

ORDINANCE #2024-3

AN ORDINANCE OF THE TOWN OF EATONVILLE, FLORIDA, CREATING CHAPTER 43, “IMPACT FEES”, OF THE TOWN CODE OF ORDINANCES; ADOPTING THE TOWN OF EATONVILLE MUNICIPAL IMPACT FEE STUDY, DATED JULY 24, 2024; PROVIDING GENERAL DEFINITIONS, RULES OF CONSTRUCTION, AND FINDINGS; PROVIDING ADMINISTRATIVE PROVISIONS RELATED TO THE IMPOSITION, COLLECTION, USE, AND REVIEW OF IMPACT FEES; PROVIDING FOR IMPACT FEE REVIEW HEARINGS AND NOTICE REQUIREMENTS GOVERNING THE ADOPTION OF IMPACT FEES OR INCREASE OF IMPACT FEE RATES; PROVIDING FOR REFUNDS AND ADMINISTRATIVE COSTS; PROVIDING DEFINITIONS AND LEGISLATIVE FINDINGS RELATED TO POLICE IMPACT FEES; PROVIDING FOR THE IMPOSITION, COLLECTION, AND USE OF POLICE IMPACT FEES; PROVIDING DEFINITIONS AND LEGISLATIVE FINDINGS RELATED TO PARKS AND RECREATION FACILITIES IMPACT FEES; PROVIDING FOR THE IMPOSITION, COLLECTION, AND USE OF PARKS AND RECREATION FACILITIES IMPACT FEES; PROVIDING DEFINITIONS AND LEGISLATIVE FINDINGS RELATED TO GENERAL GOVERNMENT AND ADMINISTRATIVE IMPACT FEES; PROVIDING FOR THE IMPOSITION, COLLECTION, AND USE OF GENERAL GOVERNMENT AND ADMINISTRATIVE IMPACT FEES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Town of Eatonville is experiencing significant growth and development, which necessitates the expansion and improvement of public facilities and services to accommodate the needs of the growing population; and

WHEREAS, under its home rule powers and pursuant to F.S. § 163.31801, the Town may impose impact fees to fund the capital costs of these improvements; and

WHEREAS, the Town Council retained a professional consulting firm to prepare a Municipal Impact Fee Study (the “Study”) analyzing the projected impacts of growth on police, parks and recreation, and general government and administrative services, and recommending appropriate impact fees; and

WHEREAS, the Study, dated July 24, 2024, determined that new development will generate a proportionate share of the need for capital improvements for these public facilities and infrastructure; and

WHEREAS, the Study recommends specific impact fee amounts for each category of public facilities and infrastructure, based on sound methodology and the most recent and localized data; and

WHEREAS, the Study has been presented to and reviewed by the Town Council, and it has been determined that (1) the police, parks and recreation, and general government and administrative impact fees are necessary to offset the costs associated with meeting future demands for the police, parks and recreational, and general government and administrative facilities pursuant to the projections set forth in the Study; (2) the police, parks and recreation, and general government and administrative impact fees bear a reasonable relationship to the burden imposed upon the Town to provide police, parks and recreational, and general government and administrative facilities to new Town residents; (3) the police, parks and recreation, and general government and administrative impact fee revenues will provide a direct benefits to such new Town residents reasonably related to the fees assessed; (4) an essential nexus exists between projected new development and the need for additional police, parks and recreational, and general government and administrative facilities to be funded with police, parks and recreation, and general government and administrative impact fees and the benefits that accrue to new development paying the fees; and (5) the amount of the police, parks and recreation, and general government and administrative impact fees are reasonably proportional to the pro rata share of the additional police, parks and recreational, and general government and administrative facilities needed to serve new development; and

WHEREAS, the costs of real property for use in the police, parks and recreation, and general government and administrative facilities development and the costs of various facilities and equipment have been used by the Town's consultant in developing a development impact cost per land use type as set forth in the Study; and

WHEREAS, the decisions of the Town Council as set forth herein are reasonable and prudent steps pertaining to sound growth management which have been taken for the benefit of the citizens of the Town, both present and future; and

WHEREAS, the Town is projected to significantly grow in functional population and further economically develop in the future; and

WHEREAS, this Ordinance contains an administrative framework to ensure that the benefit of police, parks and recreational, and general government and administrative facilities funded with police, parks and recreation, and general government and administrative impact fees will accrue proportionately to new development paying the fees; and

WHEREAS, F.S. § 163.3202(3), encourages the use of innovative land use regulations and impact fees by local governments to manage growth and to provide the necessary public facilities, and for the imposition by local governments of impact fees on development to fund the capital cost of facilities necessitated by such development; and

WHEREAS, requiring future growth to contribute its fair share of the costs necessary to fund required capital improvements and additions is an integral and vital part of the regulatory plan of growth management in the Town and is a practice consistent with sound and generally accepted growth management, fiscal, and public administration practices and principles.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF EATONVILLE:

SECTION 1. Recitals and legislative findings. The above recitals and legislative findings are ratified and made a part of this Ordinance.

SECTION 2. Amendment. Chapter 43, “Impact Fees”, of the Town Code is hereby created as follows:

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Chapter 43 – IMPACT FEES

ARTICLE I. – GENERALLY

Sec. 43-1. – Short title and authority.

- (a) This chapter shall be known and cited as the “Town of Eatonville Impact Fee Ordinance.”
- (b) The Town Council has the authority to adopt this chapter pursuant to Article VIII of the Constitution of the State of Florida, F.S. Ch. 166, and F.S. § 163.31801.

Sec. 43-2. – Intent and purpose.

