

ORDINANCE 2016-09

AN ORDINANCE AMENDING CHAPTER 78 ARTICLE VI, "WATER AND SEWER SYSTEM IMPACT FEE" SECTION 78-386 AND SECTION 78-390 "PAYMENT" OF THE HIGH SPRINGS CODE OF ORDINANCES; PROVIDING FOR PAYMENT OF IMPACT FEES FOR WATER AND SEWER PRIOR TO THE ISSUANCE OF CERTIFICATE OF OCCUPANCY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR CODIFICATION

WHEREAS, Chapter 78, Article VI, Sections 78-386 and 78-390 of the High Springs Code of Ordinances adopted the City's water and sewer system impact fee via Ordinance 2013-05 adopted on or about September 12, 2013; and

WHEREAS, Sections 78-386 and 78-390 require payment of the impact fees prior to any connection to the water or sewer system; and

WHEREAS, the City Commission desires to amend Sections 78-386 and 78-390 authorizing payment of the water and sewer impact fees prior to the issuance of a Certificate of Occupancy; and

WHEREAS, after proper notice and public hearing, the City Commission has determined that it is prudent to amend the High Springs Code of Ordinances relating to the payment of impact fees to alleviate the burden on developers in the City; and

WHEREAS, the City Commission of the City of High Springs has determined that it is desirable to amend Chapter 78, Article VI, Sections 78-386 and 78-390 of the High Springs Code of Ordinances to allow for payment of impact fees prior to Certificate of Occupancy.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HIGH SPRINGS:

Section 1: Chapter 78, Article VI "Water and Sewer System Impact Fee", Sections 78-386 and 78-390 of the High Springs Code of Ordinances entitled "Payment" are hereby amended to read as follows (words ~~struck through~~ have been deleted, and words underlined have been added):

ARTICLE VI. - WATER AND SEWER SYSTEM IMPACT FEE
DIVISION 1. - GENERAL

Sec. 78-381. - Definitions.

When used in this article, the following terms shall have the following meanings, unless the context clearly indicates otherwise:

Affordable housing shall mean a dwelling unit which is offered for sale or rent to low-income persons or very-low-income persons and which monthly rent or monthly mortgage payments,

including taxes, insurance and utilities, do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross income for low-income persons and very-low-income persons.

Alternative sewer system impact fee shall mean any alternative sewer system fee calculated by an applicant and approved by the city manager pursuant to section 78-388 hereof.

Alternative sewer system impact fee study shall mean a study prepared by an applicant and submitted to the city manager pursuant to section 78-388 hereof.

Alternative water system impact fee shall mean any alternative water system fee calculated by an applicant and approved by the city manager pursuant to section 78-392 hereof.

Alternative water system impact fee study" shall mean a study prepared by an applicant and submitted to the city manager pursuant to section 78-388 hereof.

Apartment shall mean a rental dwelling unit located within the same building as other dwelling units.

Applicant shall mean the person who applies for a water and/or sewer connection to the city's water and/or sewer system.

Building shall mean any structure, either temporary or permanent, built for the support, shelter or enclosure of persons, chattels or property of any kind, or any other improvement, use, or structure which creates or increases the potential demand on the sewer utility system or water utility system operated by the city. This term shall include trailers, mobile homes, or any vehicle 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 building permit.

Capital construction costs shall mean all or any portion of the expenses that are properly attributable to the acquisition, design, construction, installation, and reconstruction (including demolition, environmental mitigation and relocation) of improvements to the sewer system or water system under generally accepted accounting principles; and including reimbursement to the city for any funds advanced for capital construction costs and interest on any interfund or intrafund loan for such purposes.

City shall mean the City of High Springs, Florida. Where the context requires, the term "city" shall also be deemed to the city manager as designated by the city commission.

City attorney shall mean the person appointed by the city commission to serve as its counsel or the designee of such person.

City commission shall mean the City Commission of the City of High Springs, Florida.

City manager shall mean the person, persons or the corporation appointed by the city commission to supervise the administration, operations and acquisitions of the sewer system and water system or the designee of such person.

Condominium shall mean a dwelling unit that has at least one other similar unit within the same building structure. The term "condominium" includes all fee-simple or similarly titled multi-unit structures, including townhouses and duplexes.

Development shall mean a single-family, multi-family, commercial, industrial, mixed-use, institutional, etc. project that has multiple units and/or a use that is different, exceeds, and/or modifies the ERC definition as defined herein. Calculation of development impact fees will utilize the ERC basis based on their aggregated demand as calculated based on the provisions within section 78-385(c) and/or section 78-389(c).

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.

