOSE:


Philip K. Hartmann, Law Director

Pickerington Impact Fee Ordinance

Contents

SECTION 1486.01. PURPOSE AND INTENT	5
SECTION 1486.02. DEFINITIONS	6
SECTION 1486.03. APPLICABILITY	9
(a) <i>Term.</i>	9
(b) <i>Affected Area.</i>	9
(c) <i>Type of Development Affected.</i>	9
(d) <i>Type of Development Not Affected; Exemptions.</i>	9
(e) <i>Effect of Payment of Impact fees on Other Applicable City Land Use, Zoning, Platting, Subdivision, or Development Regulations.</i>	11
(f) <i>Amendments.</i>	12
SECTION 1486.04. PROCEDURES FOR IMPOSITION, CALCULATION, REIMBURSEMENT, CREDIT, AND COLLECTION OF IMPACT FEES.	12
(a) <i>In General.</i>	12
(b) <i>Calculation.</i>	12
(c) <i>Independent Impact Analysis.</i>	13
(d) <i>Non-binding Impact fee Estimate.</i>	14
(e) <i>Reimbursements and Credits.</i>	14
SECTION 1486.05. ESTABLISHMENT OF IMPACT FEE ACCOUNTS; USE AND APPROPRIATION OF IMPACT FEE FUNDS; AND REFUNDS.	19
(a) <i>Impact fee Accounts.</i>	19
(b) <i>Use of Impact fee Funds.</i>	19
(c) <i>Procedure for Appropriation of Impact fee Funds.</i>	20
SECTION 1486.06. APPEALS.	23
SECTION 1486.07. REVIEW AND ADJUSTMENTS	24
SECTION 1486.08. EXEMPTIONS; WAIVERS.	26
SECTION 1486.09. PARKS AND RECREATION FACILITIES IMPACT FEE	28
SECTION 1486.10. POLICE FACILITIES IMPACT FEE	28
SECTION 1486.11. GOVERNMENT FACILITIES IMPACT FEE	28

SECTION 1486.12. STREET IMPACT FEE.....	29
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ORDINANCE 2005-79

AN ORDINANCE AMENDING SECTION 274.02 AND ADOPTING IMPACT FEE AMOUNTS AND THE PROCEDURES FOR THE IMPOSITION, CALCULATION, COLLECTION, EXPENDITURE AND ADMINISTRATION OF IMPACT FEES TO BE IMPOSED ON NEW DEVELOPMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

PREAMBLE

WHEREAS, the City of Pickerington is a municipal corporation lawfully established and organized under the laws of Ohio; and

WHEREAS, pursuant to Art. XVIII, §3 of the Ohio Constitution and, *inter alia*, pursuant to the holding of the Ohio Supreme Court in *Homebuilders Association of Dayton and the Miami Valley, et al. v. City of Beavercreek*, 89 Ohio St.3d 121, 729 N.E.2d 349, the City has the authority to fix, impose and provide for the collection of impact fees to finance, in whole or in part, the capital costs of public works, improvements, and facilities required to accommodate new development; and

WHEREAS, the City Council has studied the necessity for and implications of the adoption of impact fees for various public facilities and has retained TischlerBise, Inc., a nationally renowned fiscal, economic and planning consulting firm, to prepare a Impact Fee Study to determine the proportionate demand new development generates for additional police and municipal public facilities, and TischlerBise has prepared an Impact Fee Study dated March 21, 2005 (hereinafter the "Impact Fee Study"); and

WHEREAS, the Impact Fee Study has been presented to, and reviewed by, the City Council, which has determined (1) that impact fees are necessary to offset the costs associated with meeting future public facility and service demands pursuant to the projections set forth in the report; (2) that impact fees bear a reasonable relationship to the burden imposed upon the City to provide public facilities and services to new residents, employees, and businesses; and impact fees provide a benefit to such new residents, employees, and businesses reasonably related to the impact fee assessed; (3) that an "essential nexus" exists between the projected new development and the need for additional facilities and services to be funded with impact fees, and between the impact fee and the benefits that accrue to new development paying the fee; and (4) that the amount of the impact fees is "roughly proportional" to the pro rata share of the additional facilities and services needed to serve new residential and non-residential development, while maintaining the existing level of service (LOS) standard currently provided to existing City residents, employees, and businesses; and

WHEREAS, the Impact Fee Study has determined that the City of Pickerington (the "City") is projected to add 1,950 housing units and 7,430 people, or approximately 195 housing units and 743 annually, over the next ten years; and

WHEREAS, the Impact Fee Study projects that the City will add 2,084 jobs by 2015 to the estimated 3,665 jobs currently in the City; and

WHEREAS, the City has developed, and periodically revises, a Five-Year Capital Improvements Plan, along with an annual budget, to ensure new development is adequately provided with public facilities necessary to serve new development at the growth rates projected in the Impact Fee Study; and

WHEREAS, this ordinance contains administrative provisions to ensure that the benefit of capital facilities capacity funded with the impact fee will accrue proportionately to new development paying the fee; and

WHEREAS, based on the population, housing unit, and land use projections as well as the public facility needs associated with the projected level of growth, the City Council has determined that impact fees are an appropriate and necessary technique, to be used in conjunction with other available public facility financing techniques, to ensure that adequate public facilities are provided for new development; and

WHEREAS, the City Council has determined that impact fees are necessary for adequate facilities and capital improvements sufficient to protect the public health, safety, and general welfare of future residents and employees generated by new development; and

WHEREAS, the types of facilities and associated costs that may be included in the impact fees include, but are not necessarily limited to, buildings, facilities, vehicles, equipment, apparatus, and land acquisition; and

WHEREAS, TischlerBise reviewed the existing demand for capital improvements and public improvements, including parks and recreation; police; general government buildings, vehicles and equipment; and streets, and

WHEREAS, these facilities include, where appropriate, buildings, facilities, vehicles, equipment, apparatus, and land acquisition; the existing inventory of same; and the method of financing same; and

WHEREAS, TischlerBise has relied upon the City for the costs of equipment, facilities, buildings, and land acquisition for public facilities to be funded by impact fees; and

WHEREAS, the current inventory of buildings, facilities, vehicles, equipment, apparatus, and land acquisition was used to establish appropriate level of service standards; and

WHEREAS, the City Council has found and determined that impact fees for different public facilities will have certain common characteristics and that the City will, therefore, benefit from the adoption and use of a uniform procedure for the imposition, calculation, collection, expenditure, and administration of all of the adopted impact fees; and

WHEREAS, the use of uniform procedures, to the extent possible, will be more efficient and expedient for both the City and applicants for building permits than separate procedures for each impact fee; and

WHEREAS, the use of uniform procedures will simplify the implementation and administration of impact fees; and

WHEREAS, the use of uniform procedures will best ensure that impact fees are "earmarked" and expended for the public facilities for which they were imposed and collected; and

WHEREAS, all monies collected from impact fees will be deposited in interest-bearing accounts which clearly identify the category, account, fund, and public facility for which such fee was imposed; and

WHEREAS, each such category, fund, or account will be accounted for separately; provided; and

WHEREAS, any interest or other income earned on monies deposited in the interest-bearing accounts will be credited to the applicable facilities' account; and

WHEREAS, the City Council and the City Manager or designee have determined or will determine, for each impact fee, that the payment of the impact fee and its expenditure for needed public facilities will result in a benefit to the development on which it is imposed; and

WHEREAS, the overall well-being of the City depends on continued economic viability and growth within the region; and

WHEREAS, the imposition of reasonable and proportionate impact fees for new development will ensure the City's economic viability and fiscal integrity in the future; and

WHEREAS, the City Council has developed and adopted a schedule of impact fees for applicable categories of public facility by land use classification; and

WHEREAS, the City Council has provided a credit mechanism in cases where the proposed new development dedicates public sites and/or capital improvements for which impact fees are also being imposed and in cases where the new development will otherwise pay for a portion of such new development through principal payments of bonds issued for the same purpose; and

WHEREAS, the City Council has determined that the impact fee amounts bear a reasonable relationship to the burden imposed upon the City to provide the additional capital improvement expenditures for such public facilities to serve new development at the appropriate level of service (LOS) standards; and

WHEREAS, the City Council has developed fee calculation methodologies which will be imposed in an equitable and non-discriminatory manner; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PICKERINGTON, OHIO:

SECTION 1: That the Impact Fee Study prepared by TischlerBise, dated March 31, 2005, including all methodologies, assumptions, and conclusions drawn in the report, is approved and adopted.

SECTION 2: That the provisions of the Codified Ordinances of Pickerington, Ohio, are amended to add the following new Chapter 1486 in Part Fourteen (Building And Housing Code), Title Six (Miscellaneous Building Regulations) establishing Impact Fees and setting forth fee amounts and the procedures for the imposition, calculation, collection, expenditure, and administration of Impact fees in the City.

"CHAPTER 1486.

IMPACT FEE PROCEDURES AND REQUIREMENTS.

Section 1486.01. PURPOSE AND INTENT

The purpose and intent of this chapter are:

- (a) To establish uniform procedures for the imposition, calculation, collection, expenditure, and administration of impact fees imposed on new development;
- (b) To assure that new development contributes its fair and proportionate share towards the costs of public facilities reasonably necessitated by such new development;
- (c) To ensure that new development benefits from the provision of the public facilities provided with the proceeds of impact fees;
- (d) To ensure that impact fees collected pursuant to this chapter are expended only on public facilities the demand for which is generated by the new development against which the fees are assessed;
- (e) To ensure that impact fees assessed pursuant to this chapter are proportionate in amount to the degree of impact new development has on public facilities; and

- (f) To ensure that all applicable legal standards and criteria are properly incorporated in these procedures.

Section 1486.02. DEFINITIONS

In this chapter words and terms have the meanings set forth in this section. Words and terms not specifically defined herein have the meanings set forth in § 1270.11 of the Codified Ordinances and the Ohio Basic Building Code, latest edition, as amended, unless a different meaning is assigned below:

Applicant: any person who files an application with the City for a building permit or, if required by § 1486.03, a certificate of occupancy, to undertake new development within the City.

Appropriation or to appropriate: an action by the City or City Manager to identify specific public facilities for which impact fee funds may be utilized. Appropriation shall include, but is limited to: inclusion of a public facility in the adopted City budget, capital improvements plan, or comprehensive plan; execution of a contract or other legal encumbrance for construction or acquisition of a public facility using impact fee funds in whole or in part; and/or the expenditure or transfer of impact fee funds from a impact fee account for the financing of public facilities that provides or will provide a roughly proportionate benefit to new development.

Building Permit: Plan approval that is issued by the Chief Building official.

Business Park: a group of flex-type buildings that is: (1) served by a common roadway system;; and (2) located in a "Commercial/Industrial Planned District pursuant to § 1282.3 of the City Code, in which a final development plan approved by the Council allocates lots or sites for a variety of commercial, office, and industrial uses.

Capital Improvement Plan: a schedule of public facility improvements to be undertaken by the City as determined from time to time by the City Council or as set forth in the capital budget and/or the comprehensive plan.

City: City of Pickerington, Ohio.

City Council: the Council of the City of Pickerington, Ohio.

City Manager: the City Manager of the City of Pickerington, Ohio, or the City Manager's designee.

Codified Ordinances: the Codified Ordinances of Pickerington, Ohio, as amended from time to time.

Commercial: An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee, other than an Industrial, Light Industrial, Warehousing, Business Park, or Residential Use. "Commercial" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances and Table 1 of the Planning and Zoning Code: animal clinic with boarding; animal clinic without boarding; animal clinics; arts and craft studio; assisted living facility; auto fuel service; auto. vehicle and equip. stores; automotive service/major repair; automotive service/minor repair; bar; business retail; commercial entertainment; consumer retail; day care; day care centers; drive thru

banking; drive thru restaurant; drive thru retail; family restaurant; farm markets; full service restaurant; general retail; hospitals; hotel/motel; medical and health related services; nursing homes; personal service; and universities.

Comprehensive Plan: the Comprehensive Plan for the City of Pickerington and any subsequent plans adopted by City Council.

Credit: a reduction in the amount of a impact fee due pursuant to this chapter that may be granted pursuant to an approved reimbursement and validly executed development agreement between the City and a previous applicant, which resulted in the provision of excess public facility capacity sufficient to offset the impacts of the proposed new development on public facilities.

Impact fee or Impact Fee: a fee imposed on new development on a proportionate basis in connection with and as a condition of the issuance of a building permit and which is calculated to defray all or a portion of the costs of the public facilities required to accommodate new development at City-designated level of service (LOS) standards and which provides a roughly proportionate benefit to new development and is proportionate in amount to actual impact of new development on the public facilities to be funded with impact fee funds.

Light Industrial: industrial uses that emphasize activities other than manufacturing. Typical light industrial activities include, but are not limited to, printing plants, material-testing laboratories, and assembling of data processing equipment. "Light Industrial" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances and Table 1 of the Planning and Zoning Code: light industry, research and development "ind." and research and development laboratory.

Manufacturing: a use devoted to the manufacture, assembly, packaging, processing, fabrication, storage, or distribution of goods and materials whether new or used or the substantial refinishing, repair and/or rebuilding of vehicles or boats. "Manufacturing" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances and Table 1 of the Planning and Zoning Code: agricultural storage processing, garbage transfer and general industries.

