

**YORK COUNTY ORDINANCE 2818**

**AN ORDINANCE AMENDING THE CODE OF THE COUNTY OF YORK ESTABLISHING AND ADOPTING A PUBLIC EDUCATION FACILITIES IMPACT FEE ("IMPACT FEE"), IN ITS ENTIRETY, TO BE IMPOSED ON ALL NEW RESIDENTIAL DEVELOPMENT IN THE FORT MILL NO. 4 SCHOOL DISTRICT PURSUANT TO ORDINANCE NO. 2718: IMPACT FEE PROCEDURES, AND THE INTERGOVERNMENTAL AGREEMENT BETWEEN YORK COUNTY ("COUNTY"), AND THE FORT MILL SCHOOL DISTRICT TO ENSURE THAT PUBLIC EDUCATION FACILITIES WILL BE AVAILABLE AND ADEQUATE TO ACCOMMODATE THE NEED FOR PUBLIC EDUCATION FACILITIES EXPECTED TO BE GENERATED FROM THE SCHOOL CHILDREN IN NEW RESIDENTIAL DEVELOPMENTS IN THE SCHOOL DISTRICT, BASED ON THE DISTRICT'S LEVEL OF SERVICE STANDARDS AND CAPITAL IMPROVEMENTS PLAN, AND TO ASSIGN THE COSTS OF SUCH PUBLIC EDUCATION FACILITIES ON A PROPORTIONATE SHARE BASIS TO NEW RESIDENTIAL DEVELOPMENT WITH AN ESTABLISHED IMPACT FEE FOR A SINGLE FAMILY DETACHED DWELLING UNIT AT \$18,158.00 AND AN ESTABLISHED IMPACT FEE FOR A MULTI-FAMILY DWELLING UNIT AT \$12,020.00 TO PROVIDE FOR A PUBLIC HEARING, AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.**

**BE IT ORDAINED AND ENACTED BY THE COUNTY COUNCIL OF YORK COUNTY, SOUTH CAROLINA:**

**SECTION 1. Legislative findings.**

As an incident to the adoption of this ordinance, the York County Council, as the governing body of York County, South Carolina, has made the following legislative findings:

1.1 Council is empowered to enact ordinances for the implementation and enforcement of powers granted to Council pursuant to Sections 4-9-30 (14), and (17), S.C. Code Ann., as amended, and to specifically exercise such powers as authorized under the Development Impact Fees Statute, S.C. Code Ann. Section 6-1-910, et seq., and specifically through Section 6-1-930.

1.2 Council finds that:

- a. York County ("County") has experienced rapid population growth and development for the past 50 years, and projections indicate that the growth will continue at a rapid rate into the future; and
- b. The County has recently experienced the impacts on public facilities resulting from major, large-scale development proposals; and
- c. York County is served by four (4) school districts as follows: York School District No. 1, Clover School District No. 2, Rock Hill School District No. 3, and Fort Mill School District No. 4; and
- d. Population and growth projections for the Fort Mill School District No. 4 indicate a need for two (2) new elementary schools and one (1) elementary school site, one (1) new middle school and one (1) new middle school site, one (1) new high school, and one flex combo school site by year 2024; and

- e. Fort Mill School District No. 4 has defined level of service standards by school type (elementary, middle, and high school), school site sizes, and minimum square feet of school buildings per student; and
- f. These level of service standards and the projected residential development and student generation rates for the District identify future public education public facility needs; and
- g. The cost of public education facilities (school buildings and land) for the District is significant and expensive; and
- h. If bonds, backed only by property taxes are used to finance the new public education facilities (school buildings and land) needed to meet the demand generated by new residential development, they would be largely paid for by existing residents of the School District, who have already paid for the public education facilities needed to serve them; and
- i. The County finds that it is fair and equitable for new residential development in Fort Mill School District No. 4 to fund new public education facilities, in part, through a proportionate share public education impact fee; and
- j. Because all new residential development in the District generates a demand for public education facilities based on the same student generation rate (elementary school - 0.248 students per single-family detached dwelling unit and 0.168 students per multifamily dwelling unit, middle school- 0.118 students per single-family detached dwelling unit and 0.078 students per multifamily dwelling unit, high school - 0.146 students per single-family detached dwelling unit and 0.094 students per multifamily dwelling unit), the public education facilities impact fee shall be imposed uniformly within the District on all new dwelling units, as established by the student generation rates, regardless of size or density; and
- k. The public education facilities impact fee shall be imposed uniformly on all new dwelling units within the School District, regardless of the location of the residential development within the District; and
- l. Because non-residential development does not directly generate school children, the public education facilities impact fee shall not be imposed on such development; and
- m. The County Council having given ample consideration to the provision and financing of public education facilities, and having consulted with the Fort Mill School District Board, it hereby finds and declares that the establishment and adoption of the public education facility impact fee imposed on new residential development is proportionate, and based on a capital improvements plan for the School District that is based on the system improvements needed to provide public education facilities to accommodate new residential development, and current costs to provide the system improvements; and
- n. The County and the Fort Mill School District are empowered to execute an intergovernmental agreement on the subject of public education facilities impact fees; and
- o. Because the County is authorized to impose and collect public education facilities impact fees within the School District, but only the School District is authorized to construct public education facilities, the intergovernmental agreement shall provide for the transfer of public education facilities impact fee revenues from the County to the Fort Mill School District; and