Economic base development shall mean a new or expanding business engaged in warehouse development, manufacturing, distribution, technology research and development or retail that has a positive economic and fiscal impact on the city and creates employment in the city as determined by the city manager and approved by the city commission.

Encumbered shall mean moneys committed by contract or purchase order in a manner that obligates the city to expend the encumbered amount upon delivery of goods, the rendering of services or the conveyance of real property interests by a vendor, supplier, contractor or owner.

ERC or equivalent residential connection shall mean the equivalent of the average water and sewer usage requirements of a single-family residential customer. The city's average water usage is 225 gallons per day (gpd) per ERC. The city's average sewer usage is 135 gpd/ERC.

Impact fees shall mean collectively the sewer system impact fee and water system impact fee. This term shall be synonymous with the term "impact fee" and "reserve capacity charge" as used in this or prior policies or tariffs relating to the subject matter addressed by this article, but does not include the fees or charges imposed by the city as reimbursement for the costs of physical connection to the sewer system or the water system or costs associated with a specific development's connection (i.e. pipeline extensions, trunk line connections, etc.) to the sewer system and/or water system.

Impact fee improvements shall mean those improvements that form the basis for the impact fee calculations in the study adopted pursuant to section 78-384, or such other capital improvements designed to provide needed water and/or sewer system capacity to service new growth within the service area.

Low-income persons shall mean one or more natural persons, the total adjusted gross household income of which does not exceed 80 percent of the median adjusted gross income for households within the Gainesville, Florida, metropolitan statistical area as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

Mobile home shall mean a structure transportable in one or more sections, which structure is eight body feet or more in width and over 35 feet in length, and which structure is built on an integral chassis and designed to be used as a dwelling unit when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

Multi-family shall mean a building or a portion of a building, regardless of ownership, containing more than one dwelling unit designed for occupancy by a single family, which units are not customarily offered for rent for one day, and shall include apartments, townhouses, and condominiums.

Owner shall mean the person holding legal title to the real property for which impact fees are paid.

Person shall mean an individual a corporation, a partnership, an incorporated association, trust or any other entity.

Qualifying jobs shall mean:

- (a) New full time jobs (positions could not have existed during the two years prior to the date of application for an economic base development exemption);
- (b) Each new job must be guaranteed to remain in existence for four years from the date of construction completion; and
- (c) Each new job must pay in excess of the annual gross median income for households within the Gainesville, Florida, metropolitan statistical area as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

Sewer system shall mean the wastewater or sewer utility system directly or indirectly connected to treatment facilities operated by the city.

Water system shall mean the water utility system directly or indirectly connected to treatment facilities operated by the city.

Residential means multi-family dwelling units, mobile homes and single-family detached houses.

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

Service area shall mean that area served by the city's water system and sewer system within Alachua County, Florida.

Sewer system impact development shall mean development upon lands within the area served by facilities owned and operated by the city which shall be subjected to the payment of sewer system impact fees under this article or its predecessor in function upon the first occurrence of any of the following:

- (a) Whenever any existing building or structure, which has not previously paid sewer system impact fees under this article or its predecessor in function, connects to the sewer system; or
- (b) Whenever any existing building or structure or applicable improvement which is connected to an interim sewer system is connected, either directly or indirectly, to the sewer system; or

- (c) Whenever a person alters an existing building, structure or applicable improvement already connected to the sewer system, where such alteration increases the potential demand on the sewer system.

Sewer system impact fee shall mean the fee imposed by the city pursuant to section 78-385 of this article.

Single-family detached house shall mean a dwelling unit on an individual lot, including detached houses on lots less than 50 feet wide, such as zero lot line homes and manufactured homes.

Very-low-income persons shall mean one or more natural persons, the total adjusted gross household income of which does not exceed 50 percent of the median adjusted gross income for households within the Gainesville, Florida, metropolitan statistical area as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function.

Water system impact development shall mean development upon lands within the area served by facilities owned and operated by the city which shall be subjected to the payment of water system impact fees under this article or its predecessor in function upon the first occurrence of any of the following:

- (a) Whenever any existing building or structure, which has not previously paid water system impact fees under this article or its predecessor in function, connects to the water system; or
- (b) Whenever any existing building or structure or applicable improvement which is connected to an interim water system is connected, either directly or indirectly, to the water system; or
- (c) Whenever a person alters an existing building, structure or applicable improvement already connected to the water system, where such alteration increases the potential demand on the water system.

Water system impact fee shall mean the fee imposed by the city pursuant to section 78-389 of this article.

Sec. 78-382. - Rules for construction.