Methodology Report: a report titled "Impact Fee Study: City of Pickerington Ohio," prepared in support of this chapter, by TischlerBise, dated March 21, 2005, which sets forth the methodology and rational basis for the determination of the impact of new development on public facilities; the proper and proportionate amount of the impact fee to be assessed against new development; and the mechanisms for ensuring that a rational nexus exists between the fee amount and the impact of new development on public facilities and the roughly proportionate benefits that accrue to new development paying the impact fee.

Government Facilities: structures, land areas and equipment such as municipal buildings; parking facilities; land acquisition; public school facilities; public works buildings and facilities; and municipal vehicles and equipment, that provide general government services capacity to new development.

Government Facilities Impact Fee: an impact fee imposed on new residential and nonresidential development to fund the proportionate share of the costs created by new development for municipal facilities.

New Development: any construction, reconstruction, redevelopment, rehabilitation, structural alteration, structural enlargement, structural extension, or new use within the City that requires a building permit after the effective date of this chapter, including any change in use of an existing building, structure, or lot that increases the demand for one (1) or more public facility; except as otherwise provided in subsection 1486.03(d).

Non-Residential: any use or development that is not a residential use.

Office/Institutional: nonresidential uses that include, but are not limited to, professional services, insurance companies, investment brokers, and tenant services such as banking, restaurants, and service retail facilities. "Office/institutional" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances and Table 1 of the Planning and zoning code: professional and business offices; athletic fields; auditorium; cemetery; churches and places of worship; community centers; family swimming pools; family tennis courts; school (parochial); and golf courses.

Planning and Zoning Code: Part 12 of the Codified Ordinances of the City of Pickerington.

Police Facilities: structures, land areas and equipment such as headquarters, land acquisition, auxiliary buildings, vehicles, and equipment that provide law enforcement services capacity to new development.

Police Facilities Impact fee: an impact fee imposed on new residential and non-residential development to fund the proportionate share of the costs created by new development for police facilities.

Public Facility: non-site-related capital improvements, including buildings, equipment, and land, that provide a roughly proportionate benefit to new development. Public facilities are nonrecurring and are treated as capitalized expenses according to generally-accepted governmental accounting principles. Public facilities do not include costs associated with the operation, repair, or maintenance of public facilities.

Public Facility Expenditures: amounts appropriated in connection with the planning, design, engineering, and construction of public facilities; including planning, legal, appraisal, and other costs related to the acquisition of land, financing (including the issuance of bonds or other obligations of indebtedness used to pay for public facilities), and development costs; the costs of compliance with purchasing procedures and applicable administrative and legal requirements; and all other costs necessarily incident to the provision of public facilities.

Reimbursement: repayment of impact fees in an amount that fairly reflects the value of public facilities dedicated or constructed by an applicant.

Residential Use: any use or development that includes or results in the creation of a dwelling unit, as defined in § 1270.11 of the Codified Ordinances. A "Residential Use" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances, or

Table 1 of the Planning and Zoning Code: single-family dwellings, three-family dwellings, two-family dwellings, multi-family dwellings, row house dwellings, elderly housing, and zero lot line dwellings.

Service Charge: a charge against each applicant paying an impact fee, not to exceed two percent (2%) of the total impact fee assessed against the proposed new development, used solely for costs incurred in the administration of this chapter.

Warehousing: a use primarily devoted to the storage of materials. "Warehousing" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances, or Table 1 of the Planning and Zoning Code: agricultural storage areas, self-storage buildings.

Section 1486.03. APPLICABILITY

(a) Term.

This chapter and the procedures established herein shall remain in effect unless and until repealed, amended, or modified by the City Council in accordance with applicable State law and the Codified Ordinances.

(b) Affected Area.

Impact fees are to be imposed on new development proposed within the corporate boundaries of the City.

(c) Type of Development Affected.

Except as provided in paragraph (d) below, this chapter applies to all new development and all revenue producing areas of the development; which includes patios, outdoor sales and service areas, car lots, gas station canopy area, and all similar such areas. If a building permit has been issued prior to the effective date of this ordinance, then the development will be considered new development and an impact fee shall be imposed and paid prior to the issuance of an occupancy permit.

(d) Type of Development Not Affected; Exemptions.

This chapter does not apply to:

- (1) No Net Increase in Nonresidential Development.** No impact fee may be imposed on any new nonresidential development that does not increase the demand for public facilities for which impact fees are being imposed; this includes such non-revenue producing areas of a development as storage yards, porches without sales area or merchandise displays, and all similar such areas.

- (2) **Remodeling or Improvements.** No impact fee may be imposed for remodeling or improvements to an existing building or structure that does not add new dwelling units.
- (3) **Replacements.** No impact fee may be imposed on the replacement of a destroyed or partially destroyed building or structure provided that there is no change in use and no net increase in the number of dwelling units or amount of nonresidential floor area.
- (4) **Temporary Uses.** No impact fee may be imposed on a temporary use, including construction trailers and offices, but only for the life of the building permit issued for the construction served by the trailer or office.
- (5) **Development Agreements.** No impact fee may be imposed on new development that is the subject of a duly executed and lawful development agreement entered into by an applicant and the City prior to the effective date of this chapter, which agreement contains provisions in conflict or inconsistent with this chapter, but only to the extent of the conflict or inconsistency.
- (6) **Governmental Uses Exempt.** Prior to the issuance of a building permit, a local, regional, state or federal governmental agency or school district may seek an exemption to this Chapter by applying to the City Council. The City Council shall review all such exemption applications and shall establish a reasonable basis for the granting or denying of all such requests. If the City Council grants the exemption, the City Council may deposit funds from a revenue source other than impact fees into the designated impact fee account equal in amount to the impact fees otherwise owed by the governmental agency.
- (7) **Other Uses.** No impact fee may be imposed on a use, development, project, structure, building, fence, sign or other activity, whether or not a building permit is required, which does not result in an increase in the demand for public facilities. This includes the following uses as defined in § 1270.11 of the Codified Ordinances, or Table 1 of the Planning and Zoning Code: agriculture; com. telecommunications equip.; commercial antennas; grain silos; home occupations; noncommercial antennas; and satellite dishes.
- (8) **Settlement Agreement.** Any new or increased impact fees imposed by the City pursuant to this Chapter within five (5) years from the dismissal of the civil action, styled *Building Industry*

Association of Ohio, et al., v. City of Pickerington, Case No. 03CVH11-12173, in the Franklin County, Ohio, Court of Common Pleas with prejudice (the "Dismissal") do not apply to:

- A. any lot for which the builder/developer has a written contract with a homebuyer as of the date of adoption of this Chapter;
 - B. speculative homes (i.e. homes without a contract with a homebuyer) which are completed and ready for occupancy (i.e. for which an application for a temporary occupancy permit has been filed) as of the date of adoption of this Chapter; or
 - C. homes for which a building permit application has been applied for and the permit has been picked up and the fees due at the time of pick-up have been paid as of the date of adoption of this Chapter, so long as the construction has begun (i.e. footers have been poured) on the home within 90 days after the date of adoption of this Chapter.
- (9) **Conflict.** In the event of a conflict between the application of this Chapter and the Settlement Agreement resulting from Building Industry Association of Ohio, et al., v. City of Pickerington, Case No. 03CVH11-12173, in the Franklin County, Ohio, Court of Common Pleas with prejudice, the terms and provisions of the Settlement Agreement shall control.

(e) **Effect of Payment of Impact fees on Other Applicable City Land Use, Zoning, Platting, Subdivision, or Development Regulations.**

- (1) The payment of impact fees shall not entitle the applicant to a building permit unless all applicable land use, zoning, planning, dedication, platting, subdivision, or other related requirements, standards, and conditions of the Codified Ordinances have been met. Such other requirements, standards, and conditions are independent of the requirement for payment of an impact fee.
- (2) This chapter shall not affect, in any manner, the permissible use of property, density/intensity of development, design and improvement standards, or other applicable standards or requirements of the Codified Ordinances, which shall remain operative and in full force and effect without limitation.

(f) Amendments.

This chapter, and any ordinance adopting impact fees for any particular public facility pursuant to this chapter, may be amended from time to time by the City Council; provided, however, that no such amendment shall be adopted without a written report detailing the reasons and need for the impact fee revision nor without proper notice and public hearing as required by state law and the Codified Ordinances.

Section 1486.04. PROCEDURES FOR IMPOSITION, CALCULATION, REIMBURSEMENT, CREDIT, AND COLLECTION OF IMPACT FEES.

(a) In General.

The Building Department Representative must notify the applicant of the applicable impact fee requirements, including applicable service charges, at the time of application for a building permit on a form provided by the City for such purposes. The Building Department Representative must calculate the applicable impact fee at the time of application for a building permit. The City may not issue a building permit until the applicant has paid all impact fees due pursuant to this chapter.

(b) Calculation.

- (1) Upon receipt of an application for a building permit, the City Manager must determine (a) whether the proposed new development constitutes a residential or non-residential use, (b) the specific category of residential or non-residential development, and (c) the amount of additional square feet of nonresidential gross floor area or the number of additional dwelling units associated with the proposed use.
- (2) If the application for a building permit involves a change in use, the impact fee due must be based on the incremental increase in the fee for the increase in the public facility capacity created by the proposed change in use.
- (3) After making these determinations, the City Manager must calculate the applicable impact fee by multiplying the number of dwelling units or amount of nonresidential floor area proposed by the amount of the applicable impact fee per unit of development, incorporating any applicable exemptions or credits.
- (4) If the type of land use proposed for new development is not expressly listed in the particular impact fee ordinance and schedule, the City Manager, in consultation with other City staff and consultants, as necessary, must:

- A. identify the most similar land use type listed and calculate the impact fee based on the impact fee for the land use identified;
 - B. identify the broader land use category within which the specified land use would apply and calculate the impact fee based on the impact fee for that land use category; or
 - C. as appropriate, determine the basis used to calculate the fee pursuant to an independent impact analysis pursuant to subsection (c) below.
- (5) The City Manager's determination must be based on a generally-accepted land use classification system (*e.g.*, the North American Industry Classification System, the Land-Based Classification Standards, and/or ITE's Trip Generation Manual) and the methodology report.
 - (6) The calculation of impact fees due from a multiple-use new development must reflect the aggregated demand for each public facility generated by each land use type within the proposed new development.
 - (7) The calculation of impact fees due from a phased new development must reflect the demand generated by each specific land use within the phase of development for which a separate building permit is requested.
 - (8) Impact fees must be calculated based on the impact fee amount in effect at the time of application for a building permit.

(c) Independent Impact Analysis.

If the applicant believes that the impact fee calculations are in error or would violate a right that is protected by the state or federal constitution, the applicant may conduct an impact fee analysis. The following provisions shall apply to any independent impact analysis:

- (1) The applicant is responsible, at its sole expense, for preparing the independent impact analysis, which must be reviewed for approval by the City Manager, and, as appropriate, other City staff or officials, prior to payment of the fee.
- (2) The independent impact analysis must measure the impact that the proposed new development will have on the particular public facility at issue, must be based on the same methodologies used in the methodology report, and must be supported by professionally acceptable data and assumptions.

- (3) Within thirty (30) days of submittal of the independent impact analysis, the City Manager must provide written notice to the applicant as to whether the analysis is accepted or rejected based on the provisions of this section. If the independent impact analysis is rejected, the written notice must provide an explanation of the insufficiencies of the analysis.
- (4) The final decision of the City Manager may be appealed pursuant to section 1486.06 of this chapter.

(d) Non-binding Impact fee Estimate.

An applicant may request a non-binding estimate of impact fees due for a particular new development at any time by filing a request on a form provided for such purpose by the City; provided, however, that such estimate may be subject to change when a formal application for a building permit for new development is made. Such non-binding estimate is solely for the benefit of the prospective applicant and in no way binds the City or precludes it from making amendments or revisions to any provisions of this chapter or the specific impact fee implementing ordinances. No vested rights, legal entitlements, or equitable estoppel accrue by reason of a non-binding estimate. A non-binding fee estimate does not constitute a final decision and may not be appealed pursuant to section 1486.06.

(e) Reimbursements and Credits.

- (1) **Eligibility for a Reimbursement.** The City Council may enter into a development agreement with an applicant, which provides for the reimbursement of impact fees in exchange for the dedication or construction of public facilities made necessary by a proposed new development. The City may reimburse impact fees already paid only for the type of facility dedicated or constructed by the applicant. Reimbursements must be made from the impact fee account earmarked for the same type of public facility being dedicated or constructed. No impact fees may be reimbursed for a proffered public facility unless:
 - A. it is included in the City's capital budget, capital improvement plan, or the methodology report; or
 - B. it adds public facility capacity made necessary by and to be provided for the roughly proportionate benefit of new development.

(2) Additional Provisions.

