



CITY OF PATASKALA

ORDINANCE 2021-4396

Passed August 16, 2021

AN ORDINANCE CREATING, ESTABLISHING, AND ADOPTING CHAPTER 1294 (IMPACT FEES) OF THE CODIFIED ORDINANCES OF THE CITY OF PATASKALA

WHEREAS, pursuant to Art. XVIII, §3 of the Ohio Constitution, and the caselaw interpreting this Section, the City of Pataskala 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 of Pataskala retained Strand Associates, Inc. to assist the City and prepare an Impact Fee Methodology and Costing Report; and

WHEREAS, the City of Pataskala Streets Committee held multiple meetings over the past year to discuss and deliberate whether the City of Pataskala needed to establish impact fees. Ultimately, the Street Committee recommended the City create and establish Chapter 1294 (Impact Fees); and

WHEREAS, the City of Pataskala Planning and Zoning Commission then initiated the instant amendment pursuant to Section 1217.10; and

WHEREAS, a public hearing was held by the City Planning and Zoning Commission on June 2, 2021 pursuant to Section 1217.07, and

WHEREAS, the notice of a public hearing to be held by the City Planning and Zoning Commission was published in a newspaper of general circulation on May 20, 2021 pursuant to Section 1217.08, and

WHEREAS, the Planning and Zoning Commission recommended approval of the amendment on June 2, 2021 pursuant to Section 1217.10, and

WHEREAS, Council for the City of Pataskala believes: (1) 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) impact fees bear a reasonable relationship to the burden imposed upon the City' to provide public facilities 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) an "essential nexus" exists between the projected new development and the need for additional facilities to be funded with impact fees, and between the impact fee and the benefits that accrue to new development paying the fee; and (4) the amount of the impact fees is "roughly

proportional" to the pro rata share of the additional facilities needed to service new residential and non-residential development, while maintaining the existing level of services standard currently provided to existing City residents, employees, and businesses: and

WHEREAS, based on the population, housing unit, and land use projections as well as the capital improvements associated with the projected growth, Council for the City of Pataskala believes impact fees are an appropriate and necessary technique to help ensure adequate public improvements are provided for new development; and

WHEREAS, Council for the City of Pataskala believes impact fees are necessary to protect the public health, safety, and general welfare of future residents and employees generated by new development; and

WHEREAS, Chapter 1294 contains administrative provisions to ensure that the benefit of capital improvements funded with the impact fee will accrue proportionately to new development paying the fee; and

WHEREAS, a public hearing was held by Council on July 19, 2021 pursuant to Section 1217.11; and

WHEREAS, the amendment was on file for public examination for a minimum of 30 days preceding the Council public hearing pursuant to Section 1217.12; and

WHEREAS, Council for the City of Pataskala hereby determines that all applicable procedures required by Chapter 1217 of the Codified Ordinances have been followed, and that notice was given and a public hearing was held as required by Section 1217.11 of the Codified Ordinances, and Council hereby adopts the recommendation of the City Planning and Zoning Commission as provided for in Section 1217.13 of the Codified Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PATASKALA, COUNTY OF LICKING, STATE OF OHIO, A MAJORITY OF ALL MEMBERS ELECTED OR APPOINTED THERETO CONCURRING, THAT:

Section 1: Council for the City of Pataskala hereby creates, establishes, and adopts Chapter 1294 (Impact Fees) of the Codified Ordinances of the City of Pataskala, as set forth in the document attached hereto as Exhibit A and incorporated herein by reference.

Section 2: All prior legislation, or any parts thereof, which is/are inconsistent with this Ordinance is/are hereby repealed as to the inconsistent parts thereof.

Section 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of Council and that all deliberations of the Council and any of the decision making bodies of the City of Pataskala which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the State of Ohio.

Section 4: This Ordinance shall become effective from and after the earliest period allowed by the Charter of the City of Pataskala.

