

ORDINANCE 02-03

**AN ORDINANCE ADOPTING DEVELOPMENT  
IMPACT FEE AMOUNTS AND THE PROCEDURES  
FOR THE IMPOSITION, CALCULATION,  
COLLECTION, EXPENDITURE AND  
ADMINISTRATION OF DEVELOPMENT IMPACT  
FEES TO BE IMPOSED ON NEW DEVELOPMENT;  
AND PROVIDING FOR AN EFFECTIVE DATE.**

**PREAMBLE**

**WHEREAS**, pursuant to Article 25B, §13D, Annotated Code of Maryland, the Board of County Commissioners of Queen Anne’s County, Maryland (the “County Commissioners”) has been authorized to fix, impose and provide for the collection of development impact fees to finance, in whole or in part, the capital costs of additional or expanded public works, improvements, and facilities required to accommodate new construction or development; and

**WHEREAS**, the County Commissioners have studied the necessity for and implications of the adoption of development impact fees for various public facilities and has retained Tischler & Associates, Inc. and, by subcontract, Freilich, Leitner & Carlisle (hereinafter, together, the “Consultants”) to prepare a development impact fees report to evaluate existing development impact fees and consider additional development impact fees, and Tischler & Associates, Inc. has prepared an Development Impact Fees Report, dated September 21, 2001 (the “Development Impact Fees Report”); and

**WHEREAS**, the Development Impact Fees Report has been presented to, and reviewed by, the Board of County Commissioners, which has determined (1) that impact fees are necessary to offset the costs associated with meeting future public facility and service demands pursuant to the projections set forth in the report; (2) that impact fees bear a reasonable relationship to the burden imposed upon the County to provide public facilities and services to new residents, employees, and businesses; and impact fees provide a benefit to such new residents, employees, and businesses reasonably related to the impact fee assessed; (3) that an “essential nexus” exists between the projected new development and the need for additional facilities and services to be funded via impact fees, and between the impact fee and the benefits that accrue to new development paying the impact fee; and (4) that the amount of the impact fees is “roughly proportional” to the pro rata share of the additional facilities and services needed to serve new residential and non-residential development, while maintaining the existing level of service (LOS) standard currently provided to existing County residents, employees, and businesses; and

**WHEREAS**, the County Commissioners have adopted the Queen Anne’s County Comprehensive Plan; and

March 12, 2002

**WHEREAS**, the Development Impact Fees Report has determined that Queen Anne’s County, Maryland (the “County”) is projected to grow from a population of approximately 43,600 persons in the year 2001 to a population of 62,600 in the year 2020 (with intermediate population projections of 47,500 in the year 2005; of 52,400 in the year 2010; and of 57,500 in the year 2015); and

**WHEREAS**, the number of housing units is projected to increase commensurately from approximately 17,939 in the year 2001 to approximately 27,551 in the year 2020; and

**WHEREAS**, retail, commercial, office and other non-residential building space which also increases demand on public facilities is also projected to increase substantially from approximately 5.53 million square feet in the year 2001 to more than 8.48 million square feet in the year 2020; and

**WHEREAS**, the number of jobs at non-residential locations in Queen Anne’s County is projected to increase from almost 11,382 in the year 2001 to more than 17,476 in the year 2020; and

**WHEREAS**, the average annual costs for volunteer fire companies in the County to maintain the level of service currently provided to existing residents will be approximately \$4.9 million for fire stations and approximately \$16 million for fire apparatus; and

**WHEREAS**, the total estimated growth-related cost of meeting the public school project costs, based on the facilities, level of service (LOS) standards, costs, and development projections cited in the Development Impact Fee Report is \$5.53 million for the replacement cost of Board of Education support buildings, and approximately \$875,000 for Board of Education vehicles and equipment; and

**WHEREAS**, residential units which are restricted to occupancy by senior citizens and in which permanent residential occupancy by minors under the age of 18 is prohibited may have little or no potential for generating students and, thus, may have no impact warranting the imposition of public school development impact fees; and

**WHEREAS**, pursuant to Article 23A, §8C, Annotated Code of Maryland, the incorporated municipalities within the County are required to assist the County in the collection of public school development impact fees; and

**WHEREAS**, a portion of the costs of public schools is paid by the State of Maryland, so that the County provides 72% of the project costs for schools; and

**WHEREAS**, the total estimated growth-related cost of meeting demand, based on facilities, current level of service (LOS) standards, costs, and development projections is approximately \$163 per new resident for community parks and approximately \$68 per new resident for buildings and vehicles necessary to provide community park services for new development; and

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**WHEREAS**, the County annually develops a Capital Improvements Program to project the public facility demands that will be imposed upon the County by this growth rate; and

**WHEREAS**, the Consultants have reviewed and have relied upon the Queen Anne's County Comprehensive Plan and the County's Capital Improvements Program; and

**WHEREAS**, based on the population, housing unit, and land use projections as well as the public facility needs associated with the projected level of growth, the County Commissioners have determined that development impact fees are an appropriate and necessary technique, to be used in conjunction with other available public facility financing techniques, to ensure that adequate public facilities are provided for new growth; and

**WHEREAS**, the County Commissioners have determined that development impact fees will be necessary for community parks, and fire protection, and that the existing development impact fee for public schools should be modified; and

**WHEREAS**, the types of facilities and associated costs that may be included in this development impact fee include, but are not necessarily limited to, buildings, facilities, vehicles, equipment, apparatus, and land acquisition; and

**WHEREAS**, Tischler & Associates, Inc. additionally reviewed the existing demand for community parks, fire protection, and public schools, including, where appropriate, buildings, facilities, vehicles, equipment, apparatus, and land acquisition; the existing inventory of same; and the method of financing same; and

**WHEREAS**, the Consultants have relied upon the County for the costs of equipment, facilities, buildings, and land acquisition for public facilities to be funded by impact fees; and

**WHEREAS**, the current inventory of buildings, facilities, vehicles, equipment, apparatus, and land acquisition was used to establish appropriate level of service standards; and

**WHEREAS**, the County Commissioners have found and determined that development impact fees for different public facilities will have certain common characteristics and that the County will, therefore, benefit from the adoption and use of a uniform procedure for the imposition, calculation, collection, expenditure, and administration of all of the adopted development impact fees; and

**WHEREAS**, the use of uniform procedures, to the extent possible, will be more efficient and expedient for both the County and applicants for building permits than separate procedures for each development impact fee; and

**WHEREAS**, the use of uniform procedures will simplify the implementation and administration of development impact fees; and

**WHEREAS**, the use of uniform procedures will best ensure that development impact fees are “earmarked” and expended for the public facilities for which they were imposed and collected; and