- A. In order to be eligible for a reimbursement, the applicant must receive approval by the City Council pursuant to the provisions of this chapter, prior to the issuance of a building permit.
- B. The City may not reimburse the applicant in an amount exceeding the amount of the impact fee due pursuant to this chapter.
- C. The City may not reimburse the applicant until a proffered land dedication is finalized or the construction project is at least fifty percent (50%) complete. Reimbursement may then occur based on the percent completion of the project.
- D. If an applicant proposes to dedicate or construct public facilities valued at an amount greater than the amount of the impact fee due, then the development agreement may provide for reimbursements to the applicant by future developers of costs incurred over and above those reimbursed by the City.

(3) **Procedures for Reimbursements.**

- A. **Application made to the City Manager.** Applications for an agreement by the City to provide a reimbursement upon completion of certain work by the applicant must be made on a form provided by the City Manager for such purposes. The application must be accompanied by a proposed development agreement developed through coordination with City staff. Upon receipt of a complete application and proposed development agreement, the City Manager, City Attorney, and other appropriate staff and/or consultants must review the application and proposed development agreement, as well as such other information and evidence as may be deemed relevant, and the City Manager must forward a recommendation report stating whether in the opinion of the City Manager a reimbursement is proper based on the provisions of this chapter to the Planning and Zoning Commission. In the instances where a proposed development agreement exists, the City Manager's recommendation report shall be based on the assumption that upon completion of the work by the applicant as set forth within the proposed development agreement the same will comply in all material ways with the proposed development agreement and city standards.

- B. **Recommendation of the Planning and Zoning Commission.** Based on the report of the City Manager, the provisions of this chapter, the capital improvement plan, the comprehensive plan, adopted City Budget, and the methodology report, the Planning and Zoning Commission must recommend to the City Council to accept, reject, or accept with conditions the proposed reimbursement and proposed development agreement.
- C. **City Council.** Based on the recommendation report of the City Manager, the provisions of this chapter, the capital improvement plan, comprehensive plan, adopted City budget, the methodology report, and the recommendation of the Planning and Zoning Commission, City Council must make a final decision to accept, reject, or accept with conditions the proposed reimbursement and proposed development agreement. In instances where a proposed development agreement exists, the Planning and Zoning Commission's recommendation shall be based on the assumption that upon completion of the work by the applicant as set forth within the proposed development agreement the same will comply in all material ways with the proposed development agreement and city standards.
- D. **Appeals.** Appeals from the final decision of the City Council may be made to the Court of Common Pleas of Fairfield County.

(4) **Calculation of the Value of Dedication or Construction.**

The amount of the reimbursement to be paid by the City is to be calculated as follows:

- A. **Construction of Facilities and Provision of Equipment.** The reimbursement must be equal to the actual cost of construction or equipment as evidenced by receipts and other sufficient documentation or the amount of impact fees due pursuant to this chapter, whichever is less.
- B. **Dedication of Land.** At the option of the applicant, the reimbursement is to be based on either the assessed value of the proffered land, based on the most recent County property appraisal, or the fair market value of the land as determined by a certified property appraiser hired and paid for by the applicant. If the latter option is chosen and the City rejects the applicant's appraisal, the City may hire and pay for a second appraiser to appraise the property. If

either party rejects the second appraisal, a third appraisal may be performed by an appraiser chosen by the first and second appraisers, the costs of which are to be shared equally by the City and the applicant. The third appraisal is binding on both parties. All appraisals must be consistent with generally-accepted appraisal techniques and the date of valuation must be the date of transfer to the City.

- (5) **Development Agreement Requirements.** No reimbursement may be made except pursuant to an executed development agreement between the City and the applicant, which must include, but is not necessarily limited to, the following:
- A. the estimated cost of the public facility to be constructed or dedicated, based on the provisions of the this chapter;
 - B. a schedule for the initiation and completion of the construction of a public facility;
 - C. the amount of the impact fees, by type, to be reimbursed by the City to the applicant;
 - D. the schedule for making reimbursement payments to the applicant, based on the provisions of this section;
 - E. provision for reimbursements to the applicant by future developers of costs incurred over and above those reimbursed by the City pursuant to this Section;
 - F. the applicant's agreement to construct all public facilities in accordance with City specifications and all regulations set forth in the Codified Ordinances; and
 - G. such other terms and conditions as deemed necessary by the City.
- (6) **Transfer and Assignment.** The reimbursement may be paid only to the original applicant or the applicant's legal successor in interest with a contractual right to the reimbursement. Any transfer or assignment is valid only if the applicant gives the City Council written notice in advance of the transfer.
- (7) **Eligibility for Credits for Excessive Dedication or Construction.** An applicant may be given a credit against an impact fee upon demonstration that, after the date of this ordinance, a public facility was dedicated or constructed by the

applicant or the applicant's predecessor in interest with sufficient excess capacity to offset the impacts of the applicant's proposed new development. In order for a credit to be accepted, the applicant must demonstrate that the dedicated or constructed public facility will reduce the overall need for public facilities and that the applicant has secured a contractual right to an allocation of the excess capacity equal to the total or any portion of the impact fee owed by the applicant. Any approved credit must be consistent with the adopted City budget, capital improvement plan, comprehensive plan, and the methodology report.

(8) Procedures for Credits.

A. **Application made to the City Manager.** Applications for a credit must be made on a form provided by the City for such purposes. The application must be accompanied by a development agreement executed after the effective date of this chapter, which demonstrates that excess public facility capacity has been provided by the applicant or the applicant's predecessor in interest, which will provide a roughly proportionate benefit to the new development proposed by the applicant. Upon receipt of a complete application, the City Manager, City Attorney and other appropriate staff and/or consultants must review the application, as well as such other information and evidence as may be deemed relevant. The City Manager must determine whether a credit is proper based on the provisions of this chapter, the capital improvement plan, the comprehensive plan, the methodology report, and/or other relevant evidence. In instances where a development agreement exists, the City Manager's recommendation shall be based on a determination as to whether or not the work as completed by the applicant complies in all material ways with the development agreement and city standards.

B. **Appeals.** Appeals from the final decision of the City Manager may be made to the City Council pursuant to section 1486.06.

(f) **Collection**

The City Manager must collect all impact fees and service charges in the amounts set forth in this chapter at the time of issuance of a building permit and must issue a receipt to the applicant for such payment unless:

- (1) the applicant is not subject to the payment of a impact fee; or

- (2) the applicant has filed an appeal as required by section 1486.06 and has filed a bond or other surety in the amount of the impact fee as calculated by the City Manager and approved by the City Attorney and City Manager.

Section 1486.05. ESTABLISHMENT OF IMPACT FEE ACCOUNTS; USE AND APPROPRIATION OF IMPACT FEE FUNDS; AND REFUNDS

(a) Impact fee Accounts.

The City Manager must establish an impact fee account for each category of public facility for which impact fees are imposed. Such account must identify clearly the public facility for which the impact fee has been imposed. All impact fees collected by the City must be deposited into the appropriate impact fee account. All interest earned on monies deposited into a particular impact fee account must be credited to and considered funds of that account. The funds of each such account must be capable of being accounted for separately from all other City funds. The City Manager must establish and implement necessary accounting controls to ensure that the impact fee funds are properly deposited, accounted for, and appropriated in accordance with this chapter and other applicable legal requirements.

(b) Use of Impact fee Funds.

- (1) **Generally.** All appropriations from impact fee accounts must be approved by the City Council and detailed on a form provided for such purposes and filed with the City Manager.
- (2) **Use of Funds.** Development impact fee funds may be used only for:
 - A. public facility expenditures;
 - B. the payment of principal, interest, and other financing costs on contracts, bonds, notes, or other obligations issued by or on behalf of the City to finance public facilities;
 - C. financing of refunds as set forth in section 1486.05(d);
 - D. financing of reimbursements as set forth in section 1486.04(e); or
 - E. financing the costs of updating this chapter.
- (3) **Report.** Consistent with section 1486.05(c), prior to appropriating impact fee funds, the City Manager must generate a written report which demonstrates that such funds are being used to finance

public facility capacity that provides or will provide benefits to new development that are roughly proportionate to the impact of that development. The report must be consistent with the methodology report. The written report must be presented to and accepted by the City Council.

- (4) **Restrictions on Use.** Development impact fees may not be appropriated for repair or maintenance of public facilities, or for operational or personnel expenses associated with the provision of public facilities. Additionally, impact fees must be appropriated:

- A. for the particular public facility for which they were imposed, calculated, and collected; and
- B. within six (6) years of the beginning of the City's fiscal year immediately succeeding the date of collection, unless such time period is extended as provided in paragraph (5), below.

- (5) **Appropriation of Impact fee Funds Beyond Six (6) Years of Collection.** Notwithstanding the provisions of subsection (c) above, impact fee funds may be appropriated beyond six (6) years from the beginning of the City's fiscal year immediately succeeding the date of collection, if the appropriation is for a public facility that requires more than six (6) years to plan, design, and construct. The City must document compliance with the provisions of this paragraph.

(c) **Procedure for Appropriation of Impact fee Funds.**

- (1) Each year the City Council must identify public facility capacity anticipated to be funded in whole or in part with impact fees. Public facility expenditures must be consistent with the methodology report, the capital improvement plan, the comprehensive plan, and the annual review described in section 1486.07, and such other information as may be relevant to ensure compliance with this chapter.
- (2) The City Council may include public facilities funded with impact fees in the City's annual budget or capital improvements plan. If included, the description of the public facility must specify the nature of the public facility, the location of the public facility, the capacity to be added and/or funded by the appropriation, the service area of the public facility, the need/demand for the public facility, and the anticipated timing of completion of the public facility.

- (3) Consistent with the provisions of this chapter, the City Council may authorize public facilities expenditures at such other times as it deems necessary.
 - (4) The City Council must verify that adequate impact fee funds are or will be available from the appropriate impact fee account for the particular public facility capacity to be funded with impact fees.
 - (5) Impact fee funds must be spent on a first in/first out basis.
- (d) **Refunds.**
- (1) **Eligibility.**
 - A. **Expiration or Revocation of Building Permit.** An applicant who has paid an impact fee for a new development for which construction has not begun, and the necessary building permit has expired or has been revoked, may apply for a refund of impact fees paid. Refunds must be to the initial applicant who paid the impact fee. The refund application must be made on a form provided by the City for such purposes.
 - B. **Failure of City to Appropriate Impact fee Funds Within Time Limit.** A current property owner may apply for a refund of impact fees paid by an applicant if the City has failed to appropriate the impact fees collected from the applicant within the time limit established in subsection (b)(4) above. Refunds made pursuant to this subparagraph must be to current property owner. The refund application must be made on a form provided by the City for such purposes.
 - C. **Abandonment of New Development.** An applicant who has paid an impact fee for a new development for which a building permit has been issued and pursuant to which construction has been initiated but abandoned prior to issuance of a certificate of occupancy, is eligible for a refund if the uncompleted building is completely demolished.
 - (2) **Administrative Fee.** The City may deduct a two-hundred dollar (\$200) administrative fee from the amount of any refund granted and retain the administrative fee in the appropriate impact fee

account to defray the administrative expenses associated with processing a refund application.

(3) **Processing of Applications for a Refund.**

- A. **Application made to the City Manager.** Applications for a refund must be made on a form provided by the City Manager for such purposes. Upon receipt of a complete application for a refund, the City Manager must review the application and documentary evidence submitted by the applicant, as well as such other information and evidence as may be deemed relevant, and must forward a report as to whether a refund is due based on the provisions of this chapter to the Planning and Zoning Commission.
- B. **Recommendation of the Planning and Zoning Commission.** Based on the report of the City Manager, the provisions of this chapter, and the methodology report, the Planning and Zoning Commission must recommend to the City Council to approve, deny, or approve with conditions the proposed refund.
- C. **City Council.** Based on the report of the City Manager, the provisions of this chapter, the methodology report, and the recommendation of the Planning and Zoning Commission, City Council must make a final decision to approve, approve with conditions, or deny the proposed refund and appropriation.
- D. **Appeals.** Appeals from the final decision of the City Council may be made to the Court of Common Pleas of Fairfield County.

- (4) **Due to Expiration or Revocation.** Applications for refunds due to expiration or revocation of a building permit must be made on forms provided by the City for such purposes and made within sixty (60) days following expiration or revocation of the building permit. In order for the refund application to be deemed complete, the applicant must submit: (a) evidence that the person applying for the refund was the initial applicant who paid the fee, or the authorized agent of the initial applicant, (b) the amount of the impact fees paid by public facility category and receipts evidencing such payments, and (c) documentation evidencing the expiration or revocation of the building permit. Failure to apply for a refund within sixty (60) days following expiration or revocation of the building permit constitutes a waiver of

entitlement to a refund. No interest must be paid by the City in calculating the amount of a refund pursuant to this paragraph.