- p. The intergovernmental agreement, this Ordinance, and Ordinance 2718: Impact Fee Procedures, ensure that the public education facilities impact fee monies collected and transferred to the School District are spent for public education facilities identified in the Fort Mill School District’s capital improvement plan that are designed to serve new residential development.

1.3 In consideration of the foregoing, the Council deems it advisable to adopt this public education facilities impact fee pursuant to Ordinance 2718: Impact Fee Procedures, and the intergovernmental agreement with the Fort Mill School District, as hereinafter set forth.

**SECTION 2. Code of York County Amended.**

Chapter 153.75, et seq., of the York County Code of Ordinances, SCHOOL FACILITIES, is hereby amended in its entirety in the particulars established below, with direction to the Code Editor to make such sequential numbering in the Code Book to conform the adopted changes to the exiting text of the Code of Ordinances:

**“SECTION I. ADOPTION AND IMPOSITION OF PUBLIC EDUCATION FACILITIES IMPACT FEES.**

Pursuant to Ordinance No. 2718: Impact Fee Procedures, its terms, procedures, and processes, as set out in Sections I through X, which are incorporated and adopted herein by reference, *mutatis mutandis*, the intergovernmental agreement between the County and the Fort Mill School District, this Ordinance, and other applicable provisions of the County Code, this public education facilities impact fee shall be adopted and imposed on all new residential development in the County located in the Fort Mill School District, in accordance with Attachment A: The Fort Mill School District Public Education Facilities Impact Fee Schedule, which is attached hereto and incorporated herein by reference.

**SECTION II. DEFINITIONS.**

- A. **Reference to Impact Fee Procedures.** Terms which are defined in Ordinance No. 2718: Impact Fee Procedures, and which are used herein shall have the meanings given in the Impact Fee Procedures, unless another meaning is plainly intended.
- B. **Reference to York County Code.** Terms which are defined in the York County Code and which are used herein shall have the meanings given in the York County Code, unless another meaning is plainly intended.
- C. **This Ordinance.** For purposes of this Ordinance, the following words and terms shall have the meanings set forth herein, unless another meaning is clearly indicated.
  - 1. **Adopted Level of Service (LOS) Standard:** Means and refers to the amount of public education facilities (buildings and land) needed to accommodate an elementary, middle, and high school student as established in *School Impact Fee Study and Capital Improvement Plan* prepared for the Fort Mill School District by TischlerBise (dated April 18, finalized June 14, 2018), which is incorporated herein by reference.