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

- (a) In case of any difference of meaning or implication between the text of this article and any caption, illustration, appendix, 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 shall be interpreted as follows:
 - (1) "And" indicates that all the connected terms, conditions, provisions or events apply in combination.
 - (2) "Or" indicates that the connected terms, 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) The terms "growth," "growth necessitated improvements," "future growth" and the like shall refer, and be construed as referring to sewer system impact development or water system impact development either occurring or connecting, either directly or indirectly, to the sewer system or water system subsequent to the effective date of this article.
- (h) All time periods contained within this article shall be calculated on a calendar day basis, including Sundays and legal holidays. In the event the due date falls on a Sunday or legal holiday, the due date shall run until the end of the next day that is neither a Sunday nor legal holiday.

Sec. 78-383. - Findings.

It is hereby ascertained, determined and declared that:

- (a) Pursuant to Article VIII, section 2(b), Florida Constitution, and F.S. §§ 166.021 and 166.041, the city commission has all powers of local self-government to perform municipal functions, except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of city ordinances.
- (b) Water and/or sewer system improvements and/or expansion necessitated by the growth contemplated within the service area will require capital expenditures, and/or reimbursement of the city's existing investment into the sewer and/or water system, to accommodate the utility needs of such growth and maintain the standards of service adopted by the city.
- (c) Demands represented by sewer system impact development and water system impact development should contribute its fair share to the cost of improvements, whether past, present, or future, and additions to the sewer system and water system which are required to accommodate the use of the sewer system and water system by such demand.
- (d) Implementation of a sewer system impact fee to require new development(s) to contribute its fair share of sewer system costs is an integral and vital element of the city's operation and management of the sewer system.

- (e) Implementation of a water system impact fee to require new development(s) to contribute its fair share of water system costs is an integral and vital element of the city's operation and management of the water system.
- (f) Capital planning is an evolving process, and the impact fee study for the sewer system and water system constitutes a projection of anticipated need for each system, based upon present knowledge and judgment. Therefore, in recognition of changing growth patterns, and the dynamic nature of population growth, it is the intent of the city commission that the level of service for the sewer system and water system and the associated impact fees imposed be reviewed and adjusted periodically, pursuant to section 78-398, to insure that the impact fees are imposed equitably and lawfully, based upon actual and anticipated growth at the time of their imposition.
- (g) The imposition of the sewer system impact fee is to provide a source of revenue to reimburse the consumption of existing facility capacity or to fund the construction and improvement of the sewer system necessitated by growth.
- (h) The imposition of the water system impact fee is to provide a source of revenue to reimburse the consumption of existing facility capacity or to fund the construction and improvement of the water system necessitated by growth.
- (i) The presence of the sewer system enhances and benefits the health, safety and general welfare of properties within the city's service area.
- (j) The presence of the water system enhances and benefits the health, safety and general welfare of properties within the city's service area.
- (k) Any revenue derived from the sewer system impact fee shall be utilized only to reimburse the consumption of existing capacity and facilities or for the acquisition of improvements and additions to the sewer system which are necessitated by sewer system impact development either occurring or connecting to the sewer system subsequent to the effective date of this article.
- (l) Any revenue derived from the water system impact fee shall be utilized only to offset the consumption of existing capacity and facilities or for the acquisition of improvements and additions to the water system which are necessitated by water system impact development either occurring or connecting to the water system subsequent to the effective date of this article.
- (m) Neither the sewer system impact fees nor the water system impact fees are designed to include the physical costs of connection to either the sewer system or water system and all physical connection costs shall be paid separately. This shall also include any additional pipelines, connections, pump stations, etc. required to connect a building and/or development to the sewer system and/or water system. It shall be the responsibility of the owner and/or developer of the specific connection (i.e. building or development) to design, permit, and construct that connection upon review and approval by the city. The city may enter into separate developer agreements, as required, to address specific development and/or connection needs.

- (n) The purpose of this article is to define the cost, rational, and method of payment for the sewer system and water system impact fees which are required to accommodate growth. This article shall not be construed to permit the collection of impact fees in excess of the amount reasonably anticipated to offset the demand on the sewer system or the water system generated by such growth.

Sec. 78-384. - Adoption of amended impact fee study.

The city commission hereby adopts and incorporates by reference the study entitled "Amended Impact Fee Study for the City of High Springs" dated as of July, 2013, reviewed and approved by Mittauer & Associates (in reference to Project No. 1105-01-1), particularly the assumptions, conclusions and findings in such study. The "Impact Fee Study for the City of High Springs" study is attached as Appendix A. [A copy can be found in the city offices.]

DIVISION 2. - SEWER SYSTEM IMPACT FEES

Sec. 78-385. - Imposition.