**WHEREAS**, all monies collected from development impact fees shall be deposited in interest-bearing accounts which clearly identify the category, account, fund, and public facility for which such fee was imposed; and

**WHEREAS**, each such category, fund, or account shall be accounted for separately; provided, however, that the determination as to whether the accounting requirement shall be by category, account, or fund shall be within the discretion of the County; and

**WHEREAS**, any interest or other income earned on monies deposited in said interest-bearing accounts shall be credited to the applicable account; and

**WHEREAS**, the County Commissioners have determined or will determine, for each development impact fee, that the payment of the development impact fee and its expenditure for needed public facilities will result in a benefit to the development on which it is imposed; and

**WHEREAS**, the overall well-being of the County depends on continued economic viability and growth within the region; and

**WHEREAS**, reduced development impact fees for non-residential development will ensure the County’s economic viability and growth in the region; and

**WHEREAS**, future non-residential growth should be directed towards existing designated growth areas and incorporated towns within the County; and

**WHEREAS**, reduced development impact fees within designated growth areas and incorporated towns will discourage urban sprawl and the inefficient use of lands and public facilities, and will advance the agricultural preservation objectives set forth in the Comprehensive Plan; and

**WHEREAS**, the continued viability of the County’s agricultural sector is critical to the local economy and the overall well-being of the County;

**WHEREAS**, the County Commissioners have determined that exemption from the provisions of this ordinance of non-residential development on a farm and farm employee dwellings will encourage and protect the economy and agricultural areas of the County, consistent with the County Comprehensive Plan;

March 12, 2002

**WHEREAS**, the provision of affordable and low-income housing is necessary in order to protect the public health, safety, and welfare of the County;

**WHEREAS**, the County Commissioners have determined that exemption from the requirements of this ordinance of certain subsidized housing will encourage the provision of adequate affordable and low-income housing in the County;

**WHEREAS**, the County Commissioners have developed and adopted a schedule of development impact fees for each category of public facility by land use classification; and

**WHEREAS**, the County Commissioners have provided a credit mechanism in cases where the proposed new development dedicates public sites and/or capital improvements for which development impact fees are also being imposed and in cases where the new development will otherwise pay for a portion of such new development through principal payments of bonds issued for the same purpose; and

**WHEREAS**, the County Commissioners have determined that, for certain public facilities, the County should be divided into development impact fee subareas so that the collection of development impact fees for such facilities is more narrowly tied to the locations in which such development impact fee is expended; and

**WHEREAS**, the County Commissioners have determined that the development impact fee amounts bear a reasonable relationship to the burden imposed upon the County to provide the additional capital improvement expenditures for such public facilities to serve the new development at the appropriate level of service (LOS) standard; and

**WHEREAS**, the County Commissioners have developed fee calculation methodologies which will be imposed in an equitable and non-discriminatory manner; and

**WHEREAS**, the County Commissioners held a duly advertised public hearing on this ordinance on \_\_\_\_\_ at which time the public had an opportunity to comment;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of County Commissioners of Queen Anne's County, Maryland as follows:

**SECTION 1:** THE QUEEN ANNE'S COUNTY CODE, TITLE 18, SUBTITLE 3, DEVELOPMENT IMPACT FEES ORDINANCE ENACTED BY THE BOARD OF COUNTY COMMISSIONERS ON JUNE 18, 1991, AS SUBSEQUENTLY AMENDED, IS HEREBY RESCINDED IN ITS ENTIRETY AS OF THE EFFECTIVE DATE OF THE NEW SUBTITLE 3 "DEVELOPMENT IMPACT FEES " AS SET FORTH HEREIN.

**SECTION 2:** A NEW SUBTITLE 3 OF TITLE 18 OF THE QUEEN ANNE'S COUNTY CODE IS HEREBY ENACTED TO ADD THE FOLLOWING NEW SECTION ESTABLISHING DEVELOPMENT IMPACT FEES AND SETTING FORTH FEE AMOUNTS AND THE PROCEDURES FOR THE IMPOSITION, CALCULATION, COLLECTION, EXPENDITURE AND ADMINISTRATION OF DEVELOPMENT IMPACT FEES.

**Subtitle 3. Development impact fees**

**18-301. Definitions.**

**(a) In general.**

Unless otherwise defined in this section, terms shall have the meaning set forth in §18-1-001 of Title 18. In case of a conflict, terms defined in this subtitle shall have the meaning defined in this §18-301.

**(b) Applicant.**

“Applicant” means an individual, corporation, or other legal entity that applies for a building permit or zoning certificate in the County or a municipal corporation.

**(c) Appropriation or to appropriate.**

“Appropriation” or “to appropriate” means an action by the County Commissioners to identify specific public facilities for which development impact fee funds may be used. Appropriation shall include, but is not limited to:

(1) inclusion of a public facility in the adopted capital budget or capital improvement program;

(2) execution of a contract or other legal encumbrance for construction of a public facility using impact fee funds in whole or in part; and

(3) actual expenditure of impact fee funds through payments made from an impact fee account or subaccount.

**(d) Building permit.**

“Building permit” means a permit, or other final approval required as a condition precedent to the construction, extension, conversion, alteration, or reconstruction of a structure required under:

(1) §18-1-198 of this title; or

(2) the applicable zoning ordinance of a municipal corporation.

(e) **Capital budget.**

“Capital budget” means the budget adopted by the County Commissioners from time to time, for the purpose of identifying and financing needed capital improvements.

(f) **Capital improvements.**

(1) “Capital improvements” means land acquisition, site development, site-related improvements, purchase of equipment, or construction of structures necessary for the expansion or construction of public facilities in the County.

(2) “Capital improvements” includes all related costs.

(g) **Capital improvements program.**

“Capital improvements program” means the schedule of capital improvements to be undertaken by the County as determined from time to time by the County Commissioners or as set forth in the capital budget.

(h) **Commercial use.**

“Commercial use” means any development for commercial use of a site as defined under:

(1) Subtitle 1 of this title; or

(2) the applicable zoning ordinance of a municipal corporation.

(i) **Community parks impact fee.**

“Community parks impact fee” means a development impact fee imposed only on new residential development to fund the proportionate share of the costs of community parks county-wide; including community park land and improvements; and support buildings, vehicles, and equipment.

(j) **Credit agreement.**

“Credit agreement” means an agreement made pursuant to this subtitle, which provides for a credit of certain required development impact fees in exchange for the provision of dedicated lands or the construction of facilities consistent with the County capital improvement program.

(k) **Department.**

“Department” means the Queen Anne’s County Department of Planning and Zoning.

