

**Chapter 62**  
**IMPACT FEES**

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**[HISTORY: Adopted by the Board of County Commissioners of Calvert County as indicated in article histories. Amendments noted where applicable.]**

GENERAL REFERENCES

Subdivision regulations — See Ch. 131.

Zoning — See Ch. 155.

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ARTICLE I  
School Impact Fees  
[Adopted 2-23-1988 by Res. No. 10-88]

**§ 62-1. Definitions.**

The following words have the meanings indicated.

**CAPITAL IMPROVEMENTS** — Land acquisition, site development, equipment or facilities for public schools. “Capital improvements” includes school construction projects contained in the adopted county capital budget and five-year capital program.

**PERSON** — Does not include a county, state or federal governmental entity.

**§ 62-2. Purpose.**

These impact fees are adopted for the purpose of promoting the health, safety and general welfare of the residents of the county by:

- A. Requiring all new residential development to pay its proportionate fair share of the costs for land, capital facilities and other expenses necessary to accommodate development impacts on public schools.
- B. Complementing the provisions of § 131-Section 3.41 of Chapter 131, Subdivision Regulations, and § 155-Section 5-6.13 of Chapter 155, Zoning, concerning adequacy of facilities, by requiring that all new residential development pay its share of costs for all reasonably attributable impacts on public school facilities.
- C. Implementing the Comprehensive Plan by helping to ensure that adequate public facilities such as schools are available in a timely and well planned manner.

**§ 62-3. Who must pay fees.**

- A. Any person who constructs a residential unit shall pay development impact fees as provided in this article. Bona fide elderly projects which, by recorded restrictions, cannot be converted, are exempt since the units will not impact schools.
- B. Any person who converts an existing use to create any new residential units shall pay a fee based on the net increase in impacts attributable to the change of use. The net increase shall be calculated by determining a gross fee based on the new use or improvement and subtracting from the gross fee the amount of the fee attributable to the previously existing use. A replacement of or addition to an existing dwelling is not subject to a development impact fee.

**§ 62-4. Determination of development impact fee. [Amended 5-28-2002 by Ord. No. 21-02]**

Except as provided in § 62-5 of this article, the amount of the development impact fee shall be as determined by the Board of County Commissioners from time to time.

**§ 62-5. Independent impact analysis.**

- A. An independent impact analysis shall be used to compute the development impact fee if:
  - (1) The Director of Planning and Zoning determines that there is not a comparable land use type for the development under § 62-4 of this article;
  - (2) The Director of Planning and Zoning determines that when the location, the intensity or the unusual nature of the use indicates that the impacts on public schools would be substantially higher than the impacts assumed for purposes of the fee schedule in § 62-4 of this article; or

(Cont'd on page 6203)

- (3) The fee payer chooses to use an acceptable independent impact analysis.
- B. The fee payer shall be responsible for the preparation of the draft independent impact analysis and the Director of Planning and Zoning shall accept, reject or modify the draft analysis.
- C. The person who prepares the draft independent impact analysis shall be approved by the Director of Planning and Zoning on the basis of professional training and experience in preparation of development impact analyses. The independent impact analysis shall follow standard methodologies and format and be approved by the Director of Planning and Zoning.
- D. In addition to the methodologies approved by the Director of Planning and Zoning, the following formula shall be used to determine the development impact fee for schools, unless the fee payer provides substantial competent evidence that an alternative formula or methodology should be used:

School fee = SU x (C - SCG)

SU = Student per unit

C = Capital cost per student station

SCG = State capital grant per student station

**§ 62-6. Payment of fee; lien against property.**

- A. Except as provided in § 62-7 of this article, one third of the fee shall be paid to the Department of Inspections and Permits before the issuance of a building permit (permit) for new construction or for a change of use. One third shall be paid at the time of the subsequent real estate tax bill and the balance at the time of the following year's tax bill. The amount of the fee shall be set as of the date of application for the permit. A permit may not be issued until  $\frac{1}{3}$  of the impact fee has been paid.
- B. Development impact fees are a lien against the real property served and shall be levied, collected, enforced in the same manner as are county real property taxes, and shall have the same priority and bear the same interest and penalties as county real property taxes for lien purposes.