- (a) All sewer system impact development occurring within the city's service area shall pay a sewer system impact fee of \$2,120.00 per ERC.
- (b) The sewer system impact fee shall be paid in addition to all other fees, charges and assessments due for the connection to the sewer system and is intended to provide funds only for the consumption of existing facility capacity or for growth necessitated improvements and additions to the sewer system.
- (c) In the event a connection is not a single-family home (i.e. ERC) as defined in the sewer impact fees above, the city shall determine the appropriate sewer system impact fee based upon the estimated wastewater production in gallons per day for the type of building or development use as calculated utilizing the Florida Department of Health Rule 64E-6, Florida Administrative Code (F.A.C.) Table 1.

Sec. 78-386. - Payment.

- (a) Except as otherwise provided in this article, prior to any connection to the sewer system, all applicants or owners, as the case may be, shall pay the sewer system impact fee as set forth in section 78-385 directly to the city. Upon written notice to the City, applicants or owners, as the case may be, may pay the sewer impact fee after connection but prior to the issuance of a Certificate of Occupancy. However, no Certificate of Occupancy shall be issued without payment of the impact fee. If an applicant or owner elects to pay subsequent to connection, such payment is due within 180 days of connection, regardless of the issuance of the Certificate of Occupancy. If the applicant or owner fails to pay the sewer system impact fee within 180 days of connection, the applicant or owner shall pay to the City a penalty fee of ten (ten) percent of the sewer impact fee.
- (b) The obligation for payment of the sewer system impact fee and the benefits derived therefrom shall run with the land.
- (c) The terms of any installment payment plan relating to the sewer system impact fee shall be established pursuant to a subsequent resolution of the city.

Sec. 78-387. - Use of monies.

- (a) The city commission hereby confirms the establishment of a separate trust account for the sewer system impact fees, which shall be maintained separate and apart from all other accounts of the city. All such sewer system impact fees shall be deposited into such trust account immediately upon receipt.
- (b) The monies deposited into the sewer system impact fee trust account shall be used solely for the purposes of reimbursement for the consumption of existing facility capacity by growth or providing growth necessitated capital improvements and additions to the sewer system, including, but not limited to:
 - (1) Design or construction plan preparation;
 - (2) Construction management and inspection;
 - (3) Capital construction costs;
 - (4) Reimbursement of excess developer contribution credit pursuant to section 78-397; and
 - (5) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the city to provide funds to construct or acquire growth impacted capital improvements to the sewer system.
- (c) Funds on deposit in the sewer system impact fee trust account shall not be used for any expenditure that would be classified as a maintenance or repair expense.
- (d) The monies deposited into the sewer system impact fee trust account shall be used solely for reimbursement for the consumption of existing facility capacity by sewer system impact development or to provide improvements and additions to the sewer system required by growth, generated by sewer system impact development.
- (e) Any funds on deposit which are not immediately necessary for expenditure shall be invested by the city. All income derived from such investments shall be deposited in the sewer system impact fee trust account and used as provided herein.

Sec. 78-388. - Alternative sewer system impact fee.

- (a) In the event an applicant believes that the impact to the sewer system caused by the building and/or development is less than the impact established in the impact fee study and the fees provided in section 78-385 hereof, such applicant may, prior to physical connection to the sewer system, file an alternative sewer system impact fee study with the city. The city manager shall review the alternative calculations and make a determination within 60 days of submittal as to whether such calculations comply with the requirements of this section.
- (b) For purposes of any alternative sewer system impact fee calculation, the building and/or development shall be presumed to have the maximum impact on the sewer system.
- (c) The alternative sewer system impact fee calculation shall be based on data, information or assumptions contained in this article and the impact fee study or 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 impact fee study; or
 - (2) The independent source is a local study supported by a data base adequate for the conclusions contained in such study performed pursuant to a generally accepted methodology of planning and cost impact analysis which is consistent with the impact fee study.
- (d) If the city manager 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 sewer system impact fee was by a generally accepted methodology that is consistent with the impact fee study, then the alternative sewer system impact fee shall be paid in lieu of the fees adopted in section 78-385 hereof.
 - (e) If the city manager determines that the data, information and assumptions utilized by the applicant to compute an alternative sewer system impact fee do not comply with the requirements of this section, then the city manager shall provide to the applicant by certified mail, return receipt requested, written notification of the rejection and the reasons therefore.

DIVISION 3. - WATER SYSTEM CAPACITY IMPACT FEES

Sec. 78-389. - Imposition.