(l) **Development impact fee or impact fee.**

“Development impact fee” or “impact fee” means a fee levied as a condition of issuance of a building permit or zoning certificate, and which is intended to fund capital improvements and public facilities needed to serve new growth and development activity in the County and municipal corporations

(m) **Exemption.**

“Exemption” means a waiver, either in whole or in part, in the amount of impact fees assessed against new development pursuant to the terms of this subtitle, and based on the criteria set forth in §18-305(d).

(n) **Finance Director.**

“Finance Director” means the Finance Director of the Queen Anne's County Finance Office.

(o) **Fire protection impact fee.**

“Fire protection impact fee” means a development impact fee imposed on new residential and non-residential development to fund the proportionate share of the costs of land acquisition for new fire stations; fire protection facilities, including construction, furniture, fixtures, equipment, and technology; and fire and emergency protection vehicles, equipment, and apparatus.

(p) **Floor area.**

“Floor area” means the sum of the gross area for each floor of a building’s stories measured from the exterior limits of the faces of the structure, and includes:

(1) habitable basement floor area; and

(2) if the attic meets the Queen Anne’s County Building Code standards for habitable floor area, attic floor area.

(q) **Impact fee subareas.**

“Impact fee subarea” means a geographically defined area in the County that has been designated by the County Commissioners as an area in which new development will

create the need for specified capital improvements to be funded in part or in whole by development impact fees.

(r) **Impact fee subarea map.**

“Impact fee subarea map” means the map of impact fee subareas adopted by the County Commissioners in which development impact fees for specified capital improvements are imposed.

(s) **Industrial use.**

“Industrial use” means any development for industrial use of a site as defined under:

- (1) Subtitle 1 of this title; or
- (2) the applicable zoning ordinance of a municipal corporation.

(t) **Institutional use.**

“Institutional use” means any development for institutional use of a site as defined under:

- (1) Subtitle 1 of this title; or
- (2) the applicable zoning ordinance of a municipal corporation.

(u) **Mixed-use development.**

“Mixed-use development” means a new development consisting of both residential and non-residential uses, or one (1) or more different types of non-residential use, on the same site or part of the same new development.

(v) **Municipal corporation.**

“Municipal corporation” means the towns of Barclay, Centreville, Church Hill, Millington, Queenstown, Queen Anne, Sudlersville, and Templeville.

(w) **New development.**

“New development” means any development or development activity for which a building permit or zoning certificate is issued after the effective date of this subtitle, and which either increases the number of dwelling units or which increases total non-residential floor area.

(x) **Nonresidential development.**

“Nonresidential development” means any development for agricultural, commercial, industrial, or institutional use.

(y) **Planning Director.**

“Planning Director” means the Planning Director of the Queen Anne’s County Department of Planning and Zoning.

(z) **Public facilities.**

“Public facilities” means public improvements, facilities, or services necessitated by new development, including, but not limited to water resources, transportation, law enforcement facilities, public works, fire protection facilities, emergency service facilities, medical services, County facilities, water facilities, sewer facilities, flood control and drainage, solid waste disposal, open space, parks, utilities, and public schools.

(aa) **Public facilities expenditures.**

“Public facilities expenditures” means funds appropriated in connection with the planning, design, engineering, and construction of public facilities; planning, legal, appraisal, and other costs related to the acquisition of land, financing, and development costs; the costs of compliance with purchasing procedures and applicable administrative and legal requirements; and all other costs necessary or incident to provision of the public facility.

(bb) **Public schools impact fee.**

“Public schools impact fee” means a development impact fee imposed on residential development to fund the proportionate share of the costs of public schools; including land acquisition, buildings, equipment, and relocatable classrooms; and support buildings, vehicles, and major capital equipment.

(cc) **Residential development.**

“Residential development” means any development for residential use, including commercial apartments.

(dd) **Residential use.**

“Residential use” means any development for residential use of a site as defined under:

- (1) Subtitle 1 of this title; or

(2) the applicable zoning ordinance of a municipal corporation.

(ee) **Site.**

“Site” means the land on which development takes place.

(ff) **Site-related improvement.**

“Site-related improvement” means off-site capital improvements or facilities made necessary by new development; including but not limited to roadway construction, upgrades, or improvements, and traffic control devices or measures.

(gg) **Zoning certificate.**

“Zoning certificate” means a permit:

(1) for the use or occupancy of a structure where a building permit is not required but the development of the structure will produce additional dwelling units or will increase non-residential floor area; and

(2) that is required under:

(i) §18-1-204 of this title; or

(ii) the applicable zoning ordinance of a municipal corporation.

**18-302. Purpose of subtitle.**

The purpose of this subtitle is to promote the health, safety, and general welfare of the residents of the County and its municipal corporations, by:

(a) establishing uniform procedures for the imposition, calculation, collection, expenditure, and administration of development impact fees imposed on new development;

(b) requiring all new residential and nonresidential development to contribute its fair and proportionate share towards the costs of capital improvements reasonably necessitated by such new development;

(c) providing a means of financing public facilities needed to accommodate new development in a safe and timely manner;

(d) ensuring that the new development paying development impact fees reasonably benefits from the appropriation of impact fee funds to public facilities provided to accommodate such new development;

(e) implementing the Queen Anne's County Comprehensive Plan and capital budget by ensuring that adequate public facilities are available in a timely and well-planned manner; and

(f) ensuring that all applicable legal standards and criteria are properly incorporated in these procedures.

**18-303. Effect on other subtitles.**

(a) This subtitle may not be construed to alter, amend, or modify any provision of Subtitle 1 of this title. The provisions of Subtitle 1 of this title shall be operative and remain in full force and effect notwithstanding any contrary provisions, definitions, or intentions that are or may be expressed or implied in this subtitle.

(b) The payment of development impact fees shall not entitle the applicant to a building permit or zoning certificate unless all other applicable land use, zoning, planning, adequate public facilities, forest resource, platting, subdivision, and other related requirements, standards, and conditions have been met. Such other requirements, standards, and conditions are independent of the requirement for payment of a development impact fee.

(c) This subtitle, including the specific development impact fee ordinances for particular public facilities, shall not affect, in any manner, the permissible use of property, density or intensity of development, design and improvement standards, or other applicable standards or requirements of the land development regulations of the County or any municipal corporation.

**18-304. Establishment of impact fee subareas.**

An impact fee subarea is established for the purpose of ensuring that the collection of certain development impact fees is more directly tied to the expenditure of such fees, as set forth in the specific development impact fees ordinance, under this subtitle. The impact fee subarea map is incorporated as part of this subtitle by reference. The County Commissioners may amend the boundaries of the impact fee subareas at such times as may be deemed necessary to carry out the purposes and intent of this subtitle and to comply with all applicable legal requirements for use of development impact fees.