- (5) **Due to Timeliness.** Applications for refunds due to the failure of the City to appropriate impact fees collected from the applicant within the time limits established in subsection (b)(2) above must be made on forms provided by the City Manager and must be made within one (1) year following the expiration of such time limit. In order for the refund application to be deemed complete, the applicant must submit:
 - A. evidence that the applicant is the current property owner or the authorized agent of the current property owner,
 - B. the amount of the impact fees paid by public facility category and receipts evidencing such payments, and
 - C. a description and documentation of the City's failure to appropriate impact fee funds pursuant to subsection (b)(2) above. Interest must be paid by the City in calculating the amount of the refunds pursuant to this section.
- (6) **Due to Abandonment.** Applications for refunds due to abandonment of a new development prior to completion must be on a form provided by the City Manager for such purposes. Failure to apply for a refund within sixty (60) days following expiration or revocation of the building permit or demolition of the structure constitutes a waiver of entitlement to a refund. No interest must be paid by the City in calculating the amount of the refund pursuant to this paragraph. The application must include:
 - A. evidence that the person applying for the refund is the initial applicant who paid the fee, or the authorized agent of the initial applicant,
 - B. the amount of the impact fees paid by public facility category and receipts evidencing such payments, and
 - C. documentation evidencing the demolition of the building partially constructed pursuant to payment of the impact fees to be refunded.

Section 1486.06. APPEALS.

- (a) **Initiation.**

- (1) An appeal from any final decision of a City official pursuant to this chapter must be made to the City Council on a form provided by the City Manager for such purposes. Appeals must be filed with the Clerk of the City Council within thirty (30) days of the final decision being appealed from.
- (2) An appeal from any decision of the City Council pursuant to this chapter may be made to the Court of Common Pleas of Fairfield County.
- (3) The filing of an appeal does not stay the imposition or the collection of the impact fee as calculated by the City Manager unless a cash bond or other sufficient surety has been provided.
- (4) If the appeal form is accompanied by a cash bond or letter of credit, in a form satisfactory to the City Attorney and the City Manager, in an amount equal to the impact fee calculated to be due, a building permit may be issued to the new development pending resolution of the appeal.

(b) **Contents.** The appeal form must detail the specific grounds therefore and all other relevant information.

Section 1486.07. REVIEW AND ADJUSTMENTS

(a) **Review.**

- (1) The City Manager, in coordination with all relevant and necessary City staff, must prepare and submit a report to the City Council on the subject of impact fees.
- (2) The report may include any or all of the following:
 - A. recommendations for amendments, if appropriate, to this chapter;
 - B. proposed changes to the City Comprehensive Plan and/or an applicable ordinance or policy, including the identification of additional public facility projects anticipated to be funded wholly or partially with impact fees;
 - C. creation of impact fee districts, as necessary;

- D. proposed changes to impact fee schedules as set forth in the ordinances imposing and setting impact fees for particular public facilities;
 - E. proposed changes to level of service standards for particular public facilities;
 - F. proposed changes to any impact fee calculation methodology;
 - G. proposed changes to the population, housing, land use, persons per household or non-residential development projections included in the methodology report and upon which the impact fee amounts have been determined; or
 - H. other data, analysis, or recommendations as the City Manager may deem appropriate, or as may be requested by the City Council.
- (3) The Report must include the following background data:
- A. number of building permits issued by type of residential or non-residential development;
 - B. gross floor area of new nonresidential development, by type;
 - C. total amount of impact fees collected, by public facility and by land use type;
 - D. total expenditures made from impact fee accounts and the purpose for which the expenditure was made, i.e., the description, type, and location of the public facility project;
 - E. when the public facility project was or will be initiated and completed;
 - F. whether additional impact fee funds will be appropriated for the same project in the future;
 - G. whether supplemental non-impact fee funds have been used for the project and, if so, how much;
 - H. the service area of the public facility project;

- I. the total estimated cost of the project and the portion funded with impact fees;
 - J. whether the public facility project is in the City's current annual budget, capital improvements plan, or comprehensive plan;
 - K. the estimated useful life of the project; and
 - L. such other facts as may be deemed relevant by the City Manager or City Council.
- (4) **City Council Action.** The City Council may take such actions as it deems appropriate, including, but not limited to, amending this chapter, requesting additional data or analyses, and holding public workshops and/or public hearings.
- (b) **Annual Adjustments.**
- (1) On July 1, 2006, and on July 1st of each year thereafter, the amount of any impact fee may be adjusted without further action by the City Council to reflect inflationary increases in the cost of providing public facilities. The City Manager must base any adjustment made pursuant to this paragraph on the most recent 20-City annual national average data from the *Engineering News Record* Construction Cost Index. Any adjustment based on other information or adjustments in excess of documented inflationary costs may be made only pursuant to City Council action.
 - (2) The City Manager may make the automatic annual adjustment unless the City Council, in its review, determines an alternate adjustment is appropriate.

Section 1486.08. EXEMPTIONS; WAIVERS.

- (1) (a) **Exemption / Waiver Process** The City Council may exempt all or part of particular development projects from development impact fees if such projects are determined to create extraordinary economic development and/or employment growth.
- (2) **Filing of Application and Review Process.** Petitions for exemptions to the application of the provisions of this Chapter or waivers from specific impact fees shall be filed with the City Manager on forms provided by the City. The City Manager or his/her designee, shall review each such application and shall forward the application to the Finance Committee of City Council

with a recommendation based on the criterion herein established. Likewise, the Finance Committee shall review each application in conjunction with the Administrative recommendation and shall forward the application, with their recommendation to City Council for review and final action.

- (3) The City hereby establishes a policy to encourage employment growth and economic development in order to provide a balance between jobs and housing, provide adequate income levels for its citizens, and to promote balanced and orderly growth. Further, it is the intent of this Section to establish a mechanism that removes potential regulatory barriers to the establishment of businesses that provide employment and economic development in the City and it is the further specific intent of this section that the waiver provisions contained herein shall not apply to residential developments. The City specifically desires to review all applications for exemptions or waivers on an individual basis and further desires that the review and approval process is fair, consistent, and is based on established criterion. Also, the process should ensure that the businesses that are granted exemptions or waivers actually provide the benefits recited in this Section and that the due process rights of all applicants are protected.
- (4) In order to grant an exemption or waiver under this Section, City Council shall:
 - A. review the Administrative recommendation and the Finance Committee recommendation; and shall;
 - B. conduct a public hearing at which the applicant may explain the elements of their application and present any further information that may assist in City Council's review, and may;
 - C. grant the requested exemption or waiver only if they, by majority vote find and determine that;
 - (1) the application fully meets the policies herein established; and
 - (2) the projected employment growth is based on either existing payroll figures or other available evidence that reflects a potential annual payroll that exceeds \$1,000,000.00, and it is recognized that this threshold may be adjusted upward based on an annual Council review; and

- (3) the existing or projected number of jobs exceeds twenty (20); and
- (4) the value of the exemption or waiver is recovered in eighteen (18) months based on projected income tax revenues from the development.

(b) **Effect of Grant of Exemption/Waiver.** If the City Council grants an exemption or waiver in whole or in part of impact fees otherwise due, the amount of the impact fees exempted or waived shall be provided by the City from non-impact fee funds, as may be provided in the particular impact fee ordinances establishing such fees for particular capital improvements, and such funds shall be deposited to the appropriate impact fee account within a reasonable period of time consistent with the applicable City capital improvements program.

Section 1486.09. PARKS AND RECREATION FACILITIES IMPACT FEE

(a) **Impact fee for Residential Development.** All new residential development within the City of Pickerington is subject to the payment of a parks and recreation impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, such specific fee schedule to be on file in the Department of Development :

(b) **Impact fee for Nonresidential Development.** Nonresidential development within the City of Pickerington is not subject to the payment of a parks and recreation impact fee.

Section 1486.10. POLICE FACILITIES IMPACT FEE

(a) **Impact fee for Residential Development.** All new residential development within the City of Pickerington is subject to the payment of a police facilities impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, such specific fee schedule to be on file in the Department of Development.

(b) **Impact fee for Nonresidential Development.** All new nonresidential development within the City of Pickerington is subject to the payment of a police facilities impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, such specific fee schedule to be on file in the Department of Development.

Section 1486.11. GOVERNMENT FACILITIES IMPACT FEE

(a) **Impact fee for Residential Development.** All new residential development within the City of Pickerington is subject to the payment of a municipal facilities impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, such specific fee schedule to be on file in the Department of Development.

(b) **Impact fee for Nonresidential Development.** All new nonresidential development within the City of Pickerington is subject to the payment of a municipal facilities impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, such specific fee schedule to be on file in the Department of Development.

Section 1486.12. STREET IMPACT FEE

(a) **Impact fee for Residential Development.** All new residential development within the City of Pickerington is subject to the payment of a street impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, such specific fee schedule to be on file in the Department of Development:

(b) **Impact fee for Nonresidential Development.** All new nonresidential development within the City of Pickerington is subject to the payment of a street impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, such specific fee schedule to be on file in the Department of Development:

SECTION 4: It is the intent of the City Council for this Ordinance to comply with the requirements of all applicable laws and constitutional provisions. In the event that any section, part, or paragraph of this ordinance is declared by a court of competent jurisdiction to be void, unconstitutional, or unenforceable for any reason, such declaration shall not affect the validity of any other section, part, or paragraph and all sections, parts, and paragraphs not affected by such declaration shall remain in full force and effect.

SECTION 5: It is found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were meetings open to the public, and in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

WHEREFORE, this Ordinance shall be in force and effect at the latter of the earliest of time permitted by law or upon completion of the comprehensive plan as required in Building Industry Association of Ohio, et al., v. City of Pickerington, Case No. 03CVH11-12173, in the Franklin County, Ohio, Court of Common Pleas with prejudice.

August 30, 2005

VOTE ON ORDINANCE 2007 -__

YEAS

NAYS

PASSED: _____, 2007

David B. Shaver, Mayor

ATTEST:

Lynda Yartin, Municipal Clerk

CERTIFICATION

I hereby certify on this ____ day of _____, 2007 that the forgoing is a true and accurate copy of this Ordinance passed at the meeting held on _____, 2007 of the City of Pickerington, County of Fairfield, State of Ohio.

Clerk of Council

Approved as to form

Law Director

Pickerington Impact Fee Ordinance

Contents

SECTION 1486.01. PURPOSE AND INTENT	6
SECTION 1486.02. DEFINITIONS	7
SECTION 1486.03. APPLICABILITY	10
(a) <i>Term</i>	10
(b) <i>Affected Area</i>	10
(c) <i>Type of Development Affected</i>	11
(d) <i>Type of Development Not Affected; Exemptions</i>	11
(e) <i>Effect of Payment of Impact fees on Other Applicable City Land Use, Zoning, Platting, Subdivision, or Development Regulations</i>	13
(f) <i>Amendments</i>	13
SECTION 1486.04. PROCEDURES FOR IMPOSITION, CALCULATION, REIMBURSEMENT, CREDIT, AND COLLECTION OF IMPACT FEES. 13	
(a) <i>In General</i>	13
(b) <i>Calculation</i>	13
(c) <i>Independent Impact Analysis</i>	15
(d) <i>Non-binding Impact fee Estimate</i>	15
(e) <i>Reimbursements and Credits</i>	16 15
SECTION 1486.05. ESTABLISHMENT OF IMPACT FEE ACCOUNTS; USE AND APPROPRIATION OF IMPACT FEE FUNDS; AND REFUNDS	20
(a) <i>Impact fee Accounts</i>	20
(b) <i>Use of Impact fee Funds</i>	21 20
(c) <i>Procedure for Appropriation of Impact fee Funds</i>	22 21
SECTION 1486.06. APPEALS	25
SECTION 1486.07. REVIEW AND ADJUSTMENTS	26 25
SECTION 1486.08. EXEMPTIONS; WAIVERS	28
SECTION 1486.09. PARKS AND RECREATION FACILITIES IMPACT FEE 30 3028	
SECTION 1486.10. POLICE FACILITIES IMPACT FEE	30 3029

SECTION 1486.11. GOVERNMENT FACILITIES IMPACT FEE	313130
SECTION 1486.12. STREET IMPACT FEE	323230

ORDINANCE 2005-79

AN ORDINANCE AMENDING SECTION 274.02 AND ADOPTING IMPACT FEE AMOUNTS AND THE PROCEDURES FOR THE IMPOSITION, CALCULATION, COLLECTION, EXPENDITURE AND ADMINISTRATION OF IMPACT FEES TO BE IMPOSED ON NEW DEVELOPMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

PREAMBLE

WHEREAS, the City of Pickerington is a municipal corporation lawfully established and organized under the laws of Ohio; and

WHEREAS, pursuant to Art. XVIII, §3 of the Ohio Constitution and, *inter alia*, pursuant to the holding of the Ohio Supreme Court in *Homebuilders Association of Dayton and the Miami Valley, et al. v. City of Beavercreek*, 89 Ohio St.3d 121, 729 N.E.2d 349, the City has the authority to fix, impose and provide for the collection of impact fees to finance, in whole or in part, the capital costs of public works, improvements, and facilities required to accommodate new development; and

WHEREAS, the City Council has studied the necessity for and implications of the adoption of impact fees for various public facilities and has retained TischlerBise, Inc., a nationally renowned fiscal, economic and planning consulting firm, to prepare a Impact Fee Study to determine the proportionate demand new development generates for additional police and municipal public facilities, and TischlerBise has prepared an Impact Fee Study dated March 21, 2005 (hereinafter the "Impact Fee Study"); and