ATTEST:


Kathy M. Hoskinson, Clerk of Council


Michael W. Compton, Mayor

Approved as to form:



Brian M. Zets, Law Director

EXHIBIT A

CHAPTER 1294 Impact Fees

1294.01	Purpose and Intent	1294.05	Establishment of Impact Fee
1294.02	Definitions		Fund; Use and Appropriation
1294.03	Applicability and Exemptions		of Impact Fee Funds; and
1294.04	Procedures for Imposition,		Refunds
	Calculation, Reimbursement,	1294.06	Review and Adjustments
	Credit, and Collection of	1294.07	Street Impact Fee
	Impact Fees		

1294.01 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 new development contributes its fair and proportionate share towards the costs of public facilities reasonably necessitated by such new development;
- (c) To ensure new development benefits from the provision of the public facilities provided with the proceeds of impact fees;
- (d) To ensure 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 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 all applicable legal standards and criteria are properly incorporated in these procedures.

1294.02 DEFINITIONS

Words and terms not specifically defined below carry their normal dictionary meanings. An additional reference for zoning and development terms is The New Illustrated Book of Development Definitions, Harvey S. Moskowitz and Carl G. Lindbloom, ISBN 0-88285-144-6 or the latest edition:

- (a) "Applicant." Any person who files an application with the City for a zoning permit to undertake new development within the City.
- (b) "Appropriation or to appropriate." An action by the City or City Administrator 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 an impact fee account for the financing of public facilities that provides or will provide a roughly proportionate benefit to new development.

- (c) "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.
- (d) "City." City of Pataskala, Ohio.
- (e) "City Council." The Council of the City of Pataskala, Ohio.
- (f) "City Administrator." The City Administrator for the City of Pataskala, Ohio or his/her designee.
- (g) "Codified Ordinances." The Codified Ordinances of Pataskala, Ohio, as amended from time to time.
- (h) "Comprehensive Plan" The Comprehensive Plan for the City and any subsequent plans adopted by City Council.
- (i) "Credit." A reduction in the amount of an 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 an applicant, which results in the provision of excess public facility capacity sufficient to offset the impacts of the proposed new development on public facilities.
- (j) "Finance Director." The Finance Director for the City of Pataskala, Ohio or his/her designee.
- (k) "Institutional." Establishments designed to aid individuals in need of mental, therapeutic, rehabilitative counseling or other correctional services.
- (l) "Light Industrial." Establishments characterized by a mix of manufacturing (small items), service, and warehouse facilities in the same building with a wide variation in the proportion of each type of use.
- (m) "Manufacturing" Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as oils, plastics, resins, or liquors.
- (n) "Impact Fee." A fee imposed on new development on a proportionate basis in connection with, and as a condition of, the issuance of a zoning 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.
- (o) "Methodology report." A report titled "Impact Fee Methodology and Costing Report" prepared in support of this chapter. by Strand Associates, Inc., dated May, 2021 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.

- (p) "New development." Any construction, reconstruction; redevelopment, rehabilitation, structural alteration, structural enlargement, structural extension, or new use within the City that requires a zoning permit after the effective date of this chapter, including any change in zoning district of an existing building, structure, or lot that increases the demand for one or more public facility; except as otherwise provided in Section 1294.03(d).
- (q) "Nonresidential." Any use or development that is not a residential use.
- (r) "Office." Establishments used primarily for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, computers, and communication equipment.
- (s) "Planning and Zoning Code." Part 12 of the Codified Ordinances of the City of Pataskala.
- (t) "Public facility." Non-site-related capital improvements to the roadway network including roadway widening, intersection improvements, and associated infrastructure that provides 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.
- (u) "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.
- (v) "Reimbursement." Repayment of impact fees in an amount that fairly reflects the value of public facilities dedicated or constructed by an applicant.
- (w) "Residential use." Any use or development that includes or results in the creation of a dwelling unit, as defined in the Codified Ordinances.
- (x) "Restaurant." Establishments where food and drink are prepared and sold for consumption within the facility or consumption outside of the facility and where ordering and pickup may take place from an automobile.
- (y) "Retail." Establishments engaged in selling or renting goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.
- (z) "Service charge." A charge against each applicant paying an impact fee, not to exceed 2% of the total impact fee assessed against the proposed new development, used solely for costs incurred in the administration of this chapter.
- (aa) "Warehousing." Establishments engaged in the receipt, storage, and/or distribution of goods, products, cargo and materials.
- (bb) "Zoning Permit" A document issued by the City Administrator in accordance with the Zoning Code authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses.