**18-305. Applicability of development impact fees.**

(a) *Affected area.*

This subtitle shall apply to all new development within the County, including new development that takes place within the boundaries of any municipal corporation. Development impact fees for particular public facilities may apply to less than the entire County, as indicated herein.

(b) ***Type of development affected.***

Except where specifically exempt by the provisions of this subtitle, this subtitle shall apply to all new development.

(c) ***Type of development not affected.***

(1) No development impact fee shall be imposed on development for which a building permit or zoning certificate has been issued prior to the effective date of this subtitle.

(2) No development impact fee shall be imposed on any new residential development that does not add a new dwelling unit; nor shall a development impact fee be imposed for alteration or expansion of an existing dwelling unit where no additional dwelling unit is created.

(3) No development impact fee shall be imposed on the alteration of existing non-residential uses where there is no increase in the non-residential floor area.

(4) No development impact fee shall be imposed on developments that are the subject of a valid development rights and responsibilities agreement containing provisions in conflict with this subtitle, but only to the extent of the conflict or inconsistency.

(5) No development impact fee shall be imposed on the development of public facilities by the State of Maryland, the County, any municipal corporation, or the Federal government.

(d) ***Exempt development.***

In accordance with the procedures set forth in §18-314, the following land use types may be exempt, either in whole or in part, from the requirements of this subtitle as follows:

(1) No development impact fees shall be imposed on nonresidential development on a farm.

(2) No development impact fees shall be imposed upon any applicant for a building permit for residential housing units that are subsidized by any municipal corporation, County, State, or the federal government and are intended for low-income owners or tenants.

(3) No development impact fees shall be imposed on farm employee dwellings that:

(i) are proposed within an AG zoning district; and

(ii) are either subject to a MALPF easement or are located in a MALPF district.

(4) No public school impact fee shall be imposed on age-restricted adult or senior citizen housing, provided that each unit of housing shall contain a deed restriction recorded against the property, in form satisfactory to the County Attorney, which deed restriction shall provide that:

(i) the housing unit is restricted to occupancy by older persons, in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3607;

(ii) no person under the age of eighteen (18) years shall reside within any such housing unit; and

(iii) the deed restriction shall provide that in the event the above restrictions are ever modified or violated, the owner of the property at the time the restrictions are modified or violated shall pay to the County the then-current Public School Impact Fee.

(5) Development impact fees imposed on non-residential development within a designated growth area or incorporated town shall be imposed in an amount that is fifty percent (50%) below that required pursuant to §18-316 of this subtitle.

(6) Development impact fees imposed on non-residential development outside of a designated growth area or incorporated town shall be imposed in an amount that is twenty-five percent (25%) below that required pursuant to §18-316 of this subtitle.

(e) ***Development impact fee subarea.***

Impact fees for certain public facilities shall be collected and spent within a defined geographical area. The impact fee subareas are shown on the impact fee subarea map as incorporated by §18-304 of this subtitle.

(f) ***Municipal corporations.***

Development impact fees on new development within municipal corporations shall be collected by the County prior to issuance of a building permit or zoning certificate as required by this subtitle. No municipal corporation shall issue a building permit or zoning certificate until the applicant demonstrates that all impact fees required by this subtitle have been paid to the County.

**18-306. Annual review and adjustments.**

**(a) Annual review.**

(1) At least once every year not later than July 1st of each year, beginning July 1, 2003, and prior to County Commissioners' adoption of the Annual Budget and capital improvements program, the Finance Director, or designee, shall coordinate the preparation and submission of an Annual Report to the County Commissioners on the subject of development impact fees.

(2) The Annual Report may include any or all of the following:

(i) recommendations for amendments, if appropriate, to these procedures or to specific ordinances adopting development impact fees for particular public facilities;

(ii) proposed changes to the Queen Anne's County capital improvements program, including the identification of additional public facility projects anticipated to be funded wholly or partially with development impact fees;

(iii) proposed changes to the boundaries of impact fee subareas;

(iv) proposed changes to development impact fee schedules as set forth in the ordinances imposing and setting development impact fees for particular public facilities;

(v) proposed changes to any development impact fee calculation methodology; and

(vi) any other data, analysis, or recommendations as the Finance Director, or designee, may deem appropriate, or as may be requested by the County Commissioners.

(3) The Finance Director shall submit the Annual Report to the County Commissioners, which shall receive the Annual Report and which may take such actions as it deems appropriate, including, but not limited to, requesting additional data or analyses and holding public workshops and public hearings.

**(b) Annual adjustment.**

(1) On July 1, 2003, and on July 1st of each year thereafter in which this subtitle is in effect, the amount of any development impact fee may be automatically adjusted to account for inflationary increases in the cost of providing public facilities utilizing the most recent 20-city annual national average data from the Engineering News Record Construction Cost Index.

(2) The Finance Director shall make the automatic annual adjustment unless the County Commissioners have, in their Annual Review, determined an alternate adjustment.

(c) Nothing herein shall prevent the County Commissioners from electing to retain existing development impact fees or from electing to waive the inflation adjustment for any given fiscal year.

**18-307. Imposition and enforcement of development impact fees.**

(a) *In general.*

A building permit or zoning certificate shall not be issued by the County or a municipal corporation for a new development until the development impact fees required under this subtitle have been calculated and paid. The amount of the development impact fee due is the amount of the fee in effect on the date of issuance of the building permit or zoning certificate.

(b) *Lien.*

In the event new development is undertaken without the payment of all applicable development impact fees, the development impact fees shall:

- (1) be a lien against the site of development;
- (2) be levied, collected, and enforced in the same manner as real property taxes imposed by the County; and
- (3) have the same priority and bear the same interest and penalties as real property taxes.

(c) *Actions to recover.*

In the event a development impact fee is not paid as required by this subtitle, the County Attorney may institute an action to recover the fee and enjoin the use of the property until the fee is paid. The person who fails so to pay shall be responsible for the costs of such suit, including reasonable attorney's fees

**18-308. Calculation of development impact fees - Fee schedule.**

(a) *In General.*

An applicant shall be notified by the County or by the municipal corporation within which new development is located of the applicable development impact fee requirements at the time of application for a building permit or zoning certificate. At such time, the development impact fees shall be calculated by the Planning Director, or

designee, and shall be paid by the applicant prior to the issuance of a building permit or zoning certificate.