WHEREAS, the Impact Fee Study has been presented to, and reviewed by, the City Council, which has determined (1) that impact fees are necessary to offset the costs associated with meeting future public facility and service demands pursuant to the projections set forth in the report; (2) that impact fees bear a reasonable relationship to the burden imposed upon the City to provide public facilities and services to new residents, employees, and businesses; and impact fees provide a benefit to such new residents, employees, and businesses reasonably related to the impact fee assessed; (3) that an "essential nexus" exists between the projected new development and the need for additional facilities and services to be funded with impact fees, and between the impact fee and the benefits that accrue to new development paying the fee; and (4) that the amount of the impact fees is "roughly proportional" to the pro rata share of the additional facilities and services needed to serve new residential and non-residential development,

while maintaining the existing level of service (LOS) standard currently provided to existing City residents, employees, and businesses; and

WHEREAS, the Impact Fee Study has determined that the City of Pickerington (the "City") is projected to add 1,950 housing units and 7,430 people, or approximately 195 housing units and 743 annually, over the next ten years; and

WHEREAS, the Impact Fee Study projects that the City will add 2,084 jobs by 2015 to the estimated 3,665 jobs currently in the City; and

WHEREAS, the City has developed, and periodically revises, a Five-Year Capital Improvements Plan, along with an annual budget, to ensure new development is adequately provided with public facilities necessary to serve new development at the growth rates projected in the Impact Fee Study; and

WHEREAS, this ordinance contains administrative provisions to ensure that the benefit of capital facilities capacity funded with the impact fee will accrue proportionately to new development paying the fee; and

WHEREAS, based on the population, housing unit, and land use projections as well as the public facility needs associated with the projected level of growth, the City Council has determined that impact fees are an appropriate and necessary technique, to be used in conjunction with other available public facility financing techniques, to ensure that adequate public facilities are provided for new development; and

WHEREAS, the City Council has determined that impact fees are necessary for adequate facilities and capital improvements sufficient to protect the public health, safety, and general welfare of future residents and employees generated by new development; and

WHEREAS, the types of facilities and associated costs that may be included in the impact fees include, but are not necessarily limited to, buildings, facilities, vehicles, equipment, apparatus, and land acquisition; and

WHEREAS, TischlerBise reviewed the existing demand for capital improvements and public improvements, including parks and recreation; police; general government buildings, vehicles and equipment; and streets, and

WHEREAS, these facilities include, where appropriate, buildings, facilities, vehicles, equipment, apparatus, and land acquisition; the existing inventory of same; and the method of financing same; and

WHEREAS, TischlerBise has relied upon the City for the costs of equipment, facilities, buildings, and land acquisition for public facilities to be funded by impact fees; and

WHEREAS, the current inventory of buildings, facilities, vehicles, equipment, apparatus, and land acquisition was used to establish appropriate level of service standards; and

WHEREAS, the City Council has found and determined that impact fees for different public facilities will have certain common characteristics and that the City will, therefore, benefit from the adoption and use of a uniform procedure for the imposition, calculation, collection, expenditure, and administration of all of the adopted impact fees; and

WHEREAS, the use of uniform procedures, to the extent possible, will be more efficient and expedient for both the City and applicants for building permits than separate procedures for each impact fee; and

WHEREAS, the use of uniform procedures will simplify the implementation and administration of impact fees; and

WHEREAS, the use of uniform procedures will best ensure that impact fees are "earmarked" and expended for the public facilities for which they were imposed and collected; and

WHEREAS, all monies collected from impact fees will be deposited in interest-bearing accounts which clearly identify the category, account, fund, and public facility for which such fee was imposed; and

WHEREAS, each such category, fund, or account will be accounted for separately; provided; and

WHEREAS, any interest or other income earned on monies deposited in the interest-bearing accounts will be credited to the applicable facilities' account; and

WHEREAS, the City Council and the City Manager or designee have determined or will determine, for each impact fee, that the payment of the impact fee and its expenditure for needed public facilities will result in a benefit to the development on which it is imposed; and

WHEREAS, the overall well-being of the City depends on continued economic viability and growth within the region; and

WHEREAS, the imposition of reasonable and proportionate impact fees for new development will ensure the City's economic viability and fiscal integrity in the future; and

WHEREAS, the City Council has developed and adopted a schedule of impact fees for applicable categories of public facility by land use classification; and

WHEREAS, the City Council has provided a credit mechanism in cases where the proposed new development dedicates public sites and/or capital improvements for which impact fees are also being imposed and in cases where the new development will otherwise pay for a portion of such new development through principal payments of bonds issued for the same purpose; and

WHEREAS, the City Council has determined that the impact fee amounts bear a reasonable relationship to the burden imposed upon the City to provide the additional capital improvement expenditures for such public facilities to serve new development at the appropriate level of service (LOS) standards; and

WHEREAS, the City Council has developed fee calculation methodologies which will be imposed in an equitable and non-discriminatory manner; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PICKERINGTON, OHIO:

SECTION 1: ~~That Section 274.02 of the Codified Ordinances of Pickerington Ohio, be amended as follows:~~

~~274.02 — FEES FOR RECREATION FACILITIES.~~

~~(a) Definitions. As used in this section the following words shall have the following meanings:~~

- ~~(1) "Commercial building" means any building, except a garage, in connection with a single-family dwelling, or an accessory building constructed in connection with a single-family dwelling, erected or constructed within the Municipality, the principal use thereof not being the housing of families, and used for any commercial enterprise or professional occupation.~~
- ~~(2) "Existing building" means any building, whether or not the construction has been finished, now existing within the Municipality.~~
- ~~(3) "Garage or accessory building" has the same meaning as set forth in the Zoning Code.~~
- ~~(4) "Living unit" means any single-family dwelling or any unit designed for the housing of a single family in any multi-family building, apartment or condominium, whether newly built or an existing building remodeled to create a complete living unit.~~

~~(b) Fees. In addition to all other charges made for building permits within the Municipality, the applicant for such permit shall pay, for the use of the Park and Recreation Fund at the time such permit is issued, the following~~

fee:

- (1) For each living unit, the sum of four hundred dollars (\$400.00).
 - (2) For each commercial unit, where the floor area, as defined in the Zoning Code, does not exceed 3,500 square feet, the sum of four hundred dollars (\$400.00).
 - (3) For each commercial building, for the first 2,500 square feet, the sum of four hundred dollars (\$400.00), plus two dollars and fifty cents (\$2.50) for each additional 100 square feet or fraction thereof in excess of 2,500 square feet.
- (c) ~~Allocation of Funds Collected.~~ All funds collected by the Municipality as provided by subsection (b) hereof, shall be paid over to the Finance Director, as collected, and shall be divided as follows: two-thirds shall go into the Park Capital Improvement Fund and one-third shall go into the Park and Recreation Maintenance Fund.
- (d) ~~Creation of Recreation Fund.~~ In addition to all other funds, the Finance Director is hereby directed to establish a Recreation Fund, and all funds received from permits issued and fees paid as set forth herein shall be deposited to the order of such Fund.
- (e) ~~Exempt Organizations.~~ Notwithstanding the foregoing provisions in this section, an applicant for a building permit for a building used primarily as a place of worship, or primarily used by taxpayer-supported, tax-exempt organization(s), shall not be required to pay a Recreation Fund fee.
- (f) ~~Applicability.~~ The Section shall not be applicable to any development that is required to pay a fee under Chapter 1486.

SECTION 2.1: That the Impact Fee Study prepared by TischlerBise, dated March 31, 2005, including all methodologies, assumptions, and conclusions drawn in the report, is approved and adopted.

SECTION 3.2: That the provisions of the Codified Ordinances of Pickerington, Ohio, are amended to add the following new Chapter 1486 in Part Fourteen (Building And Housing Code), Title Six (Miscellaneous Building Regulations) establishing Impact Fees and setting forth fee amounts and the procedures for the imposition, calculation, collection, expenditure, and administration of Impact fees in the City.

"CHAPTER 1486.

IMPACT FEE PROCEDURES AND REQUIREMENTS.

Section 1486.01. PURPOSE AND INTENT

The purpose and intent of this chapter are:

- (a) To establish uniform procedures for the imposition, calculation, collection, expenditure, and administration of impact fees imposed on new development;
- (b) To assure that new development contributes its fair and proportionate share towards the costs of public facilities reasonably necessitated by such new development;
- (c) To ensure that new development benefits from the provision of the public facilities provided with the proceeds of impact fees;
- (d) To ensure that impact fees collected pursuant to this chapter are expended only on public facilities the demand for which is generated by the new development against which the fees are assessed;
- (e) To ensure that impact fees assessed pursuant to this chapter are proportionate in amount to the degree of impact new development has on public facilities; and
- (f) To ensure that all applicable legal standards and criteria are properly incorporated in these procedures.

Section 1486.02. DEFINITIONS

In this chapter words and terms have the meanings set forth in this section. Words and terms not specifically defined herein have the meanings set forth in § 1270.11 of the Codified Ordinances and the Ohio Basic Building Code, latest edition, as amended, unless a different meaning is assigned below:

Applicant: any person who files an application with the City for a building permit or, if required by § 1486.03, a certificate of occupancy, to undertake new development within the City.

Appropriation or to appropriate: an action by the City or City Manager to identify specific public facilities for which impact fee funds may be utilized. Appropriation shall include, but is limited to: inclusion of a public facility in the adopted City budget, capital improvements plan, or comprehensive plan; execution of a contract or other legal encumbrance for construction or acquisition of a public facility using impact fee funds in whole or in part; and/or the expenditure or transfer of impact fee funds from a impact fee account for the financing of public facilities that provides or will provide a roughly proportionate benefit to new development.

Building Permit: ~~in the case of nonresidential development, a zoning certificate, and, in the case of residential development, a building permit, issued by the City. Plan approval that is issued by the Chief Building official.~~

Business Park: a group of flex-type buildings that is: (1) served by a common roadway system; ~~(2) located on a development site of at least ten (10) acres;~~ and (32) located in a "Commercial/Industrial Planned District pursuant to § 1282.3 of the City Code, in which a final development plan approved by the Council allocates lots or sites for a variety of commercial, office, and industrial uses.

Capital Improvement Plan: a schedule of public facility improvements to be undertaken by the City as determined from time to time by the City Council or as set forth in the capital budget and/or the comprehensive plan.

City: City of Pickerington, Ohio.

City Council: the Council of the City of Pickerington, Ohio.

City Manager: the City Manager of the City of Pickerington, Ohio, or the City Manager's designee.

Codified Ordinances: the Codified Ordinances of Pickerington, Ohio, as amended from time to time.

Commercial: An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee, other than an Industrial, Light Industrial, Warehousing, Business Park, or Residential Use. "Commercial" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances and Table 1 of the Planning and Zoning Code: animal clinic with boarding; animal clinic without boarding; animal clinics; arts and craft studio; assisted living facility; auto fuel service; auto. vehicle and equip. stores; automotive service/major repair; automotive service/minor repair; bar; business retail; commercial entertainment; consumer retail; day care; day care centers; drive thru banking; drive thru restaurant; drive thru retail; family restaurant; farm markets; full service restaurant; general retail; hospitals; hotel/motel; medical and health related ~~serv~~ services; nursing homes; personal service; and universities.

Comprehensive Plan: the Comprehensive Plan for the City of Pickerington and any subsequent plans adopted by City Council.

Credit: a reduction in the amount of a impact fee due pursuant to this chapter that may be granted pursuant to an approved reimbursement and validly executed development agreement between the City and a previous applicant, which resulted in the provision of excess public facility capacity sufficient to offset the impacts of the proposed new development on public facilities.

Impact fee or Impact Fee: a fee imposed on new development on a proportionate basis in connection with and as a condition of the issuance of a building permit and which is calculated to defray all or a portion of the costs of the public facilities required to accommodate new development at City-designated level of service (LOS) standards and which provides a roughly proportionate benefit to new development and is proportionate in amount to actual impact of new development on the public facilities to be funded with impact fee funds.

Light Industrial: industrial uses that emphasize activities other than manufacturing. Typical light industrial activities include, but are not limited to, printing plants, material-testing laboratories, and assembling of data processing equipment. "Light Industrial" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances and Table 1 of the Planning and Zoning Code: light industry, research and development "ind." and research and development laboratory.

Manufacturing: a use devoted to the manufacture, assembly, packaging, processing, fabrication, storage, or distribution of goods and materials whether new or used or the substantial refinishing, repair and/or rebuilding of vehicles or boats. "Manufacturing" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances and Table 1 of the Planning and Zoning Code: agricultural storage processing, garbage transfer and general industries.

Methodology Report: a report titled "Impact Fee Study: City of Pickerington Ohio," prepared in support of this chapter, by TischlerBise, dated March 21, 2005, which sets forth the methodology and rational basis for the determination of the impact of new development on public facilities; the proper and proportionate amount of the impact fee to be assessed against new development; and the mechanisms for ensuring that a rational nexus exists between the fee amount and the impact of new development on public facilities and the roughly proportionate benefits that accrue to new development paying the impact fee.

Government Facilities: structures, land areas and equipment such as municipal buildings; parking facilities; land acquisition; public school facilities; public works buildings and facilities; and municipal vehicles and equipment, that provide general government services capacity to new development.

