

## Part 4 Enactment of Impact Fees

### 11-36a-401 Impact fee enactment.

- (1)
  - (a) A local political subdivision or private entity wishing to impose impact fees shall pass an impact fee enactment in accordance with Section 11-36a-402.
  - (b) An impact fee imposed by an impact fee enactment may not exceed the highest fee justified by the impact fee analysis.
- (2) An impact fee enactment may not take effect until 90 days after the day on which the impact fee enactment is approved.

Enacted by Chapter 47, 2011 General Session

### 11-36a-402 Required provisions of impact fee enactment.

- (1) A local political subdivision or private entity shall ensure, in addition to the requirements described in Subsections (2) and (3), that an impact fee enactment contains:
  - (a) a provision establishing one or more service areas within which the local political subdivision or private entity calculates and imposes impact fees for various land use categories;
  - (b)
    - (i) a schedule of impact fees for each type of development activity that specifies the amount of the impact fee to be imposed for each type of system improvement; or
    - (ii) the formula that the local political subdivision or private entity, as the case may be, will use to calculate each impact fee;
  - (c) a provision authorizing the local political subdivision or private entity, as the case may be, to adjust the standard impact fee at the time the fee is charged to:
    - (i) respond to:
      - (A) unusual circumstances in specific cases; or
      - (B) a request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected; and
    - (ii) ensure that the impact fees are imposed fairly; and
  - (d) a provision governing calculation of the amount of the impact fee to be imposed on a particular development that permits adjustment of the amount of the impact fee based upon studies and data submitted by the developer.
- (2) A local political subdivision or private entity shall ensure that an impact fee enactment allows a developer, including a school district or a charter school, to receive a credit against or proportionate reimbursement of an impact fee if the developer:
  - (a) dedicates land for a system improvement;
  - (b) builds and dedicates some or all of a system improvement; or
  - (c) dedicates a public facility that the local political subdivision or private entity and the developer agree will reduce the need for a system improvement.
- (3) A local political subdivision or private entity shall include a provision in an impact fee enactment that requires a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:
  - (a) are system improvements; or
  - (b)

- (i) are dedicated to the public; and
- (ii) offset the need for an identified system improvement.

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**11-36a-403 Other provisions of impact fee enactment.**

- (1) A local political subdivision or private entity may include a provision in an impact fee enactment that:
  - (a) provides an impact fee exemption for:
    - (i) development activity attributable to:
      - (A) low income housing;
      - (B) the state;
      - (C) subject to Subsection (2), a school district; or
      - (D) subject to Subsection (2), a charter school; or
    - (ii) other development activity with a broad public purpose; and
  - (b) except for an exemption under Subsection (1)(a)(i)(A), establishes one or more sources of funds other than impact fees to pay for that development activity.
- (2) An impact fee enactment that provides an impact fee exemption for development activity attributable to a school district or charter school shall allow either a school district or a charter school to qualify for the exemption on the same basis.
- (3) An impact fee enactment that repeals or suspends the collection of impact fees is exempt from the notice requirements of Section 11-36a-504.

Enacted by Chapter 47, 2011 General Session