2. **County:** Means and refers to York County, a political subdivision of the State of South Carolina, possessing all powers available generally to counties in South Carolina.
3. **County Council:** Means and refers to the elected governing body of York County.
4. **Dwelling Unit:** Means and refers to either single-family detached or multi-family units.
5. **Individual Assessment of Development Impact:** A study prepared by a fee payor, calculating the cost of capital improvements for public education facilities required to serve the fee payor's proposed development, that is based on the established level of service standards, the service units and unit construction costs, and methodology identified in *School Impact Fee Study and Capital Improvement Plan* prepared for the Fort Mill School District by TischlerBise (dated April 18, finalized June 14, 2018), which is incorporated herein by reference. The Assessment shall be performed in compliance with any standards for such studies established by this Ordinance.
6. **Intergovernmental Agreement:** Means and refers to an agreement executed by the County and the Fort Mill School District for the collection of public education facilities impact fees by the County, and the transfer of the fee revenues from the County and to the School District, and for the expenditure of said revenues by the School District for public education facilities, as herein defined, to accommodate new residential development.
7. **Non-Residential Development:** Means and refers to all development other than a dwelling unit.
8. **Public Education Facilities:** Means and refers to the buildings and land for elementary, middle, and high schools (including the planning, design, engineering, and construction of the school buildings and associated playgrounds and recreation areas, parking, lighting, landscaping, sidewalks, internal streets, access roads and driveways; the costs associated with the acquisition of land; site preparation costs; and costs associated with the construction of new, or additions to or expansions of elementary, middle, and high school buildings; all of which constitute system improvements for public education facilities.)
9. **Public Education Facilities Impact Fee:** Means and refers to the fees imposed on new residential development on a proportionate share basis as a condition of development approval, which has been calculated to defray the costs of system improvements for the needed public education facilities identified in a capital improvements plan which is needed to accommodate new residential development, based on the level of service standard for the Fort Mill School District.
10. **Residential Development:** Means and refers to the development of one (1) or more dwelling units.
11. **School Board:** Means and refers to the elected governing body of the Fort Mill School District No. 4.
12. **School District or Fort Mill School District:** Means the Fort Mill School District No. 4.
13. **Student Generation Rate (SGR):** Means and refers to the number of elementary, middle and high school students generated by a typical dwelling unit in the Fort Mill School District. The student generation rate is used by the School District for planning, capital improvements programming, the development of a capital improvement plan, and the development of proportionate share public education impact fees.

**SECTION III. ESTABLISHMENT OF PUBLIC EDUCATION FACILITIES IMPACT FEE SERVICE AREA AND PUBLIC EDUCATION IMPACT FEE DISTRICT.**

The public education facilities impact fee shall be imposed and calculated within the service area for the Fort Mill School District. The service area and Public Education Impact Fee District for the Fort Mill School District is coterminous with the School District boundaries. Impact fees collected within the district shall be spent within the district.

**SECTION IV. IMPOSITION OF PUBLIC EDUCATION FACILITIES IMPACT FEE.**

- A. The public education facilities impact fee shall be imposed on all new residential development in the Fort Mill School District, unless the residential development is exempted or a waiver is granted by

the County pursuant to Ordinance No. 2718: Impact Fee Procedures. If an exemption or waiver is granted, the impact fees which otherwise would have been due shall be provided by the School District, using funds available from sources other than public education impact fees.

- B. Residential development in the unincorporated County shall pay the fees at the time of issuance of a building permit. Residential development in the City of Tega Cay and the Town of Fort Mill shall pay the fees prior to issuance of a building permit but not before the building permit application has been submitted to the city or town and the city or town has reviewed and approved the application. Fees shall be paid to the Customer Service Representative in the County's Development Services Division. A building permit for residential development shall not be issued in Fort Mill or Tega Cay without confirmation, in writing, from the Customer Service Representative that the Fort Mill School District public education impact fees have been paid in accordance with this Ordinance.

#### **SECTION V. CALCULATION OF PUBLIC EDUCATION FACILITIES IMPACT FEE.**

- A. The County shall calculate the applicable public education facilities impact fees due from a proposed residential development in accordance with the procedure set forth in Ordinance 2718: Impact Fee Procedures, the intergovernmental agreement, this Ordinance, and *School Impact Fee Study and Capital Improvement Plan* prepared for the Fort Mill School District by TischlerBise (dated April 18, finalized June 14, 2018). The impact fee amount for the School District is established in Attachment A: Fort Mill School District Public Education Facilities Impact Fee Schedule, which is attached hereto and incorporated herein by reference.
- B. The following general procedure shall be followed by the County upon receipt of an application for a building permit for new residential development:
  - 1. identify the number and type of dwelling units in the proposed new residential development; and
  - 2. multiply the number of dwelling units by the impact fee per the type of dwelling unit.
- C. In lieu of calculating the amount(s) of impact fees by reference to Attachment A, a feepayor may request that the amount of the required impact fees be determined by reference to an Individual Assessment of Development Impact for the proposed development.
  - 1. If a feepayor requests the use of an Individual Assessment of Development Impact, the feepayor shall be responsible for retaining a qualified professional to prepare the Individual Assessment of Development Impact that complies with the requirements of this Ordinance, at the feepayor's expense.
  - 2. Each Individual Assessment of Development Impact shall be based on the same level of service standards and system improvement costs for capital improvements for public education facilities used in *School Impact Fee Study and Capital Improvement Plan* prepared for the Fort Mill School District by TischlerBise (dated April 18, finalized June 14, 2018), and shall document the relevant methodologies and assumptions used.
  - 3. Each Individual Assessment of Development Impact shall be submitted to the Director or a designee, and may be accepted, rejected, or accepted with modifications by the Director or a designee as the basis for calculating public education facilities impact fees. If an Individual Assessment of Development Impact is accepted or accepted with modifications by the Director or a designee as a more accurate measure of the demand for capital improvements for public education facilities created by the proposed new development than the applicable fees in Attachment A, then the impact fees due under this Ordinance shall be calculated according to such assessment.
  - 4. The decision of the Director regarding the Individual Assessment of Development Impact shall be final. A feepayor may appeal the Director's decision pursuant to the appeal procedures identified in Ordinance 2718: Impact Fee Procedures.