Government Facilities Impact Fee: an impact fee imposed on new residential and nonresidential development to fund the proportionate share of the costs created by new development for municipal facilities.

New Development: any construction, reconstruction, redevelopment, rehabilitation, structural alteration, structural enlargement, structural extension, or new use within the City that requires a building permit after the effective date of this chapter, including any change in use of an existing building, structure, or lot that increases the demand for one (1) or more public facility; except as otherwise provided in subsection 1486.03(d).

Non-Residential: any use or development that is not a residential use.

Office/Institutional: nonresidential uses that include, but are not limited to, professional services, insurance companies, investment brokers, and tenant services such as banking, restaurants, and service retail facilities. "Office/institutional" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances and Table 1 of the Planning and zoning code: professional and business offices; athletic fields; auditorium; cemetery; churches and places of worship; community centers; ~~elementary and secondary; elementary schools~~; family swimming pools; family tennis courts; ~~Jr. middle/sr. high schools~~; school (~~public or~~ parochial); and golf courses.

Planning and Zoning Code: Part 12 of the Codified Ordinances of the City of Pickerington.

Police Facilities: structures, land areas and equipment such as headquarters, land acquisition, auxiliary buildings, vehicles, and equipment that provide law enforcement services capacity to new development.

Police Facilities Impact fee: an impact fee imposed on new residential and non-residential development to fund the proportionate share of the costs created by new development for police facilities.

Public Facility: non-site-related capital improvements, including buildings, equipment, and land, that provide a roughly proportionate benefit to new development. Public facilities are nonrecurring and are treated as capitalized expenses according to generally-accepted governmental accounting principles. Public facilities do not include costs associated with the operation, repair, or maintenance of public facilities.

Public Facility Expenditures: amounts appropriated in connection with the planning, design, engineering, and construction of public facilities; including planning, legal, appraisal, and other costs related to the acquisition of land, financing (including the issuance of bonds or other obligations of indebtedness used to pay for public facilities), and development costs; the costs of compliance with purchasing procedures and applicable administrative and legal requirements; and all other costs necessarily incident to the provision of public facilities.

Reimbursement: repayment of impact fees in an amount that fairly reflects the value of public facilities dedicated or constructed by an applicant.

Residential Use: any use or development that includes or results in the creation of a dwelling unit, as defined in § 1270.11 of the Codified Ordinances. A "Residential Use" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances, or Table 1 of the Planning and Zoning Code: single-family dwellings, three-family dwellings, two-family dwellings, multi-family dwellings, row house dwellings, elderly housing, and zero lot line dwellings.

Service Charge: a charge against each applicant paying an impact fee, not to exceed two percent (2%) of the total impact fee assessed against the proposed new development, used solely for costs incurred in the administration of this chapter.

Warehousing: a use primarily devoted to the storage of materials. "Warehousing" includes any of the following uses as defined in § 1270.11 of the Codified Ordinances, or Table 1 of the Planning and Zoning Code: agricultural storage areas, self-storage buildings.

Section 1486.03. APPLICABILITY

(a) Term.

This chapter and the procedures established herein shall remain in effect unless and until repealed, amended, or modified by the City Council in accordance with applicable State law and the Codified Ordinances.

(b) Affected Area.

Impact fees are to be imposed on new development proposed within the corporate boundaries of the City.

(c) Type of Development Affected.

Except as provided in paragraph (d) below, this chapter applies to all new development and all revenue producing areas of the development: which includes patios, outdoor sales and service areas, car lots, gas station canopy area, and all similar such areas. If a building permit has been issued prior to the effective date of this ordinance, then the development will be considered new development and an impact fee shall be imposed and paid prior to the issuance of an occupancy permit.

(d) Type of Development Not Affected; Exemptions.

This chapter does not apply to:

- (1) No Net Increase in Nonresidential Floor-Area Development.** No impact fee may be imposed on any new nonresidential development ~~that does not result in the creation of new floor area, unless the City Manager makes a written determination that the new development that does not~~ increase the demand for public facilities for which impact fees are being imposed: this includes such non-revenue producing areas of a development as storage yards, porches without sales area or merchandise displays, and all similar such areas.
- (2) Remodeling or Improvements.** No impact fee may be imposed for remodeling or improvements to an existing building or structure that does not add new dwelling units.
- (3) Replacements.** No impact fee may be imposed on the replacement of a destroyed or partially destroyed building or structure provided that there is no change in use and no net increase in the number of dwelling units or amount of nonresidential floor area.
- (4) Temporary Uses.** No impact fee may be imposed on a temporary use, including construction trailers and offices, but only for the life

of the building permit issued for the construction served by the trailer or office.

- (5) **Development Agreements.** No impact fee may be imposed on new development that is the subject of a duly executed and lawful development agreement entered into by an applicant and the City prior to the effective date of this chapter, which agreement contains provisions in conflict or inconsistent with this chapter, but only to the extent of the conflict or inconsistency.
- (6) **Governmental Uses Exempt.** ~~No impact fee may be imposed on development proposed by a local, regional, state, or federal governmental agency or school district if the imposition of the fee is prohibited by law.~~ Prior to the issuance of a building permit, ~~the~~ a local, regional, state or federal governmental agency or school district may seeking an exemption to this Chapter by pursuant to this subparagraph must applying to the City Council ~~for approval.~~ The City Council shall review all such exemption applications and shall establish a reasonable basis for the granting or denying of all such requests. If the City Council grants the exemption, the City Council may deposit funds from a revenue source other than impact fees into the designated impact fee account equal in amount to the impact fees otherwise owed by the governmental agency.
- (7) **Other Uses.** No impact fee may be imposed on a use, development, project, structure, building, fence, sign or other activity, whether or not a building permit is required, which does not result in an increase in the demand for public facilities. This includes the following uses as defined in § 1270.11 of the Codified Ordinances, or Table 1 of the Planning and Zoning Code: agriculture; com. telecommunications equip.; commercial antennas; grain silos; home occupations; noncommercial antennas; and satellite dishes.
- (8) **Settlement Agreement.** Any new or increased impact fees imposed by the City pursuant to this Chapter within five (5) years from the dismissal of the civil action, styled *Building Industry Association of Ohio, et al., v. City of Pickerington*, Case No. 03CVH11-12173, in the Franklin County, Ohio, Court of Common Pleas with prejudice (the "Dismissal") do not apply to:
 - A. any lot for which the builder/developer has a written contract with a homebuyer as of the date of adoption of this Chapter;

- B. speculative homes (i.e. homes without a contract with a homebuyer) which are completed and ready for occupancy (i.e. for which an application for a temporary occupancy permit has been filed) as of the date of adoption of this Chapter; or
 - C. homes for which a building permit application has been applied for and the permit has been picked up and the fees due at the time of pick-up have been paid as of the date of adoption of this Chapter, so long as the construction has begun (i.e. footers have been poured) on the home within 90 days after the date of adoption of this Chapter.
- (9) **Conflict.** In the event of a conflict between the application of this Chapter and the Settlement Agreement resulting from Building Industry Association of Ohio, et al., v. City of Pickerington, Case No. 03CVH11-12173, in the Franklin County, Ohio, Court of Common Pleas with prejudice, the terms and provisions of the Settlement Agreement shall control.

(e) **Effect of Payment of Impact fees on Other Applicable City Land Use, Zoning, Platting, Subdivision, or Development Regulations.**

- (1) The payment of impact fees shall not entitle the applicant to a building permit unless all applicable land use, zoning, planning, dedication, platting, subdivision, or other related requirements, standards, and conditions of the Codified Ordinances have been met. Such other requirements, standards, and conditions are independent of the requirement for payment of an impact fee.
- (2) This chapter shall not affect, in any manner, the permissible use of property, density/intensity of development, design and improvement standards, or other applicable standards or requirements of the Codified Ordinances, which shall remain operative and in full force and effect without limitation.

(f) **Amendments.**

This chapter, and any ordinance adopting impact fees for any particular public facility pursuant to this chapter, may be amended from time to time by the City Council; provided, however, that no such amendment shall be adopted without a written report detailing the reasons and need for the impact fee revision nor without proper notice and public hearing as required by state law and the Codified Ordinances.

Section 1486.04. PROCEDURES FOR IMPOSITION, CALCULATION, REIMBURSEMENT, CREDIT, AND COLLECTION OF IMPACT FEES.

(a) In General.

The Building ~~Inspector~~ Department Representative must notify the applicant of the applicable impact fee requirements, including applicable service charges, at the time of application for a building permit on a form provided by the City for such purposes. The Building ~~Inspector~~ Department Representative must calculate the applicable impact fee at the time of application for a building permit. The City may not issue a building permit until the applicant has paid all impact fees due pursuant to this chapter.

(b) Calculation.

- (1) Upon receipt of an application for a building permit, the City Manager must determine (a) whether the proposed new development constitutes a residential or non-residential use, (b) the specific category of residential or non-residential development, and (c) the amount of additional square feet of nonresidential gross floor area or the number of additional dwelling units associated with the proposed use.
- (2) If the application for a building permit involves a change in use, the impact fee due must be based on the incremental increase in the fee for the increase in the public facility capacity created by the proposed change in use.
- (3) After making these determinations, the City Manager must calculate the applicable impact fee by multiplying the number of dwelling units or amount of nonresidential floor area proposed by the amount of the applicable impact fee per unit of development, incorporating any applicable exemptions or credits.
- (4) If the type of land use proposed for new development is not expressly listed in the particular impact fee ordinance and schedule, the City Manager, in consultation with other City staff and consultants, as necessary, must:
 - A. identify the most similar land use type listed and calculate the impact fee based on the impact fee for the land use identified;
 - B. identify the broader land use category within which the specified land use would apply and calculate the impact fee based on the impact fee for that land use category; or

- C. as appropriate, determine the basis used to calculate the fee pursuant to an independent impact analysis pursuant to subsection (c) below.
- (5) The City Manager's determination must be based on a generally-accepted land use classification system (*e.g.*, the North American Industry Classification System, the Land-Based Classification Standards, and/or ITE's Trip Generation Manual) and the methodology report.
 - (6) The calculation of impact fees due from a multiple-use new development must reflect the aggregated demand for each public facility generated by each land use type within the proposed new development.
 - (7) The calculation of impact fees due from a phased new development must reflect the demand generated by each specific land use within the phase of development for which a separate building permit is requested.
 - (8) Impact fees must be calculated based on the impact fee amount in effect at the time of application for a building permit.

(c) Independent Impact Analysis.

If the applicant believes that the impact fee calculations are in error or would violate a right that is protected by the state or federal constitution, the applicant may conduct an impact fee analysis. The following provisions shall apply to any independent impact analysis:

- (1) The applicant is responsible, at its sole expense, for preparing the independent impact analysis, which must be reviewed for approval by the City Manager, and, as appropriate, other City staff or officials, prior to payment of the fee.
- (2) The independent impact analysis must measure the impact that the proposed new development will have on the particular public facility at issue, must be based on the same methodologies used in the methodology report, and must be supported by professionally acceptable data and assumptions.
- (3) Within thirty (30) days of submittal of the independent impact analysis, the City Manager must provide written notice to the applicant as to whether the analysis is accepted or rejected based on the provisions of this section. If the independent impact analysis is rejected, the written notice must provide an explanation of the insufficiencies of the analysis.

- (4) The final decision of the City Manager may be appealed pursuant to section 1486.06 of this chapter.

(d) Non-binding Impact fee Estimate.

An applicant may request a non-binding estimate of impact fees due for a particular new development at any time by filing a request on a form provided for such purpose by the City; provided, however, that such estimate may be subject to change when a formal application for a building permit for new development is made. Such non-binding estimate is solely for the benefit of the prospective applicant and in no way binds the City or precludes it from making amendments or revisions to any provisions of this chapter or the specific impact fee implementing ordinances. No vested rights, legal entitlements, or equitable estoppel accrue by reason of a non-binding estimate. A non-binding fee estimate does not constitute a final decision and may not be appealed pursuant to section 1486.06.

(e) Reimbursements and Credits.

- (1) **Eligibility for a Reimbursement.** The City Council may enter into a development agreement with an applicant, which provides for the reimbursement of impact fees in exchange for the dedication or construction of public facilities made necessary by a proposed new development. The City may reimburse impact fees already paid only for the type of facility dedicated or constructed by the applicant. Reimbursements must be made from the impact fee account earmarked for the same type of public facility being dedicated or constructed. No impact fees may be reimbursed for a proffered public facility unless:

- A. it is included in the City's capital budget, capital improvement plan, or the methodology report; or
- B. it adds public facility capacity made necessary by and to be provided for the roughly proportionate benefit of new development.

(2) Additional Provisions.

- A. In order to be eligible for a reimbursement, the applicant must receive approval by the City Council pursuant to the provisions of this chapter, prior to the issuance of a building permit.
- B. The City may not reimburse the applicant in an amount exceeding the amount of the impact fee due pursuant to this chapter.

- C. The City may not reimburse the applicant until a proffered land dedication is finalized or the construction project is at least fifty percent (50%) complete. Reimbursement may then occur based on the percent completion of the project.
- D. If an applicant proposes to dedicate or construct public facilities valued at an amount greater than the amount of the impact fee due, then the development agreement may provide for reimbursements to the applicant by future developers of costs incurred over and above those reimbursed by the City.