- (a) The intent of the Town Council is ensure that its impact fee schedules reflect the most recent and localized data pertaining to growth patterns in the Town and the cost of capital facilities necessary to provide police protection, parks and recreation, and general government and administrative services for new development.
- (b) The purpose of this chapter is to regulate the development of land within the Town by requiring payment of impact fees by impact construction and to provide for the anticipated costs of capital improvements to Town facilities which are required to accommodate such growth. This chapter shall not be construed to permit the collection of impact fees in excess of the amount reasonably anticipated to offset the demand on the capital facilities generated by such applicable impact construction.

Sec. 43-3. – General definitions.

When used in this chapter, the following terms shall have the following meaning, unless the context clearly requires otherwise:

Accessory building or structure shall mean a detached, subordinate building, meeting all property development regulations, the use of which is clearly indicated and related to the use of the principal building or incidental to the previous use to which the vacant land is devoted, and which is located on the same lot as the principal building or use.

Administrative costs shall mean the actual costs associated with the collection and administration of impact fees imposed pursuant to this chapter.

Alternative impact fee shall mean any alternative impact fee calculated by an applicant and approved by the Town Administrator pursuant to section 43-21 hereof.

Alternative impact fee study shall mean a study prepared by an applicant and submitted to the Town Administrator pursuant to section 43-21 hereof.

Applicant shall mean a person who applies for a building permit.

Building shall mean any structure, either temporary or permanent, designed or built for the support, enclosure shelter or protection of persons, chattels, or property of any kind. This term shall include manufactured homes, trailers, mobile homes, or any other vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the term of a construction.

Building permit shall mean an official document or certificate issued by or through the Town under the authority of ordinance or law authorizing the construction or siting of any building. This term shall also include site plan approvals or other development orders for those activities, structures, or buildings that do not require a building permit in order to be constructed or occupied.

Capital facilities shall mean those Town facilities, improvements, infrastructure, and equipment identified in this chapter for which impact fees are imposed.

Certificate of occupancy shall mean the official document or certificate issued by or through the Town under the authority of ordinance or law authorizing the occupancy of any building or parts thereof.

Comprehensive plan shall mean the Town's long-range planning guide prepared and adopted by the Town in accordance with Part II of F.S. ch. 163.

Dwelling unit shall mean a building, or a portion thereof, which is designed for residential occupancy, consisting of one or more rooms which are arranged, designed, or used as living quarters for one family only. The terms shall not include hotels, motels, time-shares, or tourist or trailer camps allowing a rental of less than three months.

Encumbered shall mean monies committed by contract or purchase order in a manner that obligates the Town to expend the encumbered amount upon delivery or completion of goods, services, or real property provided by a vendor, supplier, contractor, or owner.

Equivalent use shall mean a subject use that is similar to the historic use of a parcel of property.

Government property shall mean and refer to the use of property exclusively for public purposes by, and which property is owned or leased by, the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district, a school district, or a municipal corporation, or any department or branch thereof.

Impact construction shall mean land construction designed or intended to permit a use of the land which will contain more dwelling units, buildings, or square footage than the existing use of land, or to otherwise change the use of the land in a manner that increases the impact upon the capital facilities.

Impact fee shall mean, collectively and individually, the impact fees imposed pursuant to this chapter.

Impact fee land use category shall mean those categories of land use incorporated in the impact fee rate schedules for each impact fee.

Impact fee study shall mean the impact fee study or studies adopted pursuant to section 43-6 hereof.

M.A.I. appraiser shall mean a member of the American Institute of Real Estate Appraisers.

Owner shall mean the person holding legal title to the real property upon which impact construction is to occur.

Person shall mean any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, property owners' association, two or more persons having a joint or common interest, governmental agency, or other legal entity.

Residential construction shall mean impact construction that is designed or intended to permit more dwelling units than the existing use or non-use of land contains.

Square footage shall mean the gross area measured in square feet from the exterior faces of exterior walls or other exterior boundaries of a building, excluding areas within the interior of the building which are utilized for parking.

Town Administrator shall mean the mayor or Town employee the mayor has designated as responsible for managing the land development process.

Sec. 43-4. – General legislative findings.

The Town Council finds, determines, and declares that:

- (a) Pursuant to Article VIII, Section 2, Fla. Const., and F.S. ch. 166, the Council has all powers of local self-government to perform municipal functions and render municipal services and facilities except when prohibited by law, including the authority to impose and collect impact fees through a municipal ordinance.
- (b) F.S. § 163.3202(3) encourages the use of innovative land development regulations, including the use of impact fees, to implement the goals, objectives, and policies of a municipality's comprehensive plan.
- (c) Upon receipt of a complete application for a building permit, the Town shall calculate the applicable impact fee, incorporating any applicable credits granted by the Town, which will be documented in a credit certificate. If a person has received a credit pursuant to this chapter, a prior ordinance of the Town, or development agreement, and such credit has not been utilized, that credit shall be subtracted from the otherwise applicable impact fee, if such credit applies.
- (d) Development and redevelopment necessitated by the growth contemplated in the comprehensive plan and the impact fee studies will require improvements and additions to capital facilities to accommodate the new development generated by such growth and maintain the standards and levels of service provided by the Town.
- (e) Future growth, as represented by impact construction, should contribute its fair share to the cost of improvements and additions to the capital facilities that are required to accommodate the impact generated by such growth.
- (f) The impact fees are necessary to offset the costs to the Town associated with meeting the necessary public service and facility demand created by projected new residential and non-residential development or redevelopment. A reasonable connection, or rational

nexus, therefore exists between the projected new development and the need for improved and additional capital facilities to be funded by the impact fees.