**§ 62-7. Credits.**

- A. Any conveyance of land or construction received and accepted by the County Commissioners from a developer for a school or school site shall be credited against the development impact fee due if the conveyance or construction meets the same needs as the development impact fee in providing expanded capacity. This land must be in addition to any recreation area or open space normally required. If the developer wishes to receive credit against the amount of the development impact fee due for such conveyance or construction, the developer shall enter into a fee agreement with the county. The fee agreement shall provide for establishment of credits and payment of the fee in a specified manner and time.

- B. The value of land conveyed or facilities constructed by a developer and accepted by the county for purposes of this section shall be determined by an appraisal based on the fair market value of the land or facilities as established by the county. Construction shall be in accordance with county and state design standards.
- C. Any land awarded credit under this section shall be conveyed in fee simple no later than the time at which development impact fees are required to be paid. The portion of the development impact fee represented by a credit for construction shall be deemed paid when the construction is completed and accepted by the county for maintenance or when adequate security for the completion of the construction has been provided.

#### § 62-S. Impact fee special funds.

The school impact fees collected under this article shall be deposited in the special school impact fee fund to ensure that the fees and all interest accruing to the special fund are designated for improvements reasonably attributable to new development and are expended to reasonably benefit the new development.

#### § 62-9. Use of funds.

- A. All funds collected from development impact fees shall be used solely for capital improvements for expansion of the capacity of public schools. Expansion of the capacity of a public school includes all construction and remodeling, to the extent that the construction increases the number of pupils that may be enrolled in the public schools, but does not include temporary structures.
- B. The school impact fee districts shall be as shown on the School Impact Fee Districts Map, as adopted by the County Commissioners. The School Impact Fee District Map, prepared by the Department of Planning and Zoning and dated February 23, 1988, is adopted as the Development Impact Fee District Maps.<sup>2</sup>
- C. Funds collected from development impact fees shall be used for capital improvements within the development impact fee district upon which they are collected, so as to reasonably benefit the property against which the fees were charged. Fees from district may be used for capital improvements in another district on a written finding by the Director of Planning and Zoning that the capital improvements are a direct benefit to the district from which the fees were collected. Development impact fees shall be collected only within those districts as to where the fees are designated for collection on the Impact Fee District Maps.

#### § 62-10. Refund of fees.

- A. If fees collected in any district during a fiscal year have not been expended or encumbered by the end of the eighth fiscal year following collection, the Office of Finance shall give

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<sup>2</sup> Editor's Note: The School Impact Fee Districts Map is included at the end of this chapter.

notice of the availability of a refund of the fees and refund the fees as provided in this section.

- B. Within 60 days from the end of a fiscal year during which fees become available for refund, the Director of Administration and Finance shall cause to be published once a week for two successive weeks in one or more newspapers that have a general circulation in the county, a notice that development impact fees collected within a particular district are available for refund on application by the current owner of the property for which the fee was originally paid. The notice shall set forth the time and manner for making application for the refund.
- C. An eligible property owner shall file an application for a refund within 60 days of the last publication of notice. On proper application and demonstration that the fee was paid, the Director of Administration and Finance shall refund the fees to the property owner with interest at the rate of 5% per year.
- D. If only a portion of the fees collected in a school impact fee district during a fiscal year have been expended or encumbered, the portion not expended or encumbered shall be made available for refund on a pro rata basis to property owners. Each eligible property owner who has properly applied for a refund shall receive a refund in an amount equal to the portion of the original fee that was not expended or encumbered.
- E. The Director of Planning and Zoning may extend for up to three years the date at which the funds must be expended or encumbered under Subsection A of this section. An extension shall be made only on a written finding that within a three-year period certain capital improvements are planned to be constructed that will be of direct benefit to the property against which the fees were charged.
- F. If a building permit expires and construction under the permit has not commenced, the fee payer is entitled to a refund of any development impact fee paid as a condition of the permit's issuance and shall apply to the Division of Inspections and Permits for the refund within 60 days of the expiration of the building permit. The county shall retain 6% of the fee to offset the costs of collection and refund.
- G. Any fees for which a refund is not sought within the required time, or which the county does not refund for proper cause, shall be retained by the county.