(b) *Calculation.*

(1) Upon receipt of an application for a building permit or zoning certificate, the Planning Director, or designee, shall determine:

(i) whether the proposed new development constitutes a residential or non-residential use;

(ii) the specific type of residential or non-residential development, if applicable;

(iii) if residential, the number of new dwelling units;

(iv) if non-residential, the number of additional square feet of floor area (rounded up to the nearest square foot) and the proposed use; and whether the proposed use is in the same type of non-residential development as the prior use; and

(v) if applicable, the development impact fee subarea or subareas in which the new development is located.

(2) For proposed new development for which no specific land use type is listed in §18-316, the Planning Director shall apply the land use type that is most similar to the proposed new development in terms of impact on public facilities, based on the predominant characteristics of the proposed new development.

(3) The calculation of development impact fees due from a mixed-use development shall be based upon the development impact fee for each public facility generated by each land use type in the mixed-use development.

(4) The calculation of development impact fees due from a phased new development shall be based upon the development impact fees due for each specific land use within the phase of development for which building permits or zoning certificates are requested.

(5) After making these determinations, the Planning Director, or designee, shall calculate the applicable development impact fee by multiplying the demand added by the new development, measured by either the number of new dwelling units or new floor area, by the amount of the applicable development impact fee per unit of development, and incorporating any applicable credit made pursuant to §18-310 of this subtitle.

**18-309. Site specific analysis.**

(a) If the type of land use proposed for new development is not expressly listed in the particular development impact fee ordinance and schedule, the Planning Director, or designee, shall:

(1) identify the most similar land use type listed and calculate the development impact fee based on that land use; or

(2) identify the broader land use category within which the specified land use would apply and calculate the development impact fee based on that land use category; or

(3) at the option of the applicant, determine the basis used to calculate the fee pursuant to an independent impact analysis for development impact fee calculation. This option shall be requested by the applicant on a form provided by the County for such purpose. If this option is chosen, the following shall apply:

(i) The applicant shall be responsible, at its sole expense, for preparing the independent impact analysis, which shall be reviewed for approval by the Planning Director prior to payment of the fee.

(ii) The independent impact analysis shall measure the impact that the proposed development will have on the particular public facility for which the impact fee is being assessed, and shall be based on the same methodologies used in the development of this subtitle, and shall be in accordance with standard methodologies for the evaluation of impacts upon public facilities created by new development; and shall be performed by a person or firm with sufficient professional training and experience in the preparation of such analyses.

(iii) After review of the independent impact analysis submitted by the applicant, the Planning Director shall accept or reject the analysis and provide written notice to the applicant of its decision within twenty (20) working days. If the independent impact analysis is rejected, the written notice shall provide an explanation of the insufficiencies of the analysis.

(4) If the proposed development site is located within a municipal corporation, the Planning Director shall consult with the Planning Director of the municipal corporation prior to making a final decision.

(5) Pursuant to either the analysis of the Planning Director, or designee, or the independent impact analysis submitted by the applicant and accepted by the Planning Director, the Planning Director shall calculate the development impact fee accordingly.

(b) The Planning Director's decision under this section shall constitute a final administrative decision from which an appeal as provided in §18-315 of this subtitle may be filed.

**18-310. Development impact fee credits.**

(a) ***Applicability.***

(1) The Planning Director shall grant a credit against any development impact fee imposed by this subtitle upon any new development where the applicant has entered into a credit agreement with the County Commissioners to construct capital improvements or dedicate land, which:

(i) are consistent with and implement the County capital improvements program,

(ii) are funded by development impact fee revenue,

(iii) are of the same category of public facility impacted by the proposed new development, and

(iv) will be constructed or dedicated in accordance with the timing schedule set forth in the capital improvement program.

(2) No credit shall exceed development impact fees imposed by this subtitle for the proposed new development.

(b) ***Procedure.***

(1) The determination of the credit shall be undertaken through the submission of a proposed credit agreement to the Planning Director or designee, which agreement shall include the following:

(i) A proposed plan of specific capital improvements, specifically outlining the capital improvements that will be constructed in lieu of the required development impact fee and the time by which the capital improvements will be constructed; and

(ii) The projected costs for the suggested capital improvements, which shall be based on local information for similar capital improvements, along with a construction timetable for the completion thereof. Such estimated costs shall include the cost of construction, labor and materials, lands, easements and rights, surveys, plans and specifications, engineering and legal services, and all other expenses necessary or incident to determining the feasibility of such construction.

(2) The proposed plan and cost estimates shall be prepared by a person or persons qualified in the provision of the particular capital improvement, impact analysis, and economics.

(3) If the development site or the land or dedication of any structure for credit is located within a municipal corporation, the Planning Director of the municipal corporation shall be consulted regarding the proposed conveyance or dedication.

(4) Within twenty (20) working days of the submission of the proposed credit agreement, the Planning Director, or designee, shall determine if the proposed agreement is complete. If it is determined that the proposed credit agreement is not complete, the Planning Director, or designee, shall send a written statement to the applicant outlining the deficiencies and no further action shall be taken until all deficiencies have been corrected.

(5) Once the Planning Director or designee determines the proposed credit agreement is complete, within twenty (20) working days, the Planning Director shall approve the agreement if it is determined that the proposed capital improvements are consistent with and implement the capital improvement program, as it applies to the specific category of capital improvement. If, within this time period, the Planning Director determines that either the suggested capital improvements are not consistent with or do not implement the capital improvement program, or that the proposed costs are not acceptable, the Planning Director, or designee, shall propose changes to the agreement that are consistent with this section.

(6) If the Planning Director approves the proposed credit agreement, or if the changes proposed by the Planning Director, or designee, are acceptable to the applicant, the credit agreement shall be prepared and forwarded to the County Commissioners for final approval and execution.

(7) Upon execution of the credit agreement, the balance of development impact fees due, if any, shall be paid in accordance with this subtitle and any land dedicated pursuant to the credit agreement shall be conveyed in fee simple to the County Commissioners free and clear of all leases and encumbrances.

(8) In the event the credit agreement contemplates the dedication of structures, the person required to pay development impact fees shall execute such easements and other instruments as may be necessary to authorize the County Commissioners to use the structures for public purposes.

(9) Any person may appeal the Planning Director's decision to approve or deny a proposed credit agreement under this section, by filing an appeal in accordance with §18-315 of this subtitle.

(c) ***Circumstances when credit not available.***

Credit may not be given for conveyance of land or construction of facilities required as part of the Planning Commission approval of the project, or any conveyance or construction otherwise required for development under any other provision of State or County law.

(d) ***Timing of conveyance.***

Any land awarded credit under this section shall be conveyed 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.