- (g) The required improvements and additions to the capital facilities needed to accommodate existing development at the adopted level of service shall be financed by revenue sources other than impact fees.
- (h) Implementation of an impact fee structure to require future impact construction to contribute its fair share of the cost of improvements and additions to capital facilities is an integral and vital element of the management of growth.
- (i) The Council expressly finds that the improvements and additions to the capital facilities to be funded by the respective impact fees imposed herein provide a benefit to all impact construction within the Town that is in excess of the amount of the impact fees.
- (j) The administrative costs imposed herein are limited to the actual costs of administration and collection of the impact fees imposed herein, in accordance with F.S. § 163.31801, or its statutory successor in function.
- (k) The data set forth in the impact fee studies that was employed in the calculation of the impact fee rates to be imposed under this chapter is the most recent and localized data available for the applicable capital facilities as of the date of each impact fee study.
- (l) Capital facilities planning is an evolving process and the level of service adopted by the Town for such capital facilities constitutes a balancing of anticipated need and the corresponding cost to implement such standard, based upon present knowledge and judgment. Therefore, in recognition of changing growth patterns, the needs of the community, and the dynamics of capital facilities planning, it is the intent of the Council that the level of service and the cost of the various capital facilities be reviewed and adjusted periodically, pursuant to section 43-27 hereof, to ensure that the impact fees imposed pursuant to this chapter are equitable and lawful based on the impact of growth upon these capital facilities.
- (m) This chapter shall not be construed to permit the collection of impact fees from impact construction in excess of the amount reasonably anticipated to offset the need for and demand on those capital facilities generated by such impact construction.
- (n) Some of the impact fees collected by the Town pursuant to this chapter may be used to pay existing debt related to the construction of capital facilities or for previously approved projects. The Council legislatively finds and determines that each of these capital facilities or previously approved projects that are funded by impact fees is proportional and has a rational nexus to the impacts generated by new development that contributes

impact fees towards the funding of these facilities and that there is available capacity to serve those properties from the debt funded facilities or previously approved projects.

Sec. 43-5. – Rules of construction.

For the purposes of the administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply:

- (a) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table, or illustrative table, the text shall control.
- (b) The word *shall* is always mandatory and not discretionary and the word *may* is permissive.
- (c) Words used in the present tense shall include the future; and words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; use of the masculine gender shall include the feminine gender.
- (d) The phrase *used for* includes *arranged for, designed for, maintained for, or occupied for.*
- (e) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction *and, or, or either... or*, the conjunction shall be interpreted as follows:
 - (1) *And* indicates that all the connected terms, conditions, provisions, or events shall apply.
 - (2) *Or* indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - (3) *Either... or* indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- (f) The word *includes* shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- (g) All time periods contained within this chapter shall be calculated on a calendar day basis, including Sundays and legal holidays, but excluding the date of the Council's decision in the event of an appeal. In the event the due date falls on a Saturday, Sunday, or legal holiday, the due date shall be extended to the next business day.

Sec. 43-6. – Adoption of impact fee study

The Council hereby adopts and incorporates by reference the impact fee study entitled “Town of Eatonville Municipal Impact Fee Study”, dated July 24, 2024, including the assumptions, conclusions, and findings therein as to the determination of the anticipated costs of capital improvements and additions to capital facilities required to accommodate growth. Copies of the impact fee study shall be on file and available for public inspection in the office of the Town Clerk.

Sec. 43-7. – Procedural irregularities.

Any informality or irregularity in the proceedings in connection with the levy of any impact fee imposed under the provisions of this chapter shall not affect the validity of the same after the approval thereof, and any impact fee as finally approved shall be competent and sufficient evidence that such impact fees were duly levied, that the impact fees were duly made and adopted, and that all other proceedings adequate to such impact fees were duly had, taken, and performed as required by this chapter; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

Secs. 43-8. — 43-19. – Reserved.

ARTICLE II. – ADMINISTRATIVE PROVISIONS

Sec. 43-20. – Imposition of impact fees.

- (a) *Fee required.* At the issuance of a building permit for any impact construction, an applicant not otherwise exempt shall pay the appropriate impact fees as established by this chapter.
- (b) *Amount.* The impact fees shall be calculated according to the rate in effect at the time of payment, unless otherwise specifically provided herein.
- (c) Upon receipt of a complete application for a building permit, the Town shall calculate the applicable impact fee, incorporating any applicable credits granted by the Town, which will be documented in a credit certificate. If a person has received a credit pursuant to this chapter, a prior ordinance of the Town, or development agreement, and such credit has not been utilized, that credit shall be subtracted from the otherwise applicable impact fee, if such credit applies.
- (d) *Estimate.* A person may at any time request a nonbinding estimate of the impact fees due for a particular development; however, such estimate is subject to change when a complete application for a building permit is made.
- (e) *Fee prerequisite to use of building.* In the event an impact fee is not paid as a condition of the issuance of a building permit for the affected impact construction, the impact fee

shall be collected prior to the issuance of certificate of occupancy or by any other method which is authorized by law, unless otherwise exempted pursuant to this chapter.

- (f) *Building permit expiration.* In the event the impact fee is paid as a condition of the issuance of a building permit for an impact construction and said building permit expires prior to completion of the impact construction for which it was issued, the applicant may, within 90 days of the building permit's expiration, apply for a refund of the impact fee. Failure to timely apply for a refund of the impact fee shall waive any right to a refund.
- (1) The application for refund shall be filed with the Town Administrator and contain the following information:
- a. The name and address of the applicant;
 - b. The location of the property which was the subject of the building permit;
 - c. The date the impact fee was paid;
 - d. A copy of the receipt of payment for the impact fee; and
 - e. The date the building permit was issued and the date of expiration.
- (2) After verifying that the building permit has expired and that the impact construction has not been completed, the Town Administrator shall refund the impact fee paid for such impact construction.
- (3) A building permit that is subsequently issued for an impact construction on the same property that was the subject of a refund shall be subject to pay the impact fee as required by this chapter.
- (g) The payment of impact fees shall be in addition to all other fees, charges, or assessments due for the issuance of a certificate of occupancy or building permit.
- (h) The obligation for payment of the impact fees shall run with the land.