**§ 62-11. Review of fee schedule, fee collection and district boundaries.**

- A. Annually, the Director of Planning and Zoning may propose alterations to the boundaries of the school impact fee districts and the redesignation of districts for collection and noncollection of development impact fees. All proposals shall be submitted to the Planning Commission for review. Following a public hearing, the Commission shall make advisory recommendations to the County Commissioners.
- B. At least every two years, the Director of Planning and Zoning shall review the development impact fee schedule, considering new data and technical information such as changes in costs, revenues, student generation rates and other relevant factors. If the Director of Planning and Zoning proposes amendments to the schedule, the proposed amendments shall be submitted to the Planning Commission for review. Following a public

hearing, the Planning Commission shall make advisory recommendations to the County Commissioners.

- C. Following receipt of recommendations from the Planning Commission, the County Commissioners may make amendments to the fee schedule and alterations of district boundaries.

ARTICLE II  
**Recreation Impact Fees**  
 [Adopted 12-13-1994 by Res. No. 36-94]

**§ 62-12. Definitions.**

The following words have the meanings indicated for purposes of this article only:

**DIRECTOR** — The Director of the Calvert County Department of Planning and Zoning, unless indicated otherwise by context.

**FEE** — A recreation fee as authorized and calculated by this article, unless indicated otherwise by context.

**PERSON** — Does not include a county, state or federal governmental entity.

**§ 62-13. Purpose.**

This Recreation Fund is established for the purpose of promoting the health, safety and general welfare of the residents of the county by:

- A. Requiring all new residential development to pay its proportionate fair share of the costs for land, capital facilities and other expenses necessary to accommodate development impacts on public recreation sites and facilities.
- B. Implementing the Comprehensive Plan by helping to ensure that adequate public facilities, such as recreational sites and facilities, are available in a timely and well planned manner.

**§ 62-14. Who must pay fees.**

- A. Any person who constructs a residential unit shall pay a recreation fee as provided in this article. Any person who constructs more than one residential unit shall pay a recreation fee for each unit constructed as provided in this article.
- B. Any person who converts an existing use to create any new residential units shall pay a fee based on the net increase in impacts attributable to the change of use. The net increase shall be calculated by determining a gross fee based on the new use or improvement and subtracting from the gross fee the amount of the fee attributable to the previously existing use. A replacement of or addition to an existing dwelling is not subject to a fee.
- C. The owner of any unit funded in whole or in part by a county, state or federal governmental entity may apply to the Board of County Commissioners for a waiver of the

recreation fee. The Board of County Commissioners, upon consideration of such request, may in its sole discretion reduce or waive the fee.

**§ 62-15. Computation of fee.**

- A. The fee shall be calculated as provided herein with the purpose of reasonably approximating a state-recommended standard that local governments provide 30 acres of recreational open space per 1,000 population of which 15 acres per 1,000 be dedicated to county-wide recreation, 10 acres per 1,000 to community recreation and 5 acres per 1,000 to neighborhood recreation. The cost of providing such county-wide and community recreation shall be incorporated into this fee, as set forth below. Requirements for neighborhood recreational sites and facilities are specified in Chapter 131, Subdivision Regulations, and Chapter 155, Zoning.
- B. Type and quantity of open space required.
- (1) The application of 1990 Census data from Calvert County, which reveals an average household size of three persons per household, to the above standard for recreational open space yields the following standard of type and quantity of open space per household:
- (a) County-wide recreation: .045 acres per household.
- (b) Community recreation: .030 acres per household.
- (2) The amount of the fee shall be based upon the average cost per dwelling unit of providing land for county-wide and community recreation, according to the above standard.
- C. For purposes of calculating the fee, the Board of County Commissioners upon recommendation of the Director shall establish as of the effective date of this article and every four years thereafter a value for the average cost of both undeveloped waterfront land and undeveloped land suitable for active public recreation. The Director shall seek advice from the Supervisor of Assessments for Calvert County and, in the Director's discretion, any other credible source, in order to make the recommendation. The Board of County Commissioners shall hold a public hearing to take comments from the public on the proposed fee prior to adoption.
- D. The fee shall be the total of:
- (1) County-wide recreation: .045 acres per household x (average cost of undeveloped waterfront land)
- plus
- (2) Community recreation: .030 acres per household X (average cost of undeveloped land suitable for active public recreation).