- (a) All water system impact development occurring within the city's service area shall pay a water system impact fee of \$250.00 per ERC.
- (b) The water system impact fee shall be paid in addition to all other fees, charges and assessments due for the connection to the water system and is intended to provide funds only for the consumption of existing facility capacity or for growth necessitated improvements and additions to the water system.
- (c) In the event a connection is not a single-family home (i.e. ERC) as defined in the water system impact fees above, the city shall determine the appropriate water impact fee based upon the estimated water production in gallons per day for the type of building or development use as calculated utilizing the Florida Department of Health Rule 64E-6, Florida Administrative Code (F.A.C.) Table 1.

Sec. 78-390. - Payment.

- (a) Except as otherwise provided in this article, prior to any connection to the water system, all applicants or owners, as the case may be, shall pay the water system impact fee as set forth in section 78-389 directly to the city. Upon written notice to the City, applicants or owners, as the case may be, may pay the water impact fee after connection but prior to the issuance of a Certificate of Occupancy. However, no Certificate of Occupancy shall be issued without payment of the impact fee. If an applicant or owner elects to pay subsequent to connection, such payment is due within 180 days of connection, regardless of the issuance of the Certificate of Occupancy. If the applicant or owner fails to pay the water system impact fee within 180 days of connection, the applicant or owner shall pay to the City a penalty fee of ten (ten) percent of the sewer impact fee.

- (b) The obligation for payment of the water system impact fee and the benefits derived therefrom shall run with the land.
- (c) The terms of any installment payment plan relating to the water system impact fee shall be established pursuant to a subsequent resolution of the city.

Sec. 78-391. - Use of monies.

- (a) The city commission hereby confirms the establishment of a separate trust account for the water system impact fees, which shall be maintained separate and apart from all other accounts of the city. All such water system impact fees shall be deposited into such trust account immediately upon receipt.
- (b) The monies deposited into the water system impact fee trust account shall be used solely for the purposes of reimbursement for the consumption of existing facility capacity by growth or providing growth necessitated capital improvements and additions to the water system, including, but not limited to:
 - (1) Design or construction plan preparation;
 - (2) Construction management and inspection;
 - (3) Capital construction costs;
 - (4) Reimbursement of excess developer contribution credit pursuant to section 78-397; and
 - (5) Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the city to provide funds to construct or acquire growth impacted capital improvements to the water system.
- (c) Funds on deposit in the water system impact fee trust account shall not be used for any expenditure that would be classified as a maintenance or repair expense.
- (d) The monies deposited into the water system impact fee trust account shall be used solely for reimbursement for the consumption of existing facility capacity by water system impact development or to provide improvements and additions to the water system required by growth, generated by water system impact development.
- (e) Any funds on deposit which are not immediately necessary for expenditure shall be invested by the city. All income derived from such investments shall be deposited in the water system impact fee trust account and used as provided herein.

Sec. 78-392. - Alternative water system impact fee.

- (a) In the event an applicant believes that the impact to the water system caused by the building and/or development is less than the impact established in the impact fee study and the fees provided in section 78-389 hereof, such applicant may, prior to physical connection to the water system, file an alternative water system impact fee study with the city. The city manager shall review the alternative calculations and make a determination within 60 days of submittal as to whether such calculations comply with the requirements of this section.

- (b) For purposes of any alternative water system impact fee calculation, the building and/or development shall be presumed to have the maximum impact on the water system.
- (c) The alternative water system impact fee calculation shall be based on data, information or assumptions contained in this article and the impact fee study or 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 impact fee study; or
 - (2) The independent source is a local study supported by a data base adequate for the conclusions contained in such study performed pursuant to a generally accepted methodology of planning and cost impact analysis which is consistent with the impact fee study.
- (d) If the city manager 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 water system impact fee was by a generally accepted methodology that is consistent with the impact fee study, then the alternative water system impact fee shall be paid in lieu of the fees adopted in section 78-389 hereof.
- (e) If the city manager determines that the data, information and assumptions utilized by the applicant to compute an alternative water system impact fee do not comply with the requirements of this section, then the city manager shall provide to the applicant by certified mail, return receipt requested, written notification of the rejection and the reasons therefore.

DIVISION 4. - MISCELLANEOUS PROVISIONS

Sec. 78-393. - Refund of capacity impact fees.