Sec. 43-21. – Alternative impact fees.

- (a) In the event an applicant believes that the impact to the capital facilities caused by the impact construction is less than the impact established in an impact fee study and the impact fees imposed herein, such applicant may, prior to issuance of a building permit for such impact construction, file an alternative impact fee study with the Town Administrator, along with an administrative review fee established by the Town to cover the Town's actual costs incurred in reviewing and processing such alternative impact fee

study. The Town Administrator shall review the alternative calculations and make a determination within 30 days of submittal as to whether such calculations comply with the requirements of this section.

- (b) For purposes of any alternative impact fee calculation, the impact construction shall be presumed to have the maximum impact on the capital facilities.
- (c) The alternative impact fee calculation shall be based on data, information, and assumptions contained in this chapter and the applicable impact fee study as described in this chapter. Alternatively, the alternative impact fee calculation may be based on independent sources, provided that:
 - (1) The independent source is a generally accepted standard source of planning information and cost impact analysis performed pursuant to a generally accepted methodology of planning and cost impact analysis which is consistent with the applicable impact fee study; or
 - (2) The independent source is a professional study that utilizes the most recent localized data and is supported by a database adequate for the conclusions contained therein, and such study is performed pursuant to a generally accepted methodology of planning and cost impact analysis that is consistent with the applicable impact fee study.
- (d) There shall be a rebuttable presumption that an alternative impact fee study conducted more than two years prior to the date of its submittal does not comply with the requirements of this section.
- (e) If the Town Administrator determines that the data, information, and assumptions utilized by the applicant comply with the requirements of this section and that the calculation of the alternative impact fee was by a generally accepted methodology that is consistent with the applicable impact fee study, then the alternative impact fee shall be paid in lieu of the applicable fees adopted herein.
- (f) If the Town Administrator determines that the data, information, and assumptions utilized by the applicant to compute an alternative impact fee do not comply with the requirements of this section, then the Town Administrator shall provide to the applicant by certified mail, return receipt requested, written notification of the rejection and the reasons therefore.

Sec. 43-22. – Exemptions.

- (a) Subject to the change in size and use provisions in section 42-23 hereof, the following shall be exempted from the payment of impact fees imposed pursuant to this chapter:

- (1) Alterations or expansions. Alteration or expansion of an existing dwelling unit which does not result in any additional dwelling units or increase the number of families for which such dwelling unit is arranged, designed, or intended to accommodate for the purpose of providing living quarters.
- (2) Accessory building or structure. The construction or replacement of an accessory building or structure which will not create an additional impact on the capital facilities for which impact fees are imposed under this chapter.
- (3) Replacement building. The replacement of a building or dwelling unit where no additional square footage or dwelling units are created and where the existing and replacement building or dwelling units are located on the same lot. To be eligible for this exemption, official evidence including, but not limited to, aerial photos, property appraiser data, or building permit data, must be provided that confirms a building of equivalent use existed within the parcel boundaries in which the replacement structure is to be located.
- (4) Mobile home. The issuance of a tie-down permit for a mobile home on which the applicable impact fee has previously been paid for the lot upon which the mobile home is to be situated. To be eligible for this exemption, official evidence including, but not limited to, aerial photos, property appraiser data, or building permit data, must be provided that confirms a building of equivalent use existed within the parcel boundaries in which the replacement structure is to be located.
- (5) Government property. The construction of any building on government property. However, any impact fee exemption issued for government property shall expire if the property ceases to meet the definition of government property contained in section 43-3.

Sec. 43-23. – Changes in size and use.

An impact fee shall be imposed and calculated for the alteration, expansion, or replacement of a building or the construction of an accessory building or structure if the alteration, expansion, or replacement of the building or the construction of an accessory building or structure results in a land use determined to generate greater impact to capital facilities than the present use under the applicable impact fee rate schedules adopted herein. The impact fee imposed shall be calculated as follows:

- (a) Per dwelling. If the impact fee is calculated on a per dwelling unit basis or similar basis (e.g., per space, per room, etc.) and not on the basis of square footage, the impact fee imposed shall be the amount due under the applicable impact fee rate schedule for the impact fee land use category resulting from the alteration, expansion or replacement, less

the impact fee that would have been imposed under the applicable impact fee rate for the impact fee land use category prior to the alteration, expansion or replacement.

- (b) Square footage. If the impact fee is calculated on the basis of square footage, in the event the square footage of a building is increased, the impact fee due for the increased square footage represented by the impact construction shall be calculated by determining the impact fee due according to the square footage resulting from the alteration, expansion or replacement, less the impact fee that would have been imposed for the original square footage prior to the alteration, expansion, or replacement.
- (c) Land use. If the impact fee is calculated on the basis of land use and not square footage, the impact fee imposed shall be the impact fee due under the applicable impact fee land use category resulting from the alteration, expansion or replacement, less the impact fee that would be imposed under the applicable impact fee land use category prior to the alteration, expansion or replacement.
- (d) Accessory building or structure. If an impact fee is imposed for an accessory building or structure because such accessory building or structure is determined to generate a greater impact than the present use, the fee shall be that applicable to the impact fee land use category for the primary building.

Sec. 43-24. – Accounting and reporting of impact fee.

- (a) The Town shall submit with its annual financial report required under F.S. § 218.32, or its financial audit report required under F.S. § 218.39, a separate affidavit signed by its chief financial officer attesting, to the best of their knowledge, that all impact fees were collected and expended by the Town in full compliance with the spending period provision provided in this chapter and that funds expended from each impact fee trust fund were used only to acquire, construct, or improve specific infrastructure needs.
- (b) The revenues realized from impact fees imposed pursuant to this chapter shall be identified in the Town's budget as a separate account as required by state law. The Town shall maintain adequate records to justify all expenditures from any impact fee trust fund and any accounts established within such trust fund and shall provide for reporting of impact fee rates, collections, expenditures, and affordable housing exemptions in accordance with state law.