1294.03 APPLICABILITY AND EXEMPTIONS

- (a) Term. This chapter and the procedures established herein shall remain in effect unless and until repealed, amended, or modified by City Council.
- (b) Affected Area. Impact Fees are to be imposed on new development proposed within the corporate boundaries of the City, as they exit now or as changed from time-to-time.
- (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
- (d) Type of Development Not Affected; Exemptions. This chapter does not apply to:
 - 1 No net increase in nonresidential development. No Impact Fee shall be imposed on any new nonresidential development that does not increase the demand for public facilities; this includes, but is not limited to, such non-revenue producing areas of a development such as storage yards, porches without sales area or merchandise displays, and all similar such areas.
 - 2 Remodeling or improvements. No Impact Fee shall be imposed for remodeling or improvements to an existing structure provided there is no change in use and no net increase in the number of dwelling units or amount of nonresidential floor area.
 - 3 Replacements. No Impact Fee shall be imposed on the replacement of a destroyed or partially destroyed structure provided 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 shall be imposed on a temporary use, including construction trailers and offices, but only for the life of the zoning permit issued for the construction served by the trailer or office.
 - 5 Development agreements. No Impact Fee shall 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. Prior to the application for a zoning permit, a local, regional, State or Federal governmental agency or school district may seek an exemption to this chapter by applying to City Council, who shall review all such exemption applications and shall establish a reasonable basis for the granting or denying of all such requests.
 - 7 Other uses. No Impact Fee shall be imposed on a use, development, project, structure, building, fence, sign or other activity whether a zoning permit is required, which does not result in an increase in the demand for public facilities
 - 8 Non-profit organizations. No Impact Fee shall be imposed on any nonprofit organization (NPO), also known as a non-business entity, not-for-profit organization, or nonprofit institution, or any other legal entity organized and operated for a collective, public or social benefit, in contrast with an entity that operates as a business aiming to generate a profit for its owners.

9 Extraordinary Economic Development. City Council may exempt all, or part of, a particular development project from Impact Fees if such project is determined, under the criteria set forth below, to create extraordinary economic development and/or employment growth.

A. 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 residents, 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 on an individual basis and further wants the review and approval process to be fair, consistent, and based on established criteria. Also, the process should ensure the businesses that are granted exemptions actually provide the benefits recited in this section and the due process rights of all applicants are protected.

B. In order to grant an exemption under this section, City Council shall:

- i. Review the City Administrator's recommendation and the Finance Committee's recommendation, and shall;
- ii. Conduct a public hearing at which the applicant may explain the elements of its application and present any further information that may assist in City Council's review, and may;
- iii. Grant the requested exemption only if City Council determines:
 - a. The application fully meets the policies herein established; and
 - b. The projected employment growth is based on either existing payroll figures or other available evidence that reflects a potential annual payroll that exceeds two and one-half million dollars (\$2,500,000.00) and it is recognized that this threshold may be adjusted upward based on an annual Council review; and
 - c. The value of the exemption or waiver is recovered in 24 months based on projected income tax revenues from the development.
- iv. Enter into a written contract with the Applicant that requires the Applicant to repay the exempted Impact Fees if the conditions under which the exemption was granted are not fully and timely met.