- (a) The sewer system impact fees or water system impact fees collected pursuant to this article shall be returned to the then current owner of the property on behalf of which the applicable fee was paid if such fees have not been expended or encumbered prior to the end of the fiscal year immediately following the seventh anniversary of the date upon which such fees were paid and a timely petition for the refund is made. Refunds shall be made only in accordance with the following procedure:
 - (1) The then current owner shall petition the city commission for the refund prior to the end of the fiscal year immediately following the end of the fiscal year in which the date of the seventh anniversary of the date of the payment of the sewer system impact fee or water system impact fee occurs.
 - (2) The petition for refund shall be submitted to the city manager, on a form approved by the city manager, and shall contain:
 - a. A sworn statement that the petitioner is the then current legal owner of the property on behalf of which the applicable impact fee was paid;
 - b. A copy of the dated receipt issued for payment of the applicable fee, or such other record as would indicate payment of the fee;

- c. A certified copy of the latest recorded deed or other instruments evidencing title; a representation that the most recent recorded deed or other instruments evidencing title reflect the exact names of all current legal owners; a representation that the petitioner will notify the city of any changes in the status of legal ownership which occurs prior to any refund from the city;
 - d. 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 city manager will advise the owner and the city commission of the status of the applicable 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, charges collected shall be deemed to be spent or encumbered on the basis of the first fee in shall be the fee out.
- (b) The fact that an owner receives a refund does not excuse the property from later being subjected to payment of impact fees under this article upon otherwise being characterized as sewer system impact development or water system impact development.
 - (c) Any owner entitled to a refund who fails to timely petition for a refund upon becoming eligible to do so shall be deemed to have waived any claim for a refund, and the city shall be entitled to retain and apply the impact fees as reimbursement for consumption of existing facility capacity by growth or for growth necessitated capital improvements and additions to the sewer system or water system, as applicable.
 - (d) Monies refunded in accordance with this section shall be returned with interest paid at the rate of the average net interest earned by the city in the sewer system impact fee trust account or water system impact fee trust account, as applicable.

Sec. 78-394. - Exemptions.

The following shall be exempted from payment of impact fees:

- (a) Alterations or expansion of an existing building, structure or improvement where no additional demand on either the sewer system or the water system is or will be created.
- (b) The construction of accessory buildings, structures or improvements which will not create an additional demand on either the sewer system or the water system.
- (c) The replacement of an existing building, structure or improvement which has been previously been subjected to a impact fee payable to the city where no additional demand is or will be created on either the sewer system or the water system.
- (d) Economic base development exemption: Any development project that qualifies as an economic base development and meets the following requirements:
 - (1) Creates 15 qualifying jobs in the city within 12 months of construction completion.
 - (2) The employer has made a minimum investment or expansion of \$500,000.00 in plant and/or equipment during the calendar year in which the application for an economic base development exemption is submitted.

- (3) The employer must provide detailed information to the city to calculate the estimated total economic impact/benefit of the economic base development to the city. The direct economic impact/benefit to the city must exceed the amount of the impact fee exemption.
 - (4) The employer must agree to maintain operations within the incorporated area of the city for a minimum of ten years.
 - (5) The employer shall provide ongoing company information to the city for monitoring purposes.
 - (6) Upon approval of the economic base development exemption request by the city commission, the employer will be required to enter into an agreement with the city guaranteeing that the qualifying jobs will be created within a specific period of time and setting forth the minimum duration of the qualifying jobs and certain other terms relating to the economic base development exemption. In the event the employer is unable to deliver the guaranteed qualifying jobs within 12 months of completion of construction or if the qualifying jobs are eliminated during the term of the agreement, the city will have the authority to recover payments of either a full or pro rated portion of the exempted impact fees.
- (e) Affordable housing exemption: Any residential construction that qualifies as affordable housing and meets the following requirements:
- (1) Any person seeking an affordable housing exemption for an owner-occupied residential construction shall file with the city manager an application for exemption prior to physical connection to either the water system or the sewer system for the proposed residential construction. The application for exemption shall contain the following:
 - a. The name and address of the owner;
 - b. The legal description of the residential construction;
 - c. The proposed selling price of the residential construction;
 - d. Evidence that the residential construction shall be occupied by low-income persons or very-low-income persons;
 - e. Evidence that the residential construction shall be occupied as the legal homestead of the owner; and
 - f. A copy of a fully executed and recordable lien upon the residential construction in the amount of the impact fees waived hereunder and that contains a due on sale clause requiring the payment of the impact fees in the event the residential construction is sold within seven years from the date of the issuance of a certificate of occupancy.
 - (2) Any person seeking an affordable housing exemption for a rental residential construction located within a qualifying multi-family rental project shall file with the city manager an application for exemption prior to receiving a building permit (or

certificate of occupancy if the impact fee is due at certificate of occupancy) for the proposed residential construction. The application for exemption shall contain the following:

- a. The name and address of the owner;
 - b. The legal description of the residential construction;
 - c. The proposed rental rates;
 - d. Evidence that the residential construction shall be occupied by low-income persons or very-low-income persons; and
 - e. Evidence that the residential construction is part of a multi-family project, which is funded by a governmental affordable housing program.
- (3) If the residential construction meets the requirements for an affordable housing exemption, the city manager shall issue an exemption. The exemption shall be presented in lieu of payment of the impact fee.
- (4) The amount of the impact fees shall not be increased to replace any revenue lost due to the affordable housing exemption.
- (5) In the event the residential dwelling unit fails meet the restrictions of affordable housing as provided herein within the seven-year period following the issuance of the certificate of occupancy such that the property no longer qualifies as affordable housing and is no longer occupied by low-income persons or very-low-income persons, the impact fees in effect at the time of the change in circumstances shall be due.
- (f) The city may, at its discretion, exempt impact fees for certain projects funded through state and/or federal grant/loan programs where the cost of providing treatment has been incorporated into the prevailing rate structure.

Sec. 78-395. - Changes of size and use.

- (a) Impact fees shall be imposed and calculated for the alteration, expansion or replacement of sewer system impact development or water system impact development which will result in a land use determined to create an additional demand on either the sewer system or the water system. Whenever any person applies to connect to either the sewer system or water system, the impact fee imposed shall be calculated on the entirety of the buildings. Where the alteration, expansion or replacement occurs on lands for which a sewer system impact fee or water system impact fee has already been paid, the impact fee imposed shall be only upon the additional demand created by the alteration, expansion or replacement.
- (b) No refund or credit shall be afforded an owner or applicant in the event of a diminution of use occurs after the sewer system impact fee or water system impact fee already paid has been expended or encumbered. 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.

Sec. 78-396. - Alternative collection method.

It is not the city's intent to allow connections to the sewer and/or water system without payment of the appropriate impact fee. However, in the event the sewer system impact fee or the water system impact fee, as applicable, is not paid prior to physical connection to either the sewer system or the water system, the city shall proceed to collect the sewer system impact fee or water system impact fee, as applicable, as follows:

- (a) The city shall serve, by certified mail, return receipt requested, a notice of impact fee statement upon the owner at the address appearing on the most recent records maintained by the property appraiser of the county in which the property is located. Service shall be deemed effective on the date of the return receipt indicates the notice was received by either the applicant or the owner. The notice of impact fee statement shall contain a reasonable legal description of the property and shall advise the applicant and owner that:
 - (1) The amount due and the general purpose for which the sewer system impact fee was imposed or, as applicable, the amount due and the general purpose for which the water system impact fee was imposed;
 - (2) A hearing pursuant to section 78-396 may be requested within 30 calendar days from the effective date of service of the notice of impact fee statement, by making application to the office of the city manager.
- (b) The sewer system impact fee or water system impact fee, as applicable, shall be delinquent if, within 30 calendar days from the effective date of service of the notice of impact fee statement, neither the impact fee has been paid and received by the city nor has a review hearing been requested pursuant to section 78-398. In the event a hearing is requested pursuant to section 78-398, the unpaid impact fees shall become delinquent if not paid within 30 days from the date the city commission determines the amount of impact fees due upon the conclusion of such a hearing. Upon becoming delinquent, the sewer system impact fee or the water system impact fee, as applicable, shall be subject to interest on the unpaid amount at the statutory rate for final judgments on a calendar day basis until paid.
- (c) In the event the sewer system impact fee or water system impact fee becomes delinquent, the total amount of unpaid impact fees plus any applicable interest shall be added to the owner's monthly bill for water or sewer service, as applicable, and shall be paid as a condition of service.
- (d) At the city's discretion, any delinquent impact fees may be collected by any other method which is authorized by law, including, but not limited to, lien foreclosure proceedings.

Sec. 78-397. - Developer contribution credit.

- (a) The city may enter into a contribution agreement (i.e. developer's agreement) with a developer which grants a credit for sewer system impact fees imposed in section 78-385 or water system impact fees imposed in section 78-389 in exchange for certain donations of impact fee improvements, or for the construction or installation of certain impact fee improvements.

Sec. 78-398. - Review hearings.

