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Chapter 36

IMPACT FEES

Section 36-1. Short title and applicability.

- (a) This ordinance shall be known and cited as the "Impact Fee Ordinance," and is referred to herein as "this chapter."
- (b) The provisions of this chapter shall apply to all of the territory within Hawaii County.

Section 36-2. Intent.

- (a) The intent of this chapter is to ensure that impact-generating development bears a proportionate share of the cost of improvements to the County's major roadway, park, fire/emergency medical service, police, solid waste and wastewater facilities; to ensure that the proportionate share does not exceed the cost of providing facilities to the development that paid the fee; and to ensure that funds collected from impact-generating development are actually used to construct system improvements that serve such development. It is further the intent of this chapter to use impact fees to implement the County's General Plan.
- (b) It is not the intent of this chapter to collect any money from any impact-generating development in excess of the actual amount necessary to offset demands generated by that development for improvements for which the fee was paid.
- (c) It is the intent of this chapter to utilize other non-impact fee funds to offset the impact on housing affordability.

Section 36-3. Findings.

The County Council of Hawaii County, Hawaii finds that:

- (a) The protection of the health, safety, and general welfare of the citizens of the County requires that the major roadway, park, fire/EMS, police, solid waste and wastewater facilities of the County be expanded and improved to meet the demands of new development.
- (b) The creation of an equitable impact fee system would enable the County to impose a more proportionate share of the costs of required improvements to the major roadway, park, fire/EMS, police, solid waste and wastewater facilities on those developments that create the need.
- (c) The needs assessment study, which sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the County's major roadway, park, fire/EMS, police, solid waste and wastewater facilities, is hereby approved.
- (d) The impact fees described in this chapter are based on the needs assessment study, and do not exceed the costs of acquiring or constructing additional facilities or equipment required to serve the development that will pay the fees.
- (e) There is both a rational nexus and a rough proportionality between the development impacts created by each type of new development covered by this chapter and the

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impact fees that such development will be required to pay.

- (f) This chapter creates a system by which impact fees paid by impact-generating development will be used to expand the major roadway, park, fire/EMS, police, solid waste and wastewater facilities, so that the development that pays each fee will receive a corresponding benefit within a reasonable period of time after the fee is paid.

Section 36-4. Definitions.

For the purpose of interpreting this chapter, certain words used herein are defined as follows:

Applicant: The applicant for final subdivision approval, a building permit or a connection to the wastewater system for which an impact fee is due pursuant to the provisions of this chapter.

Equivalent Dwelling Unit (EDU): Represents the impact of a typical single-family dwelling. A typical single-family detached dwelling unit represents, on average, one EDU. For the purpose of park and solid waste impact fees, a dwelling unit of another housing type represents a fraction of an EDU, based on the ratio of the average household size of the other housing type to the average household size of the typical single-family detached unit. For the purpose of fire/EMS and police impact fees, a dwelling unit of another housing type represents a fraction of an EDU, based on the ratio of the functional population of the other housing type to the functional population of the typical single-family detached unit.

Fire/EMS Facilities: Land, buildings, vehicles and capital equipment owned by the County and used for providing fire and emergency medical services, including fire stations, fire department administrative offices, training facilities, fire-fighting apparatus and support vehicles, and fire-fighting equipment.

Fire/EMS System Improvements: Capital improvements that result in a net expansion of the capacity of the fire/EMS facilities to serve new development. Remodeling, replacement or maintenance of existing equipment or facilities do not constitute fire/EMS system improvements, except to the extent that they have the net effect of adding capacity. For example, half of the cost of tearing down a 5,000 square foot fire station and replacing it with a 10,000 square foot fire station could reasonably be considered a system improvement.

Functional Population: The number of "full-time equivalent" people present at the site of a land use.

General Plan: The comprehensive development plan that has been officially adopted by the County Council to provide long-range development policies for the County.

Gross Floor Area: The total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the centerlines of a party wall separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portions thereof without walls, but excluding unscreened residential porches or balconies, vehicle parking garages, accessory or commercial vehicular parking areas and structures, and nonresidential arcades and similar open areas are accessible to the general public, and are not designed or

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used as sales, display, storage, service or production areas.

Impact Fee Administrator: The County department director primarily responsible for administering the provisions of this chapter, or his or her designee.

Impact Fees: The road, park, fire/EMS, police, solid waste and wastewater impact fees.

Impact-Generating Development: Any land development designed or intended to permit a use of the land that will increase the number of service units.

Impact-Generating Development, Commencement of: For the purposes of roads, parks, fire/EMS, police and solid waste impact fees, commencement occurs upon securing final subdivision approval for a new single-family detached development, or upon securing final plan approval or a building permit for single-family development on existing lots of record or for other types of development. For the purposes of wastewater impact fees, commencement occurs upon the purchase of a water meter or, if no water meter is required, upon physical connection to the County's wastewater line serving the property.

Major Roadway Facilities: Arterials and collectors, including State roads and Federal highways, located within the County.

Major Roadway System Improvements: Improvements that expand the capacity of the major roadway facilities, including but not limited to the acquisition of right-of-way, construction of new roads, widening of existing roads, intersection improvements, and installation of traffic signals. Lane reconstruction, sidewalk construction, medians, landscaping, street lighting and other ancillary components of a capacity-expanding road improvement shall not be considered system improvements when not an integral part of a capacity-expanding improvement.

Needs Assessment Study: The *Infrastructure and Public Facilities Needs Assessment: Impact Fee Study* prepared for Hawaii County by Duncan Associates in August 2006, or a subsequent similar report.

Park Facilities: Land, buildings and improvements to County-owned or maintained land used for recreational purposes, and recreational facilities and improvements made or installed by the County on non-County property and available for public use.