1294.04 PROCEDURES FOR IMPOSITION, CALCULATION, REIMBURSEMENT, CREDIT, AND COLLECTION OF IMPACT FEES

- (a) In General. The City Administrator must notify the applicant of the applicable Impact Fee requirements, including applicable service charges, at the time of application for a zoning permit on a form provided by the City. The City Administrator must calculate the applicable

impact fee at the time of application for a zoning permit. The City may not issue a zoning permit until the applicant has paid all impact fees due pursuant to this chapter.

- (b) 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 zoning 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.

(c) Calculation.

1. Upon receipt of an application for a zoning permit, the City Administrator must determine:
 - (a) whether the proposed new development constitutes a residential or nonresidential use;
 - (b) the specific category of residential or nonresidential 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 zoning permit involves a change in zoning district, the Impact Fee must be calculated upon the incremental increase in the public facility capacity created by the proposed change in zoning district.
3. After making these determinations, the City Administrator 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 this Chapter and Impact Fee schedule, the City Administrator, 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 Impact Fee pursuant to an independent impact analysis pursuant to subsection (d) below.
 - D. The City Administrator'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.
5. 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.

6. 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 zoning permit is requested.
 7. Impact fees must be calculated based on the Impact Fee amount in effect at the time of application for a zoning permit.
- (d) Independent Impact Analysis. If the applicant believes the Impact Fee calculations are in error or would violate a right that is protected by either the State or Federal constitutions, the applicant shall 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 conducting and preparing the independent impact analysis, which must be reviewed for approval by the City Administrator 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 60 days of submittal of the independent impact analysis, the City Administrator 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 Administrator may be appealed to City Council. The filing of an appeal does not stay the imposition or the collection of the Impact Fee as calculated by the City Administrator unless a cash bond or other sufficient surety has been provided to the Finance Director. The Finance Director shall hold the bond or surety pending outcome of all available appeals. If the appeal is accompanied by a cash bond or other sufficient surety, in an amount equal to the Impact Fee calculated to be due, a zoning permit may be issued pending resolution of the final appeal.
- (e) Reimbursements and Credits.
1. Eligibility for a reimbursement. The City 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 Fund. No Impact Fee may be reimbursed for a proffered public facility unless:
 - A. It is included in the City's capital and operating budgets, 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 pursuant to the provisions of this chapter, prior to the issuance of a zoning permit.
 - B. The City shall not reimburse the applicant in an amount exceeding the amount of the Impact Fee due pursuant to this chapter.
 - C. The City shall not reimburse the applicant until a proffered land dedication is finalized or the construction project is at least 50% complete. Reimbursement may then occur based on the percent completion of the project on a pro rata basis.
 - 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 Administrator. 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. 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 Administrator 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. The City Administrator must forward a recommendation report stating whether a reimbursement is proper, based on the provisions of this chapter, to City Council. The City Administrator's recommendation report shall assume 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. City Council. Based on the City Administrator's recommendation report, the provisions of this chapter, the capital improvement plan, comprehensive plan, adopted City budget, and the methodology report, City Council shall make a final decision to accept, reject, or accept with conditions the proposed reimbursement and proposed development agreement.
 - C. Appeals. Appeals from the final decision of City Council shall be made to the Court of Common Pleas of Licking County. The filing of an appeal does not stay the imposition or the collection of the Impact Fee as calculated by the City Administrator unless a cash bond or other sufficient surety has been provided to the Finance Director. The Finance Director shall hold the bond or surety pending outcome of all available appeals. If the appeal is accompanied by a cash bond or other sufficient surety, in an amount equal to the Impact Fee calculated to be due, a zoning permit may be issued pending resolution of the final appeal.
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 this chapter;
 - B. A schedule for the initiation and completion of the construction of a public facility;
 - C. The amount of the Impact Fees 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.
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 chapter, a public facility was dedicated or constructed by the applicant 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 the dedicated or constructed public facility will reduce the overall need for public facilities and 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 Administrator. Applications for a credit must be made on a form provided by the City. 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, which will provide a roughly proportionate benefit to the new development proposed by the applicant. Upon receipt of a complete application, the City Administrator 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 Administrator must forward a recommendation report stating whether a credit is proper, based on the provisions of this chapter, to City Council. The City Administrator's recommendation report shall assume 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. City Council. Based on the City Administrator's recommendation report, the provisions of this chapter, the capital improvement plan, comprehensive plan, adopted City budget, and the methodology report, City Council must make a final decision to accept, reject, or accept with conditions the proposed credit and proposed development agreement.
 - C. Appeals. Appeals from the final decision of City Council shall be made to the Court of Common Pleas of Licking County. The filing of an appeal does not stay the imposition or the collection of the Impact Fee as calculated by the City Administrator unless a cash bond or other sufficient surety has been provided to the Finance Director. The Finance Director shall hold the bond or surety pending outcome of all available appeals. If the appeal is accompanied by a cash bond or other sufficient surety, in an amount equal to the Impact Fee calculated to be due, a zoning permit may be issued pending resolution of the final appeal.
- (f) Collection. The City must collect all Impact Fees and service charges in the amounts set forth in this chapter at the time of application for a zoning permit and must issue a receipt to the applicant for such payment unless:
- 1. The applicant is not subject to the payment of an Impact Fee; or
 - 2. The applicant has filed an appeal and the appeal is accompanied by a cash bond or other sufficient surety, in an amount equal to the Impact Fee calculated to be due.