(3) **Procedures for Reimbursements.**

- A. **Application made to the City Manager.** Applications for an agreement by the City to provide a reimbursement upon completion of certain work by the applicant must be made on a form provided by the City Manager for such purposes. The application must be accompanied by a proposed development agreement developed through coordination with City staff. Upon receipt of a complete application and proposed development agreement, the City Manager, City Attorney, and other appropriate staff and/or consultants must review the application and proposed development agreement, as well as such other information and evidence as may be deemed relevant, and the City Manager must forward a recommendation report stating whether in the opinion of the City Manager a reimbursement is proper based on the provisions of this chapter to the Planning and Zoning Commission. In the instances where a proposed development agreement exists, the City Manager's recommendation report shall be based on the assumption that upon completion of the work by the applicant as set forth within the proposed development agreement the same will comply in all material ways with the proposed development agreement and city standards.
- B. **Recommendation of the Planning and Zoning Commission.** Based on the report of the City Manager, the provisions of this chapter, the capital improvement plan, the comprehensive plan, adopted City Budget, and the methodology report, the Planning and Zoning Commission must recommend to the City Council to accept, reject, or accept with conditions the proposed reimbursement and proposed development agreement.

- C. **City Council.** Based on the recommendation report of the City Manager, the provisions of this chapter, the capital improvement plan, comprehensive plan, adopted City budget, the methodology report, and the recommendation of the Planning and Zoning Commission, City Council must make a final decision to accept, reject, or accept with conditions the proposed reimbursement and proposed development agreement. In instances where a proposed development agreement exists, the Planning and Zoning Commission's recommendation shall be based on the assumption that upon completion of the work by the applicant as set forth within the proposed development agreement the same will comply in all material ways with the proposed development agreement and city standards.
- D. **Appeals.** Appeals from the final decision of the City Council may be made to the Court of Common Pleas of Fairfield County.

(4) **Calculation of the Value of Dedication or Construction.**

The amount of the reimbursement to be paid by the City is to be calculated as follows:

- A. **Construction of Facilities and Provision of Equipment.** The reimbursement must be equal to the actual cost of construction or equipment as evidenced by receipts and other sufficient documentation or the amount of impact fees due pursuant to this chapter, whichever is less.
- B. **Dedication of Land.** At the option of the applicant, the reimbursement is to be based on either the assessed value of the proffered land, based on the most recent County property appraisal, or the fair market value of the land as determined by a certified property appraiser hired and paid for by the applicant. If the latter option is chosen and the City rejects the applicant's appraisal, the City may hire and pay for a second appraiser to appraise the property. If either party rejects the second appraisal, a third appraisal may be performed by an appraiser chosen by the first and second appraisers, the costs of which are to be shared equally by the City and the applicant. The third appraisal is binding on both parties. All appraisals must be consistent with generally-accepted appraisal techniques and the date of valuation must be the date of transfer to the City.

- (5) **Development Agreement Requirements.** No reimbursement may be made except pursuant to an executed development agreement between the City and the applicant, which must include, but is not necessarily limited to, the following:
- A. the estimated cost of the public facility to be constructed or dedicated, based on the provisions of the this chapter;
 - B. a schedule for the initiation and completion of the construction of a public facility;
 - C. the amount of the impact fees, by type, to be reimbursed by the City to the applicant;
 - D. the schedule for making reimbursement payments to the applicant, based on the provisions of this section;
 - E. provision for reimbursements to the applicant by future developers of costs incurred over and above those reimbursed by the City pursuant to this Section;
 - F. the applicant's agreement to construct all public facilities in accordance with City specifications and all regulations set forth in the Codified Ordinances; and
 - G. such other terms and conditions as deemed necessary by the City.
- (6) **Transfer and Assignment.** The reimbursement may be paid only to the original applicant or the applicant's legal successor in interest with a contractual right to the reimbursement. Any transfer or assignment is valid only if the applicant gives the City Council written notice in advance of the transfer.
- (7) **Eligibility for Credits for Excessive Dedication or Construction.** An applicant may be given a credit against an impact fee upon demonstration that, after the date of this ordinance, a public facility was dedicated or constructed by the applicant or the applicant's predecessor in interest with sufficient excess capacity to offset the impacts of the applicant's proposed new development. In order for a credit to be accepted, the applicant must demonstrate that the dedicated or constructed public facility will reduce the overall need for public facilities and that the applicant has secured a contractual right to an allocation of the excess capacity equal to the total or any portion of the impact fee owed by the applicant. Any approved credit must be consistent

with the adopted City budget, capital improvement plan, comprehensive plan, and the methodology report.

(8) Procedures for Credits.

A. **Application made to the City Manager.** Applications for a credit must be made on a form provided by the City ~~Inspector~~ for such purposes. The application must be accompanied by a development agreement executed after the effective date of this chapter, which demonstrates that excess public facility capacity has been provided by the applicant or the applicant's predecessor in interest, which will provide a roughly proportionate benefit to the new development proposed by the applicant. Upon receipt of a complete application, the City Manager, City Attorney and other appropriate staff and/or consultants must review the application, as well as such other information and evidence as may be deemed relevant. The City Manager must determine whether a credit is proper based on the provisions of this chapter, the capital improvement plan, the comprehensive plan, the methodology report, and/or other relevant evidence. In instances where a development agreement exists, the City Manager's recommendation shall be based on a determination as to whether or not the work as completed by the applicant complies in all material ways with the development agreement and city standards.

B. **Appeals.** Appeals from the final decision of the City Manager may be made to the City Council pursuant to section 1486.06.

(f) **Collection**

The City Manager must collect all impact fees and service charges in the amounts set forth in this chapter at the time of issuance of a building permit and must issue a receipt to the applicant for such payment unless:

- (1) the applicant is not subject to the payment of a impact fee; or
- (2) the applicant has filed an appeal as required by section 1486.06 and has filed a bond or other surety in the amount of the impact fee as calculated by the City Manager and approved by the City Attorney and City Manager.

Section 1486.05. ESTABLISHMENT OF IMPACT FEE ACCOUNTS; USE AND APPROPRIATION OF IMPACT FEE FUNDS; AND REFUNDS**(a) Impact fee Accounts.**

The City Manager must establish an impact fee account for each category of public facility for which impact fees are imposed. Such account must identify clearly the public facility for which the impact fee has been imposed. All impact fees collected by the City must be deposited into the appropriate impact fee account. All interest earned on monies deposited into a particular impact fee account must be credited to and considered funds of that account. The funds of each such account must be capable of being accounted for separately from all other City funds. The City Manager must establish and implement necessary accounting controls to ensure that the impact fee funds are properly deposited, accounted for, and appropriated in accordance with this chapter and other applicable legal requirements.

(b) Use of Impact fee Funds.

- (1) **Generally.** All appropriations from impact fee accounts must be approved by the City Council and detailed on a form provided for such purposes and filed with the City Manager.
- (2) **Use of Funds.** Development impact fee funds may be used only for:
 - A. public facility expenditures;
 - B. the payment of principal, interest, and other financing costs on contracts, bonds, notes, or other obligations issued by or on behalf of the City to finance public facilities;
 - C. financing of refunds as set forth in section 1486.05(d);
 - D. financing of reimbursements as set forth in section 1486.04(e); or
 - E. financing the costs of updating this chapter.
- (3) **Report.** Consistent with section 1486.05(c), prior to appropriating impact fee funds, the City Manager must generate a written report which demonstrates that such funds are being used to finance public facility capacity that provides or will provide benefits to new development that are roughly proportionate to the impact of that development. The report must be consistent with the methodology report. The written report must be presented to and accepted by the City Council.

- (4) **Restrictions on Use.** Development impact fees may not be appropriated for repair or maintenance of public facilities, or for operational or personnel expenses associated with the provision of public facilities. Additionally, impact fees must be appropriated:
 - A. for the particular public facility for which they were imposed, calculated, and collected; and
 - B. within six (6) years of the beginning of the City's fiscal year immediately succeeding the date of collection, unless such time period is extended as provided in paragraph (5), below.
- (5) **Appropriation of Impact fee Funds Beyond Six (6) Years of Collection.** Notwithstanding the provisions of subsection (c) above, impact fee funds may be appropriated beyond six (6) years from the beginning of the City's fiscal year immediately succeeding the date of collection, if the appropriation is for a public facility that requires more than six (6) years to plan, design, and construct. The City must document compliance with the provisions of this paragraph.

(c) **Procedure for Appropriation of Impact fee Funds.**

- (1) Each year the City Council must identify public facility capacity anticipated to be funded in whole or in part with impact fees. Public facility expenditures must be consistent with the methodology report, the capital improvement plan, the comprehensive plan, and the annual review described in section 1486.07, and such other information as may be relevant to ensure compliance with this chapter.
- (2) The City Council may include public facilities funded with impact fees in the City's annual budget or capital improvements plan. If included, the description of the public facility must specify the nature of the public facility, the location of the public facility, the capacity to be added and/or funded by the appropriation, the service area of the public facility, the need/demand for the public facility, and the anticipated timing of completion of the public facility.
- (3) Consistent with the provisions of this chapter, the City Council may authorize public facilities expenditures at such other times as it deems necessary.

- (4) The City Council must verify that adequate impact fee funds are or will be available from the appropriate impact fee account for the particular public facility capacity to be funded with impact fees.
- (5) Impact fee funds must be spent on a first in/first out basis.
- (d) **Refunds.**
 - (1) **Eligibility.**
 - A. **Expiration or Revocation of Building Permit.** An applicant who has paid an impact fee for a new development for which construction has not begun, and the necessary building permit has expired or has been revoked, may apply for a refund of impact fees paid. Refunds must be to the initial applicant who paid the impact fee. The refund application must be made on a form provided by the City for such purposes.
 - B. **Failure of City to Appropriate Impact fee Funds Within Time Limit.** A current property owner may apply for a refund of impact fees paid by an applicant if the City has failed to appropriate the impact fees collected from the applicant within the time limit established in subsection (b)(4) above. Refunds made pursuant to this subparagraph must be to current property owner. The refund application must be made on a form provided by the City for such purposes.
 - C. **Abandonment of New Development.** An applicant who has paid an impact fee for a new development for which a building permit has been issued and pursuant to which construction has been initiated but abandoned prior to issuance of a certificate of occupancy, is eligible for a refund if the uncompleted building is completely demolished.
 - (2) **Administrative Fee.** The City may deduct a two-hundred dollar (\$200) administrative fee from the amount of any refund granted and retain the administrative fee in the appropriate impact fee account to defray the administrative expenses associated with processing a refund application.
 - (3) **Processing of Applications for a Refund.**

- A. **Application made to the City Manager.** Applications for a refund must be made on a form provided by the City Manager for such purposes. Upon receipt of a complete application for a refund, the City Manager must review the application and documentary evidence submitted by the applicant, as well as such other information and evidence as may be deemed relevant, and must forward a report as to whether a refund is due based on the provisions of this chapter to the Planning and Zoning Commission.
 - B. **Recommendation of the Planning and Zoning Commission.** Based on the report of the City Manager, the provisions of this chapter, and the methodology report, the Planning and Zoning Commission must recommend to the City Council to approve, deny, or approve with conditions the proposed refund.
 - C. **City Council.** Based on the report of the City Manager, the provisions of this chapter, the methodology report, and the recommendation of the Planning and Zoning Commission, City Council must make a final decision to approve, approve with conditions, or deny the proposed refund and appropriation.
 - D. **Appeals.** Appeals from the final decision of the City Council may be made to the Court of Common Pleas of Fairfield County.
- (4) **Due to Expiration or Revocation.** Applications for refunds due to expiration or revocation of a building permit must be made on forms provided by the City for such purposes and made within sixty (60) days following expiration or revocation of the building permit. In order for the refund application to be deemed complete, the applicant must submit: (a) evidence that the person applying for the refund was the initial applicant who paid the fee, or the authorized agent of the initial applicant, (b) the amount of the impact fees paid by public facility category and receipts evidencing such payments, and (c) documentation evidencing the expiration or revocation of the building permit. Failure to apply for a refund within sixty (60) days following expiration or revocation of the building permit constitutes a waiver of entitlement to a refund. No interest must be paid by the City in calculating the amount of a refund pursuant to this paragraph.
- (5) **Due to Timeliness.** Applications for refunds due to the failure of the City to appropriate impact fees collected from the applicant

within the time limits established in subsection (b)(2) above must be made on forms provided by the City Manager and must be made within one (1) year following the expiration of such time limit. In order for the refund application to be deemed complete, the applicant must submit:

- A. evidence that the applicant is the current property owner or the authorized agent of the current property owner,
 - B. the amount of the impact fees paid by public facility category and receipts evidencing such payments, and
 - C. a description and documentation of the City's failure to appropriate impact fee funds pursuant to subsection (b)(2) above. Interest must be paid by the City in calculating the amount of the refunds pursuant to this section.
- (6) **Due to Abandonment.** Applications for refunds due to abandonment of a new development prior to completion must be on a form provided by the City Manager for such purposes. Failure to apply for a refund within sixty (60) days following expiration or revocation of the building permit or demolition of the structure constitutes a waiver of entitlement to a refund. No interest must be paid by the City in calculating the amount of the refund pursuant to this paragraph. The application must include:
- A. evidence that the person applying for the refund is the initial applicant who paid the fee, or the authorized agent of the initial applicant,
 - B. the amount of the impact fees paid by public facility category and receipts evidencing such payments, and
 - C. documentation evidencing the demolition of the building partially constructed pursuant to payment of the impact fees to be refunded.