**SECTION VI. TRUST FUND ESTABLISHED.**

The County hereby establishes a segregated Public Education Facilities Impact Fee Trust Fund Account. All public education facilities impact fees collected by the County for the Fort Mill Public Education Facilities Impact Fees shall be placed in the Trust Fund Account, until transferred to the School District for expenditure on public education facilities as herein defined. The Trust Fund shall be an interest-bearing account and all interest earned and accruing to the account shall become funds of the account, subject to the same limitations and restrictions on use and expenditure of funds that are applicable to public education facilities impact fee funds.

**SECTION VII. LIMITATIONS ON USE AND EXPENDITURE OF PUBLIC EDUCATION FACILITIES IMPACT FEE FUNDS.**

Public education facilities impact fee funds (and interest) shall be transferred by the County to the Fort Mill School District in accordance with the intergovernmental agreement, and then used by the School District solely and exclusively for public education facilities as defined herein.

**SECTION VIII. SUNSET.**

This Impact Fee Ordinance specifically adopted for public education-related public facilities in the Fort Mill School District shall be terminated upon enactment and operation of an alternative and equivalent revenue source. These sources may include, but not be limited to, a specified sales tax, gas tax, and/or a proportionally equitable mobile home property tax. Upon termination of this Ordinance, all revenue generated for specified improvements shall be retained by the County for two (2) years or until the School District requests a distribution of funds, whichever occurs sooner. The County shall refund any funds remaining in the Trust Fund after two years to any fee payor requesting a refund.”

**SECTION 3. Public Hearing Required.**

The York County Council shall conduct a public hearing after publishing a notice of the date, time and place of such hearing at least thirty (30) days in advance of such hearing before final legislative action is taken for the adoption of this ordinance

**SECTION 4. Severability.**

The provisions of this ordinance are hereby declared to be severable, and if any provision or section of this ordinance is declared to be unconstitutional or unenforceable by the final order of a court of competent jurisdiction, such declaration shall not affect the constitutionality, legality or enforceability of any other section or provision of this ordinance, which shall be deemed severable, valid, enforceable and effective.

**SECTION 5. Liberal Construction.**

The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes in the interest of furthering, promoting and protecting the public health, safety, and welfare.

**SECTION 6. Repeal of inconsistent sections and ordinances.**

All sections of the York County Code of Ordinances and all York County ordinances in conflict with this ordinance are hereby amended to the extent of such conflict.

**SECTION 7. Savings Clause.** Ordinance 7396 remains in full force and effect, notwithstanding the adoption of this Ordinance; however, the imposition and collection of fees under Ordinance 7396 are hereby suspended during any period in which the fee imposed by this Ordinance is being collected.

**SECTION 8. Effective date.**


- A. This Ordinance shall become effective immediately upon its adoption,
- B. Applications for new residential development submitted and reviewed and approved prior to the Effective Date shall be processed pursuant to Ordinance 7396 "School Facilities Impact Fee."

ADOPTED this 16 day of July 2018

COUNTY COUNCIL OF YORK COUNTY

By:   
J. Britt Blackwell, O.D., Chairman

ATTEST:

  
William P. Shanahan, Jr., County Manager

First Reading: May 21, 2018  
Second Reading: June 27, 2018  
Public Hearing: June 27, 2018  
Third Reading: July 16, 2018

ATTACHMENT A

FORT MILL SCHOOL DISTRICT  
PUBLIC EDUCATION FACILITIES IMPACT FEE SCHEDULE<sup>1</sup>

<u>Residential Use (Dwelling Unit)</u>	<u>Impact Fee</u>
Single-Family Detached Dwelling Unit	\$18,158.00
Multifamily Dwelling Unit	\$12,020.00

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<sup>1</sup> The public education facilities impact fees for Fort Mill School District No. 4 are based on *School Impact Fee Study and Capital Improvement Plan* prepared for the Fort Mill School District by TischlerBise (dated April 18, finalized June 14, 2018), which is incorporated herein by reference.