1294.05 ESTABLISHMENT OF IMPACT FEE FUND; USE AND APPROPRIATION OF IMPACT FEE PROCEEDS; AND REFUNDS

- (a) Impact Fee Accounting. The Finance Director must establish an impact fee fund and all Impact Fees collected by the City must be deposited into such impact fee fund. All interest earned on monies deposited into the impact fee fund must be credited to that fund. The monies of such

impact fee fund must be accounted for separately from all other City funds. The Finance Director must establish and implement necessary accounting controls to ensure the impact fee fund is 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 funds must be approved by City Council and detailed on a form provided for such purposes and filed with the City Administrator.
2. Use of funds. 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 1294.06(d);
 - D. Financing of reimbursements as set forth in Section 1294.04(e); or
 - E. Financing the costs of updating this chapter.
3. Report. Consistent with Section 1294.06(c), prior to appropriating impact fee funds, the City Administrator must generate a written report which demonstrates 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 City Council.
4. Restrictions on use. 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 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 (b)(5), below.
5. Appropriation of impact fee funds beyond six years of collection. Notwithstanding anything to the contrary, impact fee funds may be appropriated beyond six 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 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, 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 1294.07 and such other information as may be relevant to ensure compliance with this chapter.

2. 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, City Council may authorize public facilities expenditures at such other times as it deems necessary.
4. City Council must verify that adequate impact fee funds are or will be available for the particular public facility capacity.
5. Because Impact Fees must be used in a location or manner that would provide benefit to the development supplying the funds, Impact Fees must be used in the order in which they were received related to that New Development.

(d) Refunds.

1. Eligibility.
 - A. Expiration or revocation of zoning permit. An applicant who has paid an Impact Fee for which construction has not begun, and the necessary zoning permit has expired or has been revoked, may apply for a refund. The refund application must be made on a form provided by the City.
 - B. Failure of City to appropriate Impact Fees within time limit. An applicant may apply for a refund of Impact Fees if the City failed to appropriate the Impact Fees collected from the applicant within the time limit established in subsection (b)(4)(B) above, unless such time period is extended as provided in paragraph (b)(5) above. The refund application must be made on a form provided by the City.
 - C. Abandonment of new development. An applicant, who paid an Impact Fee for which a zoning 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 and the site is returned to the same or similar condition as before construction began.
2. Administrative fee. The City may deduct a five hundred dollar (\$500.00) administrative fee from the amount of any refund granted and retain the administrative fee to defray the administrative expenses associated with processing a refund application.
3. Processing of applications for a refund.
 - A. Application made to the City Administrator. Applications for a refund must be made on a form provided by the City. Upon receipt of a complete refund application, the City Administrator 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 City Council.