**§ 62-16. Independent impact analysis.**

- A. As an alternative to the fee calculation above, an independent impact analysis shall be used to compute the fee if:
- (1) The Board of County Commissioners determines that when the location, the intensity or the unusual nature of the use indicates that the impacts on public recreational sites and facilities would be substantially higher than the impacts assumed for purposes of the fee schedule in § 62-15 of this article; or
  - (2) The person who is required to pay a fee chooses to use an independent impact analysis that is acceptable to the Board of County Commissioners.
- B. The person who is required to pay a fee shall be responsible for the preparation of the independent impact analysis and the Board of County Commissioners shall accept, reject or modify the analysis. If the analysis is rejected or modified, the person who is required to pay a fee may resubmit the analysis with changes or pay the standard fee.
- C. The person who prepares the independent impact analysis shall be approved in advance by the Board of County Commissioners on the basis of professional training and experience in preparation of development impact analyses. The independent impact analysis shall follow standard methodologies and format and be approved by the Board, of County Commissioners.
- D. If the proposal for an independent impact analysis applies to property within a municipality, the Town Council of that municipality shall be consulted prior to any decision.

**§ 62-17. Payment of fee.**

Except as provided in § 62-18 of this article, the fee shall be paid to the Calvert County Department of Inspections and Permits as a prerequisite to the issuance of a permit for new construction or for a change of use.

**§ 62-18. Credits. [Amended 7-U-1995 by Res. No. 28-95]**

- A. Eligibility for credit. A credit against the fee may be obtained for certain conveyances of real property and improvements thereto for public recreational use. In order to earn the credit the conveyance must meet the following criteria:
- (1) (a) The real property shall be an area which has been identified as a potential trail, greenway or park in a plan officially adopted by the Board of County Commissioners; or
  - (b) The property shall meet the criteria and standards for public site acquisition and development set forth in a plan officially adopted by the Board of County Commissioners and in § 13 I-23 et seq. of Chapter 13 1, Subdivision Regulations, of the Code of Calvert County; and

- (c) If the conveyance is located within a municipality, the Town Council of that municipality shall approve the conveyance.
- (2) The owner of the property from which the conveyance is granted shall have entered into a fee agreement with the county prior to final subdivision approval; and
  - (3) The conveyance must be received and accepted by the Board of County Commissioners or its approved designee for a public recreation site or facility. An improvement to the property being conveyed shall not earn credit unless it is expressly received and accepted as a public recreational facility. Construction of any improvement shall be in accordance with county and state design standards. The fee agreement shall be void if the conveyance is not accepted.
  - (4) Any land or facility to be conveyed shall be conveyed in fee simple with marketable title and without liens or encumbrances no later than at the time of final recordation of the subdivision or any portion thereof. Any construction shall be completed or adequate security for the completion of the construction shall be provided prior to final recordation of the subdivision or any portion thereof. Title shall be certified to the Board of County Commissioners by an attorney and accepted by the County Attorney before the county will accept the deed.

B. Computation of credit.

- (1) If the conveyance does not include any recreational improvements made the subdivider, the credit shall be the total of the average cost per acre of undeveloped waterfront land or land suitable for active public recreation (whichever is applicable) as established under the provisions of § 62-15C of this article times the total acreage to be conveyed or may otherwise be established by an independent analysis that is acceptable to the county in the same manner as is the independent impact analysis referenced in § 62-16.
- (2) If the conveyance includes land plus recreational improvements made by the subdivider, the credit shall be the sum of the land value as determined in Subsection B(1) above plus the value of the improvements as determined by established construction cost estimate procedures.