Section 1486.06. APPEALS.

(a) Initiation.

- (1) An appeal from any final decision of a City official pursuant to this chapter must be made to the City Council on a form provided by the City Manager for such purposes. Appeals must be filed with the Clerk of the City Council within thirty (30) days of the final decision being appealed from.

- (2) An appeal from any decision of the City Council pursuant to this chapter may be made to the Court of Common Pleas of Fairfield County.
- (3) The filing of an appeal does not stay the imposition or the collection of the impact fee as calculated by the City Manager unless a cash bond or other sufficient surety has been provided.
- (4) If the appeal form is accompanied by a cash bond or letter of credit, in a form satisfactory to the City Attorney and the City Manager, in an amount equal to the impact fee calculated to be due, a building permit may be issued to the new development pending resolution of the appeal.

(b) **Contents.** The appeal form must detail the specific grounds ~~therefor~~ therefore and all other relevant information.

Section 1486.07. REVIEW AND ADJUSTMENTS

(a) **Review.**

- (1) The City Manager, in coordination with all relevant and necessary City staff, must prepare and submit a report to the City Council on the subject of impact fees.
- (2) The report may include any or all of the following:
 - A. recommendations for amendments, if appropriate, to this chapter;
 - B. proposed changes to the City Comprehensive Plan and/or an applicable ordinance or policy, including the identification of additional public facility projects anticipated to be funded wholly or partially with impact fees;
 - C. creation of impact fee districts, as necessary;
 - D. proposed changes to impact fee schedules as set forth in the ordinances imposing and setting impact fees for particular public facilities;
 - E. proposed changes to level of service standards for particular public facilities;

- F. proposed changes to any impact fee calculation methodology;
 - G. proposed changes to the population, housing, land use, persons per household or non-residential development projections included in the methodology report and upon which the impact fee amounts have been determined; or
 - H. other data, analysis, or recommendations as the City Manager may deem appropriate, or as may be requested by the City Council.
- (3) The Report must include the following background data:
- A. number of building permits issued by type of residential or non-residential development;
 - B. gross floor area of new nonresidential development, by type;
 - C. total amount of impact fees collected, by public facility and by land use type;
 - D. total expenditures made from impact fee accounts and the purpose for which the expenditure was made, i.e., the description, type, and location of the public facility project;
 - E. when the public facility project was or will be initiated and completed;
 - F. whether additional impact fee funds will be appropriated for the same project in the future;
 - G. whether supplemental non-impact fee funds have been used for the project and, if so, how much;
 - H. the service area of the public facility project;
 - I. the total estimated cost of the project and the portion funded with impact fees;
 - J. whether the public facility project is in the City's current annual budget, capital improvements plan, or comprehensive plan;

- K. the estimated useful life of the project; and
 - L. such other facts as may be deemed relevant by the City Manager or City Council.
- (4) **City Council Action.** The City Council may take such actions as it deems appropriate, including, but not limited to, amending this chapter, requesting additional data or analyses, and holding public workshops and/or public hearings.
- (b) **Annual Adjustments.**
- (1) On July 1, 2006, and on July 1st of each year thereafter, the amount of any impact fee may be adjusted without further action by the City Council to reflect inflationary increases in the cost of providing public facilities. The City Manager must base any adjustment made pursuant to this paragraph on the most recent 20-City annual national average data from the *Engineering News Record* Construction Cost Index. Any adjustment based on other information or adjustments in excess of documented inflationary costs may be made only pursuant to City Council action.
 - (2) The City Manager may make the automatic annual adjustment unless the City Council, in its review, determines an alternate adjustment is appropriate.

Section 1486.08. EXEMPTIONS; WAIVERS.

- (a) **Exemption / Waiver Process**~~Applicability.~~
- (1) The City Council may exempt all or part of particular development projects from development impact fees if such projects are determined to create extraordinary economic development and/or employment growth.~~Finding. The City Council hereby finds and determines that:~~
 - (2) Filing of Application and Review Process. Petitions for exemptions to the application of the provisions of this Chapter or waivers from specific impact fees shall be filed with the City Manager on forms provided by the City. The City Manager or his/her designee, shall review each such application and shall forward the application to the Finance Committee of City Council with a recommendation based on the criterion herein established. Likewise, the Finance Committee shall review each application in conjunction with the Administrative recommendation and shall

forward the application, with their recommendation to City Council for review and final action.

- (3) The City hereby establishes a policy to encourage employment growth and economic development in order to provide a balance between jobs and housing, provide adequate income levels for its citizens, and to promote balanced and orderly growth. Further, it is the intent of this Section to establish a mechanism that removes potential regulatory barriers to the establishment of businesses that provide employment and economic development in the City and it is the further specific intent of this section that the waiver provisions contained herein shall not apply to residential developments. The City specifically desires to review all applications for exemptions or waivers on an individual basis and further desires that the review and approval process is fair, consistent, and is based on established criterion. Also, the process should ensure that the businesses that are granted exemptions or waivers actually provide the benefits recited in this Section and that the due process rights of all applicants are protected.

- (4) In order to grant an exemption or waiver under this Section, City Council shall:

A. review the Administrative recommendation and the Finance Committee recommendation; and shall:

B. conduct a public hearing at which the applicant may explain the elements of their application and present any further information that may assist in City Council's review, and may:

C. grant the requested exemption or waiver only if they, by majority vote find and determine that:

(1) the application fully meets the policies herein established; and

(2) the projected employment growth is based on either existing payroll figures or other available evidence that reflects a potential annual payroll that exceeds \$1,000,000.00, and it is recognized that this threshold may be adjusted upward based on an annual Council review; and

(3) the existing or projected number of jobs exceeds twenty (20); and

~~(4) the value of the exemption or waiver is recovered in eighteen (18) months based on projected income tax revenues from the development.~~

~~A. The City has a policy to encourage employment growth and economic development in order to provide a balance between jobs and housing, provide adequate income levels for its citizens, and to promote balanced and orderly growth; and~~

~~B. A mechanism is needed to remove potential regulatory barriers to the establishment of businesses that provide employment and economic development in the City; and~~

~~C. Individual review is needed for applications for exemptions in order to ensure that business that are granted exemptions provide the benefits recited in this section, and to protect the due process rights of applicants.~~

~~(2) The City Council may exempt all or part of particular development projects from development impact fees if such projects are determined to create extraordinary economic development and/or employment growth.~~

~~(b) **Filing of Application.** Petitions for exemptions to the application of the provisions of this Ordinance or waivers from specific impact fees shall be filed with the City Council on forms provided by the City.~~

~~(e b) **Effect of Grant of Exemption/Waiver.** If the City Council grants an exemption or waiver in whole or in part of impact fees otherwise due, the amount of the impact fees exempted or waived shall be provided by the City from non-impact fee funds, as may be provided in the particular impact fee ordinances establishing such fees for particular capital improvements, and such funds shall be deposited to the appropriate impact fee account within a reasonable period of time consistent with the applicable City capital improvements program.~~

Section 1486.09. PARKS AND RECREATION FACILITIES IMPACT FEE

~~(a) **Impact fee for Residential Development.** All new residential development within the City of Pickerington is subject to the payment of a parks and recreation impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, as follows such specific fee schedule to be on file in the Department of Development :~~

Dwelling Unit Type	Fee per Dwelling Unit
Single Family Dwelling	\$1,560.00
All other Residential Uses	\$976.00

(b) **Impact fee for Nonresidential Development.** Nonresidential development within the City of Pickerington is not subject to the payment of a parks and recreation impact fee.

Section 1486.10. POLICE FACILITIES IMPACT FEE

(a) **Impact fee for Residential Development.** All new residential development within the City of Pickerington is subject to the payment of a police facilities impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, as follows such specific fee schedule to be on file in the Department of Development:

Dwelling Unit Type	Fee per Dwelling Unit
Single Family	\$722.00
All other Residential Uses	\$452.00

(b) **Impact fee for Nonresidential Development.** All new nonresidential development within the City of Pickerington is subject to the payment of a police facilities impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, as follows such specific fee schedule to be on file in the Department of Development:

Development Type	Fee per square foot of gross floor area (gfa)
Commercial 25,000 sf or less	\$0.44
Commercial 25,001-50,000 sf	\$0.40
Commercial 50,001-100,000 sf	\$0.35
Commercial 100,001-200,000 sf	\$0.31
Commercial over 200,000 sf	\$0.26
Office/Institutional 10,000 sf or less	\$0.20
Office/Institutional 10,001-25,000 sf	\$0.16
Office/Institutional 25,001-50,000 sf	\$0.14
Office/Institutional 50,001-100,000 sf	\$0.12
Office/Institutional over 100,000 sf	\$0.10
Business Park	\$0.11
Light Industrial	\$0.06
Warehousing	\$0.04
Manufacturing	\$0.03

Section 1486.11. GOVERNMENT FACILITIES IMPACT FEE

(a) **Impact fee for Residential Development.** All new residential development within the City of Pickerington is subject to the payment of a municipal facilities impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, as follows such specific fee schedule to be on file in the Department of Development:

Dwelling Unit Type	Fee per dwelling unit
Single Family	\$484.00
All other Residential Uses	\$303.00

(b) **Impact fee for Nonresidential Development.** All new nonresidential development within the City of Pickerington is subject to the payment of a municipal facilities impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, as follows such specific fee schedule to be on file in the Department of Development:

Development type	Fee per square foot of gross floor area (gfa)
Commercial 25,000 sf or less	\$0.53
Commercial 25,001-50,000 sf	\$0.45
Commercial 50,001-100,000 sf	\$0.40
Commercial 100,001-200,000 sf	\$0.35
Commercial over 200,000 sf	\$0.32
Office/Institutional 10,000 sf or less	\$0.70
Office/Institutional 10,001-25,000 sf	\$0.64
Office/Institutional 25,001-50,000 sf	\$0.60
Office/Institutional 50,001-100,000 sf	\$0.57
Office/Institutional over 100,000 sf	\$0.53
Business Park	\$0.50
Light Industrial	\$0.37
Warehousing	\$0.20
Manufacturing	\$0.29

Section 1486.12. STREET IMPACT FEE

(a) **Impact fee for Residential Development.** All new residential development within the City of Pickerington is subject to the payment of a street impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, as follows such specific fee schedule to be on file in the Department of Development:

Dwelling Unit Type	Fee per dwelling unit
Single Family	\$704.00
All other Residential Uses	\$431.00

(b) **Impact fee for Nonresidential Development.** All new nonresidential development within the City of Pickerington is subject to the payment of a street impact fee payable at the time of building permit issuance by the City, pursuant to this chapter, as follows such specific fee schedule to be on file in the Department of Development:

Development type	Fee per square foot of gross floor area (gfa)
Commercial 25,000 sf or less	\$1.53
Commercial 25,001-50,000 sf	\$1.42
Commercial 50,001-100,000 sf	\$1.24
Commercial 100,001-200,000 sf	\$1.07
Commercial over 200,000 sf	\$0.92
Office/Institutional 10,000 sf or less	\$0.84
Office/Institutional 10,001-25,000 sf	\$0.68
Office/Institutional 25,001-50,000 sf	\$0.58
Office/Institutional 50,001-100,000 sf	\$0.49
Office/Institutional over 100,000 sf	\$0.42
Business Park	\$0.47
Light Industrial	\$0.26
Warehousing	\$0.18
Manufacturing	\$0.14

SECTION 4: It is the intent of the City Council for this Ordinance to comply with the requirements of all applicable laws and constitutional provisions. In the event that any section, part, or paragraph of this ordinance is declared by a court of competent jurisdiction to be void, unconstitutional, or unenforceable for any reason, such declaration shall not affect the validity of any other section, part, or paragraph and all sections, parts, and paragraphs not affected by such declaration shall remain in full force and effect.

SECTION 5: It is found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action were meetings open to the public, and in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

WHEREFORE, this Ordinance shall be in force and effect at the latter of the earliest of time permitted by law or upon completion of the comprehensive plan as required in Building Industry Association of Ohio, et al., v. City of Pickerington, Case No. 03CVH11-12173, in the Franklin County, Ohio, Court of Common Pleas with prejudice.

VOTE ON ORDINANCE ~~2005~~2007 - _____ YEAS _____ NAYS _____

PASSED: _____, ~~2005~~ 2007

David B. Shaver, Mayor

ATTEST:

Lynda Yartin, Municipal Clerk

CERTIFICATION

I hereby certify on this _____ day of _____, ~~2005~~ 2007 that the forgoing is a true and accurate copy of this Ordinance passed at the meeting held on _____, ~~2005~~ 2007 of the City of Pickerington, County of Fairfield, State of Ohio.

Clerk of Council

Approved as to form

Law Director