Sec. 43-25. – Developer contribution credits.

- (a) Subject to the terms and conditions of this section, a credit shall be granted against an impact fee imposed by this chapter for the donation of land or equipment, or the construction of capital facilities required pursuant to a building permit or other development permit or made voluntarily in connection with impact construction. For the

purposes of this section, “construction” includes associated costs, including design, engineering, permitting, and construction engineering/inspection (CEI). Such donations or construction shall be subject to the approval and acceptance of the Town. No credit shall be given for the donation of land or construction unless such property is conveyed in fee simple to the Town without remuneration. No credit shall be given for the contribution, donation, or dedication of land or infrastructure that are access improvements or are on-site improvements and required in accordance with the Town's development regulations (i.e., internal subdivision roads, etc.).

- (b) Prior to issuance of a building permit, the applicant shall submit a proposed plan for donations or contributions of the contemplated capital facilities to the Town Administrator. The proposed plan shall include:
- (1) A designation of the impact construction for which the plan is being submitted;
 - (2) A legal description of any land proposed to be donated and a written appraisal prepared in conformity with paragraph (e) of this section;
 - (3) A list of the contemplated capital facilities improvements, apparatus, or equipment or apparatus sought to be donated;
 - (4) An estimate of proposed construction costs certified by a professional architect or engineer;
 - (5) A written statement of the actual cost for any equipment or apparatus sought to be donated; and
 - (6) A proposed time schedule for completion of the proposed plan.
- (c) The Town Administrator shall tentatively approve or deny the proposed plan in accordance with paragraph (d) of this section and, if approved, establish the amount of credit in accordance with paragraph (e) of this section. The Town Administrator shall issue a preliminary decision within 60 days after the filing of the proposed plan.
- (d) In reviewing the proposed plan, the Town Administrator shall determine:
- (1) If such proposed plan is in conformity with contemplated improvements and additions to the capital facilities;
 - (2) If the proposed donation and/or construction contributions by the applicant is consistent with the public interest. The final acceptance of any proposed donation of land or other contributions is at the sole discretion of the Council; and

- (3) If the proposed time schedule is consistent with the Town's capital improvement program for the capital facilities.
- (e) The amount of developer contribution credit shall be determined as follows:
- (1) The value of donated land shall be based upon a written appraisal of fair market value as determined by an M.A.I. appraiser who was selected and paid for by the applicant, and who used generally accepted appraisal techniques. If the appraisal does not conform to the requirements of this chapter and any applicable administrative regulations, the appraisal shall be corrected and resubmitted. In the event the Town Administrator accepts the methodology of the appraisal but disagrees with the appraised value, he or she may engage another M.A.I. appraiser at the Town's expense and the value shall be an amount equal to the average of the two appraisals. If either party does not accept the average of the two appraisals, a third appraisal shall be obtained, with the cost of said third appraisal being shared equally by the Town and the owner or applicant. The third appraiser shall be selected by the first two appraisers and the third appraisal shall be binding on the parties.
 - (2) The actual cost of donations of equipment or apparatus shall be determined by written receipts for the actual cost for any equipment or apparatus donated. The actual cost of construction to the capital facilities shall be based upon cost estimates certified by a professional architect or engineer. However, in no event shall any credit be granted in excess of the estimated construction costs approved by the Council unless the construction project is competitively bid, in which case, the credit shall be limited to the actual cost or 120 percent of the bid amounts, whichever is less; and
 - (3) The donations and construction contributions shall only provide improvements or additions to the capital facilities that are required to accommodate growth.
- (f) If a proposed plan is approved for credit by the Town Administrator, the applicant or owner and the Council shall enter into a credit agreement which shall provide for the parties obligations and responsibilities, including, but not limited to:
- (1) The timing of actions to be taken by the applicant and the obligations and responsibilities of the applicant, including, but not limited to, the applicable construction standards and requirements;
 - (2) The obligations and responsibilities of the Council including, but not limited to, inspection of the project;
 - (3) The amount of the credit as determined in accordance with paragraph (e) of this section; and

- (4) Performance surety in the form of a performance bond or letter of credit in an amount equal to 120 percent of the subject impact construction's total impact fees covered by the credit agreement.

- (g) A credit for the donation of land or equipment or apparatus, or a credit for the construction of an improvement or addition to the capital facilities shall be granted at such time as the credit agreement is approved and executed by both the Council and the applicant or owner; provided, however, that in the event the applicant or owner fails to convey the property which is the subject of the donation to the Town or such property is not ultimately accepted by the Town in accordance with the terms of the credit agreement, then the credit for donation shall be revoked and all impact fees shall immediately become due and payable. If the impact fees due are not fully paid, the Town shall be entitled to draw down the amount of the impact fees not paid plus the administrative costs from the amount of the posted surety, and the Town shall release the posted surety on any remaining balance. the administration of said contribution credits shall be the responsibility of the Town Administrator.

- (h) Any applicant or owner who submits a proposed plan pursuant to this section and desires the immediate issuance of a building permit prior to approval of the proposed plan shall pay the impact fees as a condition of the issuance of the building permit. Any difference between the amount paid and the amount due, should the Town Administrator approve and accept the proposed plan, shall be refunded to the applicant or owner.

- (i) The holder of any impact fee credits granted by the Town shall be entitled to redeem such credits for the full benefit of the density or intensity represented by such credits as of the date of issuance, notwithstanding any subsequent increase in impact fee rates. The transferability of any impact fee credits granted by the Town shall be in accordance with state law.

- (j) Impact fee credits granted for one type of facility shall not be transferable as a credit against an impact fee levied for any other purpose.

Sec. 43-26. – Review hearings.