- B. City Council. Based on the report of the City Administrator, the provisions of this chapter, and the methodology report, City Council must make a final decision to approve, approve with conditions, or deny the proposed refund.
- C. Appeals. Appeals from the final decision of City Council shall be made to the Court of Common Pleas of Licking County. The filing of an appeal does not stay the imposition or the collection of the Impact Fee as calculated by the City Administrator unless a cash bond or other sufficient surety has been provided to the Finance Director. The Finance Director shall hold the bond or surety pending outcome of all available appeals. If the appeal is accompanied by a cash bond or other sufficient surety, in an amount equal to the Impact Fee calculated to be due, a zoning permit may be issued pending resolution of the final appeal.
4. Refund because of expiration or revocation. Applications for refunds due to expiration or revocation of a zoning permit must be made on a form provided by the City and made within 60 days following expiration or revocation of the zoning permit. In order for the refund application to be deemed complete, the applicant must submit: (a) evidence the person or entity 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; and (c) documentation evidencing the expiration or revocation of the zoning permit. Failure to apply for a refund within 60 days following expiration or revocation of the zoning permit constitutes a complete and full waiver of entitlement to any refund. No interest will be paid by the City when calculating the amount of a refund pursuant to this paragraph.
5. Refund because of the City's failure to timely appropriate. Applications for refunds due to the failure of the City to timely appropriate Impact Fees must be made on a form provided by the City and made within one year following the expiration of such time limit. In order for the refund application to be deemed complete, the applicant must submit: (a) evidence the applicant is the current property owner or the authorized agent of the current property owner and (b) the amount of the Impact Fees paid; and (c) 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. Refund because of abandonment. Applications for refunds due to abandonment of a new development prior to completion must be on a form provided by the City. Failure to apply for a refund within 60 days following demolition of the structure constitutes a waiver of entitlement to a refund. No interest will be paid by the City in calculating the amount of the refund pursuant to this paragraph. The application must include: (a) evidence 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; and (c) documentation evidencing the demolition of the building partially constructed pursuant to payment of the impact fees to be refunded.

1294.06 REVIEW AND ADJUSTMENTS

(a) Review.

1. The City Administrator, in coordination with all relevant and necessary City staff, must prepare and submit an annual report to 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 the impact fee schedule 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 nonresidential 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 Administrator may deem appropriate, or as may be requested by the City Council.
3. The report must include the following background data:
 - A. Number of zoning permits issued by type development in each Category (Primary and Sub-Category) listed in the Impact Fee Schedule;
 - B. Gross floor area of new nonresidential development, by type;
 - C. Total amount of Impact Fees collected, by type of development in each Category (Primary and Sub-Category) listed in the Impact Fee Schedule;
 - D. Total expenditures made from impact fee fund 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 Administrator or City Council.

4. City Council action. After reviewing the report identified herein, 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.

1294.07 STREET IMPACT FEE

- (a) Impact Fee for Residential Development. All new residential development within the City is subject to the payment of a street impact fee payable at the time of zoning permit issuance by the City, pursuant to this chapter as follows:

Category	Impact Fee per Dwelling Unit
Single-Family/Multi-Family	\$1,140.84

- (b) Impact Fee for Nonresidential Development. All new nonresidential development within the City is subject to the payment of a street impact fee payable at the time of zoning permit issuance by the City, pursuant to this chapter as follows:

Category	Impact Fee per Square Foot
Retail/Restaurant	\$2.46
Office/Institutional	\$1.43
Light Industrial/Warehousing	\$0.64
Manufacturing	\$0.51