- (a) An applicant or owner who is required to pay a sewer system impact fee pursuant to section 78-385 or a water system impact fee pursuant to section 78-389, shall have the right to request a review hearing.
 - (b) Such hearing shall be limited to the review of the following:
 - (1) The application of the sewer system impact fee pursuant to section 78-385.
 - (2) The application of the water system impact fee pursuant to section 78-389.
 - (3) Denial of a developer contribution credit pursuant to section 78-397.
 - (4) Denial of an exemption pursuant to section 78-394.
 - (5) Denial of an alternative sewer system impact fee or an alternative water system impact fee.
 - (c) Except as otherwise provided in this article, such hearings shall be requested by the applicant or owner within 30 days, including Sundays and legal holidays, of the date of first receipt of the following, whichever is applicable:
 - (1) Receipt of notice from the city that an impact fee is due.
 - (2) The denial of developer contribution credit.
 - (3) The denial of an impact fee exemption.
- Failure to request a hearing within the time provided shall be deemed a waiver of such right.
- (d) The request for hearing shall be filed with the office of the city manager and shall contain the following:
 - (1) The name and address of the applicant and owner;
 - (2) The legal description of the property in question;
 - (3) A brief description of the improvements on the property or the connection being undertaken;
 - (4) If paid, the date the sewer system impact fee or water system impact fee, as applicable, was paid; and,
 - (5) A statement of the reasons why the applicant or owner is requesting the hearing.
 - (e) Upon receipt of such request, the city manager shall schedule a hearing before the city commission at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant or owner with written notice of the time and place of the hearing. The hearing shall be held within 60 days of the date of the request for hearing was filed.
 - (f) Such hearing shall be before the city commission and shall be conducted in a manner designed to obtain all information and evidence relevant to the request for the 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.

- (g) Any applicant or owner who requests a hearing pursuant to this section and desires an immediate connection to either the sewer system or the water system shall pay prior to or at the time the request for hearing is filed the sewer system impact fee pursuant to section 78-385 or water system impact fee pursuant to section 78-389, as applicable. Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any review rights.

Sec. 78-399. - Review requirements.

This article and the accompanying impact fee study shall be reviewed by the city commission at least every five years. Each review shall consider new estimates of population, cost related to the acquisition of land, buildings, capital plant and equipment necessitated by growth and adjustments to the assumptions, conclusions and findings set forth in the study adopted by section 78-384. The purpose of this review is to ensure that the sewer system impact fees and water system impact fees do not exceed the reasonably anticipated costs associated with the improvements necessary to offset the demand generated by new construction or use of the sewer system or water system. In the event the review of the ordinance required by this section alters or changes the assumptions, conclusions and findings of the impact fee study adopted by reference in section 78-384, revises or changes the sewer system or water system or alters or changes the amount of the impact fees, the impact fee study adopted by reference in section 78-384 shall be amended and updated to reflect new and demonstrable assumptions, conclusions and findings and section 78-384 shall be amended to adopt by reference such updated study.

Sec. 78-400. - Declaration of exclusion from Administrative Procedures Act.

Nothing contained in this article shall be construed or interpreted to include the city in any definition of agency contained in F.S. § 120.52, or to otherwise subject the city to the application of the Administrative Procedure 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 article including specifically, but not limited to, consideration of an alternative sewer system impact fee or alternative water system impact fee calculation under section 78-394, a determination of entitlement to a impact fee exemption pursuant to section 78-395, the proposed plan for a developer contribution credit pursuant to section 78-398, or a review hearing under section 78-399.

Sec. 78-401. - Severability.

If any clause, section or provision of this article shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said article shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. In the event it is held or construed by any court of competent jurisdiction that the city does not possess the power or authority to impose the sewer system impact fees or water system impact fees within any service area, or such imposition of the impact fees is declared invalid or unconstitutional for any purpose, such declaration of unconstitutionality or invalidity shall not affect the validity or constitutionality of the imposition of the sewer system impact fees or water system impact fees in all other service areas.

Sec. 78-402. - Effective date.

This article shall take effect on September 12, 2013.

Section 2: EFFECTIVE DATE. This Ordinance shall take effect upon its passage at second and final reading.

Section 3: INCLUSION IN THE CODE, SCRIVENER'S ERROR. It is the intention of the City Commission of the City of High Springs, Florida, and it is hereby provided that the provisions of this Ordinance shall become and made part of the Code of Ordinances of the City of High Springs, Florida; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section," "article," or other appropriate designation. The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Manager or designee without public hearing, by filing a corrected or re-codified copy of the same with the City.

Section 4: PRESERVATION OF RIGHTS AND DUTIES. The repealing provisions of this Ordinance do not affect the rights and duties that matured, penalties that were incurred, or proceeding that were begun before the effective date of the repeal.

Section 5: CONFLICT. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

First reading was held on the 17th day of November 2016.

DONE THE SECOND READING, AND ADOPTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Commission of the City of High Springs, Florida, at a regular meeting, this _____ day of _____, 2016.

BY THE MAYOR OF THE CITY OF HIGH SPRINGS, FLORIDA

Mayor

ATTEST, BY THE CLERK OF THE
CITY COMMISSION OF THE CITY OF
HIGH SPRINGS, FLORIDA:

Jenny L. Parham, City Clerk

APPROVED AS TO FORM AND
LEGALITY:

S. Scott Walker, City Attorney