- (a) An applicant or owner who is required to pay an impact fee pursuant to this chapter shall have the right to request a review hearing before the Council. Such hearing shall be limited to the review of the following:
 - (1) The application and calculation of the appropriate impact fee pursuant to this chapter, including administrative determinations pursuant to section 43-32.
 - (2) Denial of an exemption pursuant to section 43-22.

- (3) Any dispute regarding the application for credits pursuant to section 43-25.
- (4) Rejection of an alternative impact fee pursuant to section 43-21.
- (b) Except as otherwise provided in this chapter, such review hearing shall be requested by the applicant or owner within 30 days of written notice of the event sought to be reviewed. Failure to request a review hearing within the time provided shall be deemed a waiver of such right.
- (c) A request for review hearing shall be filed with the Town Administrator and shall contain the following information:
 - (1) The name and address of the applicant or owner;
 - (2) The legal description of the property in question;
 - (3) If issued, the date the building permit was issued;
 - (4) A brief description of the nature of the construction being undertaken pursuant to the building permit;
 - (5) If paid, the date the impact fee was paid; and
 - (6) A statement of the reasons why the applicant or owner is requesting the appeal.
- (d) Upon receipt of such request, a hearing shall be scheduled before the Town Council at a regularly scheduled meeting, or a special meeting called for the purpose of conducting the hearing, and shall provide the applicant and owner written notice of the time and place of the hearing. Such hearing shall be held within 60 days of the date the request for hearing was filed, unless there are no regularly scheduled Council meetings within 60 days of such date, in which event the hearing shall be held at the Council's next regularly scheduled meeting.
- (e) The hearing shall be before the Council and shall be conducted in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedure and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence. A determination shall be made in writing and issued within 30 days of the hearing to the applicant or owner.
- (f) Any applicant or owner who requests a hearing pursuant to this section and desires the immediate issuance of a building permit shall pay the impact fee as a condition of the

issuance of the building permit, or if a building permit has been issued without the payment of the impact fee, the applicant or owner shall pay the applicable impact fee prior to or at the time the request for hearing is filed. Said payment shall be deemed paid “under protest” and shall not be construed as a waiver of any review rights.

- (g) An applicant or owner may request a hearing under this section without paying the applicable impact fee, but no building permit shall be issued until such impact fee is paid in the amount initially calculated or the amount approved upon completion of the review provided in this section.

Sec. 43-27. – Review requirement.

- (a) This chapter and the impact fee studies described herein shall be reviewed by the Council at least every four years from the effective date of this chapter. The initial review and each review thereafter shall consider new estimates of population and other socioeconomic data, changes in construction, land acquisition and related costs, and adjustments to the assumptions, conclusions or findings set forth in such impact fee studies.
- (b) The purpose of this review is to evaluate and revise, if necessary, the impact fees to ensure that they do not exceed the reasonably anticipated costs associated with the capital facilities necessary to offset the demand generated by the new construction.
- (c) In the event the review of this chapter and the impact fee studies required by this section alters or changes the assumptions, conclusions, and findings of the impact fee studies adopted herein or alters or changes the amount or classification of the impact fees, such studies shall be amended and updated to reflect the assumptions, conclusions, and findings of such reviews.

Sec. 43-28. – Declaration of exclusion from Administrative Procedures Act.

Nothing contained in this chapter shall be construed or interpreted to include the Town in the definition of agency contained in F.S. § 120.52, or to otherwise subject the Town to the application of the Administrative Procedures Act, F.S. ch. 120. This declaration of intent and exclusion shall apply to all proceedings taken as a result of or pursuant to this chapter.

Sec. 43-29. – Notice of impact fee rates.

Prior to the adoption of this chapter or any subsequent action by the Town having the effect of increasing the rate of any impact fee provided for in this chapter, imposing an impact fee for the first time, or revising the methodology for the calculation of an impact fee, the Town Administrator shall provide for notice to be published once in a newspaper of general circulation within the Town providing: (a) a brief and general description of the affected impact fee, (b) a

description of the geographic area in which the impact fee will be collected; (c) the impact fee rates to be imposed for each impact fee land use category for the applicable impact fee; and (d) the date of implementation of the impact fee rates set forth in the notice, which date shall not be less than 90 days after the date of publication of the notice.

Sec. 43-30. – Refunds of impact fee.

- (a) The impact fees collected pursuant to this chapter shall be returned to the then-current owner of the property on behalf of which such fee was paid, if such fees have not been expended or encumbered prior to the end of the fiscal year immediately following the tenth anniversary of the date upon which such fees were paid. Refunds shall be made only in accordance with the following procedure:
- (1) The then-current owner shall petition the Town for the refund within 90 days following the end of the calendar quarter immediately following the tenth anniversary of the date of payment of the impact fee.
 - (2) The petition for refund shall be submitted to the Town Administrator and shall contain:
 - a. A notarized sworn statement that the petitioner is the present owner of the property on behalf of which the impact fee was paid;
 - b. A copy of the dated receipt issued for payment of the impact fee, or such other record as would evidence payment; and
 - c. A certified copy of the latest recorded deed or a copy of the most recent ad valorem tax bill.
 - (3) Within 90 days from the date of receipt of a petition for refund, the Town Administrator will advise the petitioner and the Council of the status of the impact fee requested for refund, and if such impact fee has not been expended or encumbered within the applicable time period, then it shall be returned to the petitioner. For the purposes of this section, fees collected shall be deemed to be spent or encumbered on the basis of the first fee in shall be the first fee out.
- (b) In the event that a legal challenge is filed in connection with the payment of any impact fee, the ten-year period referenced in this section shall not begin to run until completion of the associated litigation and appeals.

Sec. 43-31. – Administrative costs.

The Town may retain up to **one percent** of all impact fees collected pursuant to this chapter or the actual costs of administration and collection, whichever is less, as an administrative fee to defray the costs of collecting and administering the impact fees.