**18-311. Administration of development impact fees.**

(a) ***Collection.***

(1) The Planning Director, or designee, shall collect all applicable development impact fees at the time of issuance of a building permit or zoning certificate unless:

(i) the applicant is determined to be entitled to a full credit, pursuant to §18-310 of this subtitle; or

(ii) the applicant has been determined to be not subject to the payment of a development impact fee; or

(iii) the applicant has filed an appeal and has posted with the County a letter of credit in the amount of the development impact fee, as calculated by the Planning Director, or designee. Such letter of credit must first be approved by the County Attorney and Finance Director.

(2) The person required to pay development impact fees shall provide the Department with an accounting of the amount of development impact fees required under this subtitle for each category of public facility.

(b) ***Development impact fee accounts.***

A development impact fee account shall be established by the County Commissioners for each category of public facilities for which development impact fees are imposed. Such account shall clearly identify the category, account, or fund for which the development impact fee has been imposed. Subaccounts may be established for individual impact fee subareas. All development impact fees collected by the County or a municipal corporation shall be deposited in the appropriate development impact fee

account or subaccount, which shall be interest bearing. All interest earned on funds deposited to such account shall be credited to and considered funds of the account. The funds of each such account shall be capable of being accounted for separately from all other County funds, over time. The County shall establish and implement necessary accounting controls to ensure that the development impact fee funds are properly deposited, accounted for, and appropriated in accordance with this subtitle, and any other applicable legal requirements.

(c) ***Duties of Finance Director.***

(1) The Finance Director shall maintain and keep accurate financial records for each of the development impact fee accounts that:

- (i) show the source and disbursement of all revenues; and
- (ii) account for all fees received.

(2) The Finance Director shall make its financial records available for public inspection at reasonable times and under reasonable circumstances.

**18-312. Appropriation of development impact fees.**

(a) ***In General.***

Development impact fee funds may be appropriated for public facilities, for public facility expenditures, and for the payment of principal, interest, and other financing costs on contracts, bonds, notes, or other obligations issued by or on behalf of the County or other applicable local governmental entities to finance such public facilities and public facility expenditures. All appropriations from development impact fee accounts shall be detailed in a budget adopted by the County Commissioners.

(b) ***Restrictions on appropriations.***

Development impact fees shall be appropriated only:

(1) for the particular category of public facilities for which they were imposed, calculated, and collected. Development impact fees shall not be appropriated for funding any expenditure that would be classified in an accounting as a maintenance or repair expense or for operational or personnel expenses associated with the provision of a public facility;

(2) where applicable, within the impact fee subarea where collected, unless the development impact fee funds will be appropriated for a public facility necessitated by or serving the new development as provided in subsection (c) below; and

(3) within six (6) years of the beginning of the fiscal year immediately succeeding the date of collection, unless the development impact fee funds will be appropriated in accordance with subsection (d) below.

(c) ***Appropriation of development impact fee funds outside of subarea where collected.***

Notwithstanding §18-312(b)(2) above, where the County is divided into impact fee subareas for the payment and expenditure of a particular development impact fee, development impact fee funds may be appropriated for a public facility located outside of the subarea where collected only if the demand for the public facility is generated in whole or in part by the new development or if the public facility will actually serve the new development. However, development impact fees may only be appropriated for a public facility located outside of the subarea where collected, if the benefits to property owners not paying the fee are incidental.

(d) ***Appropriation of development impact fee funds beyond six (6) years of collection.***

Notwithstanding §18-312(b)(3) above, development impact fee funds may be appropriated beyond six (6) years from the beginning of the fiscal year immediately succeeding the date of collection if the appropriation is for a public facility or capital improvement that requires more than six (6) years to plan, design, and construct, and the demand for the public facility is generated in whole or in part by the new development; or if the public facility will actually serve the new development; or where the capital improvements program prepared by the County for a particular category of public facility has used a longer time frame. The County shall document such appropriations.

**18-313. Refund of development impact fees.**

(a) ***Expiration or revocation of building permit or zoning certificate.***

An applicant who has paid a development impact fee for a new development for which the necessary building permit or zoning certificate has expired or for which the building permit or zoning certificate has been revoked prior to construction shall be eligible to apply for a refund of development impact fees.

(b) ***Failure of county to use or appropriate development impact fee funds within time limit.***

The current property owner may apply for a refund of development impact fees paid by an applicant if the County has failed to use or appropriate the development impact fees collected from the applicant within the time limit established in §18-312(b)(3), unless such funds are used or appropriated in accordance with §18-312(d) above.

(c) *Abandonment of development after initiation of construction.*

An applicant who has paid a development impact fee for a new development for which a building permit or zoning certificate has been issued and pursuant to which construction has been initiated, but which construction is abandoned prior to completion and issuance of a certificate of occupancy, shall not be eligible for a refund unless the uncompleted building is completely demolished.

(d) *Administrative fee.*

A 2% administrative fee, not to exceed \$500, shall be deducted from the amount of any refund granted and shall be retained by the County to defray the administrative expenses associated with the processing of a refund application.

(e) *Procedure and submittal requirements.*

(1) Applications for a refund shall be made on a form provided by the County for such purposes and shall include all information required below. Upon receipt of a complete application for a refund, the Planning Director, or designee, shall review the application and documentary evidence submitted by the applicant as well as such other information and evidence as may be deemed relevant, and make a determination as to whether a refund is due. Refunds by direct payment shall be made following an affirmative determination by the Planning Director, or designee. No interest shall be paid by the County in calculating the amount of a refund.

(2) Applications for refunds due to abandonment of a new development prior to completion or due to expiration or revocation of a building permit or zoning certificate shall be made within sixty (60) days following expiration or revocation of the building permit or zoning certificate, or within sixty (60) days following the issuance of a valid County-issued demolition permit. The applicant shall submit:

(i) evidence of the amount of the development impact fees paid by public facilities category and receipts evidencing such payments; and

(ii) documentation evidencing the expiration or revocation of the building permit or zoning certificate prior to construction, or the approval of demolition of the structure pursuant to a valid County-issued demolition permit.

(3) Applications for refunds due to the failure of the County to appropriate development impact fees collected from the applicant within the time limits established in §18-312(b)(3), shall be made by the current property owner on forms provided by the County and shall be made within 180 days of the expiration of such time limit. If a portion of the impact fees collected during a fiscal year have been expended or encumbered before the end of the sixth year following collection, the designated County office shall distribute refunds to the eligible property owner on a pro rata basis. The refund applicant shall submit:

(i) evidence that the refund applicant is the property owner or the designated agent of the property owner;

(ii) the amount of the development impact fees paid by public facility category and receipts evidencing such payments; and

(iii) documentation of the County's failure to appropriate development impact fee funds for relevant public facilities within the time limits established in §18-312(b)(3).