C. Application of credit.

- (1) The credit amount shall be distributed among approved residential units designated by the property owner to whom the credit has been granted. In no case may the credit exceed the total amount of the fee.
- (2) Each residential unit that receives a credit pursuant to this article shall be stamped with the words "Amount to be deducted from current recreation fee: \$ \_\_\_\_\_" on the final subdivision plat or site plan. A copy of the stamped final subdivision plat or site plan must be submitted with each building permit application in order to be eligible for a credit. The amount shown on the stamped plan or plat shall be deducted from the fee that is in effect at the time the building permit is issued.
- (3) In the event that a subdivision plat or site plan is revised after it has received final approval, the credit for each residential unit noted on the plat or plan shall not be

subject to recalculation unless the revision involves a change in the property to be conveyed to the county.

**§ 62-19. Recreation Fund.**

The fees collected under this article shall be deposited in a Recreation Fund established for that purpose to be used as provided below.

**§ 62-20. Use of funds.**

- A. The Recreation Fund and all interest accruing thereto shall be used solely for the acquisition and improvement of public recreational sites and facilities so as to benefit reasonably the residents from which the fees were collected. To effect this purpose, fees must be expended within the election district from which they were collected unless the Director makes a written finding that an expenditure outside the district will provide a site or facility of direct benefit to the residents of the district from which the fees were collected. Fees collected from municipalities shall be expended within the municipalities from which they were collected in accordance with the provisions of this article unless the governing body of the municipality approves the expenditure of such funds for the benefit of a location outside the municipality.
- B. Fees may be borrowed from the fund reserved for one election district and used in another district. However, if such funds are borrowed, all fees collected from the receiving district shall be allocated toward repayment of the loan until the loan is fully repaid. If a loan is received from more than one other district, repayment shall be proportional to the amount of the loan from each contributing district.
- C. One hundred percent of funds may be used for site acquisition and no more than 50% may be used for development. If the county has met its acreage goals as identified in the Calvert County Land Preservation and Recreation Plan, up to 100% of the funds may be used for development. If the municipality has met its acreage goals as identified in the Calvert County Land Preservation and Recreation Plan, up to 100% of the funds may be used for development.
- D. Potential site acquisition and development projects shall be evaluated on the basis of criteria and standards identified in the Calvert County Land Preservation and Recreation Plan.

**§ 62-21. Refund of fees.**

- A. If fees collected in any district during a given fiscal year have not been expended or encumbered by the end of the eighth fiscal year following collection, the Office of Finance shall give notice of the availability of a refund of the fee and refund the fees as provided in this section.
- B. Within 60 days from the end of a fiscal year during which fees become available for refund, the Director of Administration and Finance shall cause to be published once a week for two successive weeks in one or more newspapers that have a general circulation in the

county a notice that fees collected within a particular district are available for refund on application by the current owner of the property for which the fee was originally paid. The notice shall set forth the time and manner for making application for the refund.

- C. An eligible property owner shall file an application for a refund within 60 days of the last publication of notice. On proper application and demonstration that the fee was paid, the Director of Administration and Finance shall refund the fee to the property owner with interest at the rate of 3% compounded annually. If the application for a refund is not received within 60 days of the last publication of notice, the property owner shall forfeit the fee to the Recreation Fund.
- D. The Director of Planning and Zoning may extend for up to three years the date at which the funds must be expended or encumbered under Subsection A of this section. An extension shall be made only on a written finding that within a three-year period certain capital improvement are planned to be constructed that will be of direct benefit to the property against which the fees were charged.
- E. If a building permit expires and construction under the permit has not commenced, the fee payer is entitled to a refund of any fee paid as a condition of the permit's issuance and shall apply to the Division of Inspections and Permits for the refund within 60 days of the expiration of the building permit. The county shall retain 6% of the fee to offset the costs of collection and refund.
- F. Any fees for which a refund is not sought within the required time or which the county does not refund for proper cause, shall be retained by the county.

**§ 62-22. Applicability.**

This article shall apply to all persons who receive a building permit or change of use permit on or after December 13, 1994, except that persons who applied for such permits prior to this date are exempt from the fee for those permits until such time as the applications expire without issuance of permits.