Sec. 43-32. – Administrative determinations.

- (a) In the event the impact construction does not fall within an established impact fee land use category set forth herein, the Town Administrator shall administratively determine the impact to be generated by the proposed impact construction and shall calculate the appropriate impact fees utilizing the methodology contained in the applicable impact fee studies. The Town Administrator shall utilize as a standard in this determination the impact assumed in the most similar impact fee land use category or any other generally accepted standard source of planning and cost impact analysis.
- (b) In the event an impact construction involves a mixed-use construction, the Town Administrator shall calculate the impact fees based upon the impact to be generated by each separate impact fee land use category included in the proposed mixed-use construction.
- (c) Any applicant aggrieved by the decision of the Town Administrator rendered pursuant to this section may seek review pursuant to **section 43-26**.

Secs. 43-33. — 43-39. - Reserved.

ARTICLE III. – POLICE IMPACT FEES

Sec. 43-40. – Definitions applicable to police impact fees.

In addition to the general definitions contained in section 43-3, the following terms shall have the following meanings as used in this article:

Police facilities shall mean the buildings, land, vehicles, apparatus, and equipment used by the Town Police Department in the apprehension, prevention, or investigation of criminal violations or illegal actions within the Town.

Police impact construction shall mean land construction designed or intended to permit a use of the land which will contain more dwelling units, buildings, or square footage than the existing use of land, or to otherwise change the use of the land in a manner that increases the impact upon the police facilities. In the administration of this chapter, this term shall be included within the term “impact construction”, as defined in section 43-3.

Police impact fee shall mean the impact fee imposed pursuant to this chapter to fund growth-necessitated capital improvements to police facilities.

Police impact fee study shall mean the portion of the impact fee study adopted in section 43-6 relating to the police impact fee.

Sec. 43-41. – Legislative findings applicable to police impact fees.

In addition to the general legislative findings contained in section 43-4, the Council hereby specifically ascertains, determines, and declares as follows:

- (a) The data set forth in the police impact fee study, which was employed in the calculation of the police impact fee rates adopted herein, is the most recent and localized data available for the police facilities.
- (b) Development necessitated by the growth contemplated in the comprehensive plan and the police impact fee study will require improvements and additions to police facilities to accommodate the new development generated by such growth and maintain the standards of service provided by the police facilities.
- (c) The Council specifically finds that the police facilities benefit all residents and businesses within the Town and, therefore, the police impact fee shall be imposed on all police impact construction in all incorporated areas of the Town.

Sec. 43-42. – Imposition of police impact fees.

All police impact construction occurring within the Town shall pay the following police impact fee as a condition of issuance of a building permit for such police impact construction:

- (a) Residential: \$671.00 per dwelling unit.
- (b) Non-residential:

Non-Residential Police Impact Fees		
	Unit	Fee
Industrial/Warehousing	Square Foot	\$0.22
Institutional/Government	Square Foot	\$0.51
Office Buildings (Office)	Square Foot	\$2.08
Retail (Retail and Food Service)	Square Foot	\$6.27

Sec. 43-43. – Use of police impact fees.

- (a) The Council hereby creates the “Police Impact Fee Trust Account”, which shall be maintained separate and apart from all other Town accounts. All police impact fees shall be deposited into the Police Impact Fee Trust Account immediately upon receipt.
- (b) Revenues generated by the police impact fee shall not be used, in whole or in part, to pay existing debt for the police facilities or for previously approved projects related to the police facilities unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by police impact construction.
- (c) The monies deposited into the Police Impact Fee Trust Account shall be used solely for the purpose of providing improvements or additions to the police facilities required to serve new growth as projected in the police impact fee study. Funds on deposit in the Police Impact Fee Trust Account shall not be used for any expenditure that would be classified as a maintenance or repair expense.
- (d) Any funds on deposit which are not immediately necessary for expenditure may be held in an interest-bearing account or invested by the Town. All income derived from such investments shall be deposited in the Police Impact Fee Trust Account and used as provided herein.

Secs. 43-44. — 43-49. - Reserved.

ARTICLE IV. – PARKS AND RECREATION FACILITIES IMPACT FEES

Sec. 43-50. – Definitions applicable to parks and recreation facilities impact fees.

In addition to the general definitions contained in section 43-3, the following terms shall have the following meanings as used in this article:

Parks and recreation facilities shall mean all parks, recreation, and open space facilities owned and operated by the Town for use and enjoyment by the public, including, but not limited to, active parks, passive parks, water access sites, and associated recreational facilities and buildings.

Parks and recreation facilities impact fee shall mean the impact fee imposed pursuant to this article to fund growth-necessitated capital improvements to the parks and recreation facilities.

Parks and recreation impact fee study shall mean the portion of the impact fee study adopted in section 43-6 relating to the parks and recreation impact fee.

Sec. 43-51. – Legislative findings applicable to parks and recreation facilities impact fees.

In addition to the general legislative findings contained in section 43-4, the Council hereby specifically ascertains, determines, and declares as follows:

- (a) The data set forth in the parks and recreation impact fee study, which was employed in the calculation of the parks and recreation impact fee rates adopted herein, is the most recent and localized data available for the parks and recreation facilities.
- (b) Development necessitated by the growth contemplated in the comprehensive plan and the parks and recreation impact fee study will require improvements and additions to the parks and recreation facilities to accommodate the new development generated by such growth and maintain the standards of service provided by the Town.
- (c) The Council specifically finds that the parks and recreation facilities benefit all residents and businesses within the Town and, therefore, the parks and recreation impact fee shall be imposed on all residential construction, as defined in section 43-3, occurring within the Town.

Sec. 43-52. – Imposition of parks and recreation facilities impact fees.