(f) ***Forfeiture of fees.***

Failure to apply for a refund within the deadlines set forth in this section shall constitute a forfeiture of any fees available for refund to the property owner or applicant.

(g) ***Method of refund payment.***

The County may, at its option, make refunds of development impact fees by direct payment, by offsetting such refunds against other development impact fees due for the same category of public facilities for new development on the same property, or by other means subject to agreement with the property owner or applicant.

(h) ***Appeal.***

The decision of the Planning Director shall be a final administrative decision from which an appeal as provided in §18-315 of this subtitle may be taken.

**18-314. Exemptions of development impact fees.**

(a) ***Application for exemption.***

Pursuant to §18-305(d), applications for exemptions to the provisions of this subtitle shall be filed with the Planning Director on forms provided by the County.

(b) ***Review of an application for exemption.***

Upon receipt of a complete application for exemption, the Planning Director shall determine whether the proposed new development qualifies for an exemption pursuant to the provisions of §18-305(d). In determining whether an exemption is appropriate, the Planning Director shall consider only whether the proposed new development constitutes one of the land uses described in §18-305(d), and whether covenants, easements, and other required documentation, in a form satisfactory to the County Attorney, have been submitted where necessary to demonstrate conformance with §18-305(d).

(c) ***Notification to appropriate departments.***

If the Planning Director determines that the proposed development qualifies for an exemption, the Planning Director shall notify the Building Official of the amount of the impact fee, if any, that should be imposed on the new development prior to issuance of a building permit or zoning certificate, and shall notify the Finance Director that the exemption has been approved and that a funding source other than development impact fees or other development exactions shall be used to fund public facilities in accordance with the adopted capital improvements program.

(d) ***Effect of grant of exemption.***

If the County Commissioners grant an exemption of development impact fees otherwise due, the Finance Director shall transmit funds equal in amount to those exempted, from a source other than impact fees into the appropriate development impact fee account no later than the beginning of the fiscal year following the calendar year in which the exemption was granted.

**18-315. Appeals.**

An appeal may be taken by any person aggrieved by a final decision of a County Official or the County Commissioners. Appeals from decisions of a County Official shall be to the County Board of Appeals and shall be filed and administered in accordance with the provisions of 18-1-179 of this title. Appeals from decisions of the County Commissioners shall be to the Circuit Court for Queen Anne's County.

**18-316. Amount of impact fees.**

As required by this subtitle 3, residential and non-residential development impact fees shall be paid in the amounts set forth in (a) and (b) below, or as amended pursuant to section 18-306.

(a) ***Residential impact fees.***

Residential new development shall be subject to the following development impact fees.

Land Use by Type	Capital Improvement by Type			TOTAL
	Public Schools (per d.u.)	Community Parks (per d.u.)	Fire Protection (per d.u.)	
Single Family Detached <sup>1</sup>	\$4,730	\$616	\$1,014	\$6,360
Residential other than Single Family Detached	\$2,569	\$503	\$828	\$3,900

<sup>1</sup> Includes mobile homes

(b) *Non-residential impact fess.*

Non-residential new development shall be subject to the following development impact fees.

Land Use by Type	Capital Improvement by Type			TOTAL (per s.f.)
	Public School	Community Parks/ Boat Landings	Fire Protection (per SF)	
Comm/Shop. Ctr.				
50,000 SF or less	N/A	N/A	\$1.08	\$1.08
50,001-100,000 SF	N/A	N/A	\$0.95	\$0.95
100,001-200,000 SF	N/A	N/A	\$0.84	\$0.84
200,001 SF or greater	N/A	N/A	\$0.76	\$0.76
Office				
25,000 SF or less	N/A	N/A	\$1.53	\$1.53
25,001-50,000 SF	N/A	N/A	\$1.44	\$1.44
50,001-100,000 SF	N/A	N/A	\$1.35	\$1.35
100,001 or greater	N/A	N/A	\$1.27	\$1.27
Business Park	N/A	N/A	\$1.20	\$1.20
Light Industrial	N/A	N/A	\$0.87	\$0.87
Warehousing	N/A	N/A	\$0.48	\$0.48
Institutional	N/A	N/A	\$0.30	\$0.30

**18-317. Public school impact fee - Service area.**

The applicable service area for imposition of a Public School Impact Fee is the entire County, including all municipal corporations.

**18-318. Same - Amount of impact fee.**

All new residential development in the service area shall be subject to the payment of a Public School Impact Fee payable at the time of issuance of a building permit or zoning certificate by the County or a municipal corporation, pursuant to section 18-316 of this subtitle, or as amended pursuant to §18-306.

**18-319. Community parks impact fee - Service area.**

The applicable service area for imposition of a Community Parks Impact Fee is the entire County, including municipal corporations.

**18-320. Same - Amount of impact fee.**

All new residential development in the service area shall be subject to the payment of a Community Parks Impact Fee payable at the time of issuance of a building permit or

zoning certificate by the County or a municipal corporation, pursuant to section 18-316 of this subtitle, or as amended pursuant to §18-306.

**18-321. Fire protection impact fee - Service area.**

(a) The applicable service areas for imposition of a Fire Protection Impact Fee is the entire County, including all municipal corporations.

(b) The Fire Protection Impact Fee shall be collected and applied in accordance with the Impact Fee Subarea Map.

**18-322. Same - Amount of impact fee.**

All future residential and non-residential development in the service area shall be subject to the payment of a Fire Protection Impact Fee at the time of issuance of the building permit or zoning certificate by the County or a municipal corporation, pursuant to section 18-316 of this subtitle, or as amended pursuant to §18-306.

**SECTION 3. ADOPTION OF IMPACT FEE SUBAREA MAP.**

The Impact Fee Subarea Map, a copy of which is attached hereto as Exhibit A, is hereby adopted.

**SECTION 4. CONFLICT.**

To the extent of any conflict between other County ordinances and this Ordinance, this Ordinance shall be deemed to be controlling; provided, however, that this Ordinance is not intended to amend or repeal any existing County ordinance, resolution or regulation, other than as provided in SECTION 1 hereof.

**SECTION 5. SEPARABILITY.**

1. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion of this Ordinance shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions of this Ordinance nor impair or nullify the remainder of this Ordinance which shall continue in full force and effect.