All residential construction occurring within the Town shall pay the following parks and recreation impact fee as a condition of issuance of a building permit for such residential construction: \$560.00 per dwelling unit.

Sec. 43-53. – Use of parks and recreation facilities impact fees.

- (a) The Council hereby creates the “Parks and Recreation Impact Fee Trust Account”, which shall be maintained separate and apart from all other Town accounts. All parks and recreation impact fees shall be deposited into the Parks and Recreation Impact Fee Trust Account immediately upon receipt.
- (b) Revenues generated by the parks and recreation impact fee shall not be used, in whole or in part, to pay existing debt for the parks and recreation facilities or for previously approved projects related to the parks and recreation facilities unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by residential construction.
- (c) The monies deposited into the Parks and Recreation Impact Fee Trust Account shall be used solely for the purpose of providing improvements or additions to the parks and recreation facilities required to serve new growth as projected in the parks and recreation impact fee study. Funds on deposit in the Parks and Recreation Impact Fee Trust Account shall not be used for any expenditure that would be classified as a maintenance or repair expense.

- (d) Any funds on deposit which are not immediately necessary for expenditure may be held in an interest-bearing account or invested by the Town. All income derived from such investments shall be deposited in the Parks and Recreation Impact Fee Trust Account and used as provided herein.

Secs. 43-54. — 43-59. - Reserved.

ARTICLE V. – GENERAL GOVERNMENT AND ADMINISTRATIVE IMPACT FEES

Sec. 43-60. – Definitions applicable to general government and administrative impact fees.

In addition to the general definitions contained in section 43-3, the following terms shall have the following meanings as used in this article:

Administrative facilities shall mean the buildings, land, and capital equipment owned by the Town and used to provide necessary Town administration.

General government and administrative impact construction shall mean land construction designed or intended to permit a use of the land which will contain more dwelling units, buildings, or square footage than the existing use of land, or to otherwise change the use of the land in a manner that increases the impact upon the administrative facilities. In the administration of this chapter, this term shall be included within the term “impact construction”, as defined in section 43-3.

General government and administrative impact fee shall mean the impact fee imposed pursuant to this chapter to fund growth-necessitated capital improvements to the administrative facilities.

General government and administrative impact fee study shall mean the portion of the impact fee study adopted in section 43-6 relating to the general government and administrative impact fee.

Sec. 43-61. – Legislative findings applicable to general government and administrative impact fees.

In addition to the general legislative findings contained in section 43-4, the Council hereby specifically ascertains, determines, and declares as follows:

- (a) The data set forth in the general government and administrative impact fee study, which was employed in the calculation of the general government and administrative impact fee rates adopted herein, is the most recent and localized data available for the administrative facilities.

- (b) Development necessitated by the growth contemplated in the comprehensive plan and the general government and administrative impact fee study will require improvements and additions to the administrative facilities to accommodate the new development generated by such growth and maintain the standards of general government and administrative services provided by the Town.
- (c) The Council specifically finds that the administrative facilities benefit all residents and businesses within the Town and, therefore, the general government and administrative impact fee shall be imposed on all general government and administrative impact construction occurring within the Town.

Sec. 43-62. – Imposition of general government and administrative impact fees.

All general government and administrative impact construction occurring within the Town shall pay the following general government and administrative impact fee as a condition of issuance of a building permit for such general government and administrative impact construction:

- (a) Residential: \$694.00 per dwelling unit
- (b) Non-residential:

Non-Residential General Government and Administrative Impact Fees		
	Unit	Fee
Industrial/Warehousing	Square Foot	\$0.09
Institutional/Government	Square Foot	\$0.21
Office Buildings (Office)	Square Foot	\$0.87
Retail (Retail and Food Service)	Square Foot	\$2.60

Sec. 43-63. – Use of general government and administrative impact fees.

- (a) The Council hereby creates the “General Government and Administrative Impact Fee Trust Account”, which shall be maintained separate and apart from all other Town accounts. All general government and administrative impact fees shall be deposited into the General Government and Administrative Impact Fee Trust Account immediately upon receipt.
- (b) Revenues generated by the general government and administrative impact fee shall not be used, in whole or in part, to pay existing debt for the administrative facilities or for previously approved projects related to the administrative facilities unless the expenditure

is reasonably connected to, or has a rational nexus with, the increased impact generated by general government and administrative construction.

- (c) The monies deposited into the General Government and Administrative Impact Fee Trust Account shall be used solely for the purpose of providing improvements or additions to the administrative facilities required to serve new growth as projected in the general government and administrative impact fee study. Funds on deposit in the General Government and Administrative Impact Fee Trust Account shall not be used for any expenditure that would be classified as a maintenance or repair expense.
- (d) Any funds on deposit which are not immediately necessary for expenditure may be held in an interest-bearing account or invested by the Town. All income derived from such investments shall be deposited in the General Government and Administrative Impact Fee Trust Account and used as provided herein.

Secs. 43-64. — 43-69. - Reserved.

* * * *

SECTION 3. Codification. It is the intent of the Town Council that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provision of this Ordinance.

SECTION 4. Conflicts. All Town ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, repealed.

SECTION 5. Severability. If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unenforceable, unlawful, or unconstitutional by a court of competent jurisdiction, then the remaining portion of this Ordinance shall continue in full force and effect.

SECTION 6. Effective date. This Ordinance shall become effective 90 days from the date of adoption of this Ordinance, pursuant to the requirements of F.S. § 163.31801.

Upon motion duly made and carried, the foregoing Ordinance was approved upon its first reading on _____, 2024.

Upon motion duly made and carried, the foregoing Ordinance was approved and adopted upon its second reading on _____, 2024.

Attest:

TOWN OF EATONVILLE

Veronica King,
Town Clerk

Angie Gardner, Mayor

Approved as to Form:

Clifford B. Shepard, Town Attorney