2. If the application of any provision of this Ordinance to any new development is declared to be invalid by a decision of any court of competent jurisdiction, the intent of the Board of County Commissioners is that such decision shall be limited only to the specific new development expressly involved in the controversy, action or proceeding in which such

decision of invalidity was rendered. Such decision shall not affect, impair, or nullify this Ordinance as a whole or the application of any provision of this Ordinance to any other new development.

## SECTION 6. EFFECTIVE DATE.

This ordinance shall be effective on the 46th day following its adoption by the County Commissioners, and impact fees shall be paid as required by section 18-316 of Subtitle 3, except as follows:

1. For new developments that have not received site plan or final subdivision approval as of the date of adoption of this Ordinance, or which do not require site plan or final subdivision approval, impact fees shall be assessed at amounts equal to fifty percent (50%) of those set forth in section 18-316 of Subtitle 3, for a period of six (6) months following the adoption of this Ordinance. However, if an applicant pays reduced impact fees pursuant to this section, and actual development does not begin within six (6) months of the issuance of the building permit or zoning certificate, then the applicant must pay the difference between the amount paid prior to the issuance of the building permit or zoning certificate and the amount required under §18-316 of Subtitle 3, prior to the issuance of a certificate of occupancy.
2. For new developments that have received site plan or final subdivision approval, where required, within the eighteen (18) months prior to the adoption of this Ordinance, but which have not received a building permit as of the date of adoption of this Ordinance, impact fees shall be assessed at amounts equal to fifty percent (50%) of those set forth in section 18-316 of Subtitle 3, for a period of eighteen (18) months following the adoption of this Ordinance. However, if an applicant pays reduced impact fees pursuant to this section and actual development does not begin within six (6) months of the issuance of the building permit or zoning certificate, then the applicant must pay the difference between the amount paid prior to the issuance of the building permit or zoning certificate and the amount required under §18-316 of Subtitle 3, prior to the issuance of a certificate of occupancy.

Introduced by: Marlene Davis

Date of Introduction: 3-19-02

Public Hearing Scheduled for: 5-7-02 9:30

Public Hearing held: 5-7-02 - 930

March 12, 2002

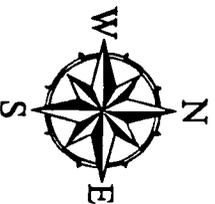
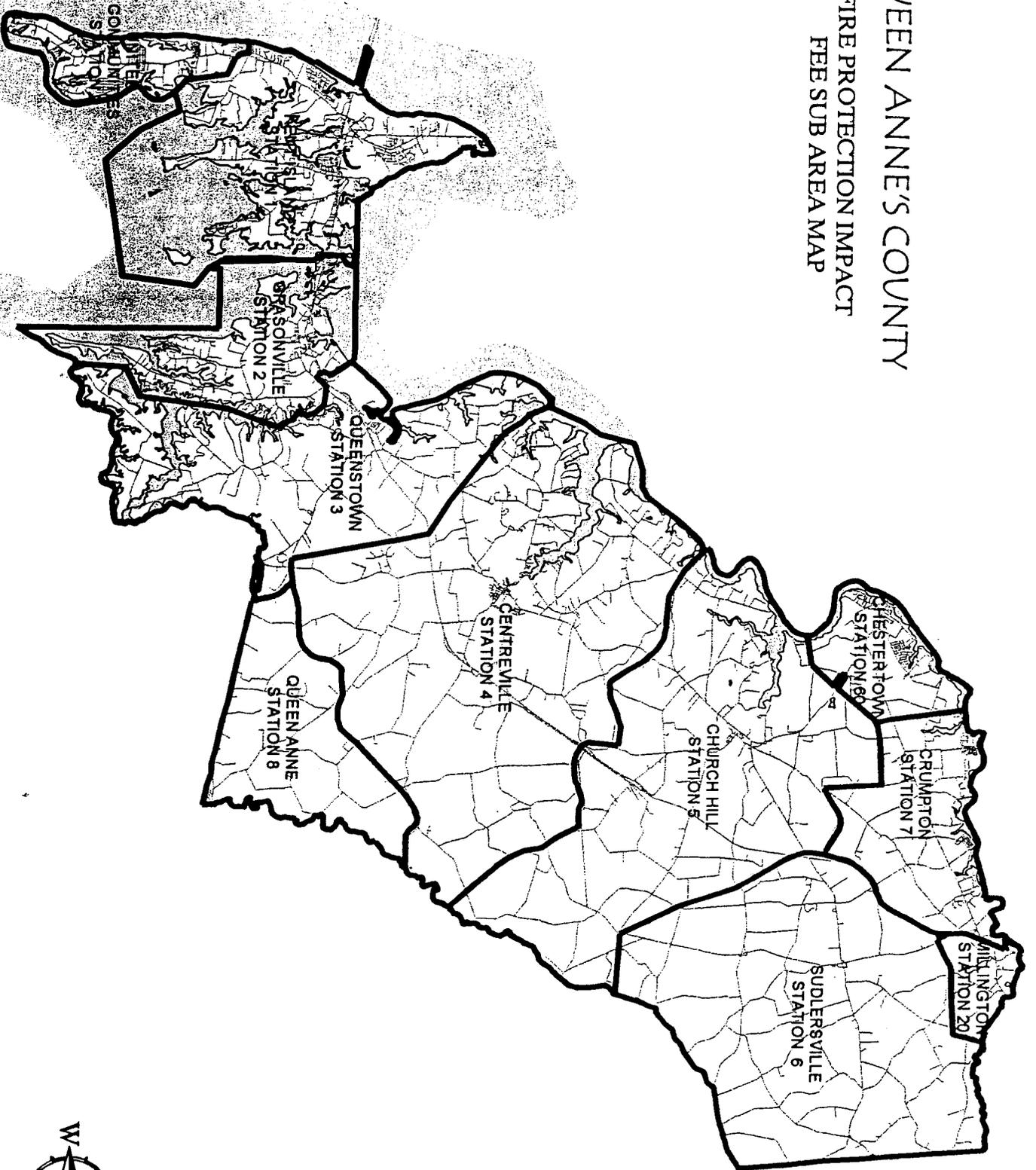
Vote: 3 Yea \_\_\_\_\_ Nay

Date: 6-4-02

The undersigned hereby certifies that this Ordinance was Approved and Adopted by the Board of County Commissioners of Queen Anne's County, Maryland, on the 6 day of June, 2002.

Margie A. Houck  
Margie A. Houck, Clerk

QUEEN ANNE'S COUNTY  
FIRE PROTECTION IMPACT  
FEE SUB AREA MAP



SCALE 1" = 4.25 MILES  
SOURCE: QUEEN ANNE'S COUNTY PLANNING & ZONING