Park System Improvements: Capital improvements that result in a net expansion of the capacity of the park facilities to serve new development. Remodeling, replacement or maintenance of existing equipment or facilities do not constitute park system improvements.

Person: An individual, corporation, governmental agency or body, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other entity.

Police Facilities: Land, buildings, vehicles and capital equipment owned by the County and used for providing police services, including police stations, police department administrative offices, training facilities, patrol vehicles, and police equipment.

Police System Improvements: Capital improvements that result in a net expansion

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of the capacity of the police facilities to serve new development. Remodeling, replacement or maintenance of existing equipment or facilities do not constitute police system improvements, except to the extent that they have the net effect of adding capacity. For example, half of the cost of tearing down a 5,000 square foot police station and replacing it with a 10,000 square foot police station could reasonably be considered a system improvement.

Service Units: Roadway VMT, park EDUs, fire/EMS EDUs, police EDUs, solid waste EDUs, or wastewater SFEs.

Single-Family Equivalent (SFE): The wastewater demand associated with a typical single-family detached unit.

Solid Waste Facilities: Land, buildings, vehicles and capital equipment owned by the County and used for providing solid waste services to self-haul residential customers, including landfill improvements and equipment, transfer stations and equipment, and vehicles.

Solid Waste System Improvements: Capital improvements that result in a net expansion of the capacity of the solid waste facilities to serve new development. Remodeling, replacement or maintenance of existing equipment or facilities do not constitute solid waste system improvements, except to the extent that they have the net effect of adding capacity.

System Improvements: Major roadway system improvements, park system improvements fire/EMS system improvements, police system improvements, solid waste system improvements or wastewater system improvements. System improvements do not include land dedications or capital improvements for the exclusive use or benefit of a particular development.

Vehicle-Miles of Travel (VMT): The number of vehicles traveling during a given time period times the distance in miles that these vehicles travel.

Vehicle-Miles of Capacity (VMC): The maximum number of vehicles that can be accommodated on a roadway times the length of the roadway in miles.

Wastewater Facilities: The land and improvements associated with the wastewater plant, including effluent outfall to receiving waters, and the wastewater collection system, excluding portions of the collection system typically installed by developers.

Wastewater System Improvements: Capital improvements that result in a net expansion of the capacity of the wastewater facilities to serve new development. Gravity lines less than 12 inches in diameter are not considered system improvements. Remodeling, replacement or maintenance of existing equipment or facilities do not constitute wastewater system improvements, except to the extent that they add capacity. For example, half of the cost of constructing a new 6 million gallon per day treatment plant that will replace an existing 3 million gallon per day treatment plant could reasonably be considered a wastewater system improvement.

Section 36-5. Time of fee obligation and payment.

- (a) On and after the effective date of this chapter, any person who causes the commencement of impact-generating development shall be obligated at that time to pay impact fees, pursuant to the terms of this chapter. The obligation to pay the

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impact fees shall run with the land.

- (b) The impact fees for roads, parks, fire/EMS, police and solid waste shall be determined and paid at the time of final plan approval or issuance of a building permit for the development, provided that for new single-family lots subdivided after the effective date of this chapter, such fees shall be paid at time of final subdivision approval. Wastewater impact fees shall be determined and paid at time of the purchase of a water meter for the development, unless no water meter is required, in which case the fees shall be paid prior to physical connection to the County's wastewater line serving the property.

Section 36-6. Exemptions.

The following shall be exempt from the terms of this chapter. An exemption must be claimed at the time of application for a building permit.

- (a) A single-family detached unit on a lot for which impact fees had been paid at time of final subdivision approval shall be exempt from any increase in impact fees of the types already paid, but shall be subject to any new impact fees for additional facilities.
- (b) Alterations of an existing single-family detached dwelling unit where no additional dwelling units are created.
- (c) Replacement of a destroyed, partially destroyed or moved residential building or structure with a new building or structure of the same use, and with the same number of dwelling units and with a total gross floor area that does not exceed the size of the original building or structure.
- (d) Replacement of destroyed, partially destroyed or moved nonresidential building or structure with a new building or structure of the same use and not exceeding the gross floor area of the original building or structure.
- (e) Any development for which a completed application for a building permit was submitted prior to the effective date of this chapter, provided that the construction proceeds according to the provisions of the permit and the permit does not expire prior to the completion of the construction.
- (f) The impact fee administrator shall determine the validity of any claim for exemption pursuant to the criteria set forth in this chapter.
- (g) In order to promote the economic development of the County or the public health, safety, and general welfare of its residents, the County Council may agree to pay some or all of the impact fees imposed on a proposed development or redevelopment from other funds of the County that are not restricted to other uses. Any such decision to pay impact fees on behalf of an applicant shall be at the discretion of the County Council and shall be made pursuant to goals and objectives articulated by the County Council.

Section 36-7. Fee determination.

- (a) Any person who commences an impact-generating development, except those exempted or preparing an independent fee calculation study, shall pay impact fees in accordance with the following fee schedule. [The County Council could choose to

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charge any percentage less than 100 percent of each type of fee.]

Land Use Type	Unit	Roads	Parks	Fire/ EMS	Police	Waste- water	Solid Waste	Total**
Single-Family Det.	Dwelling	\$4,758	\$6,566	\$549	\$657	\$3,785	\$242	\$16,557
Multi-Family	Dwelling	\$3,338	\$5,187	\$429	\$512	\$2,990	\$0	\$12,456
Hotel/Motel	Room	\$4,767	\$3,086	\$258	\$309	*	\$0	\$8,420
Retail/Commercial	1,000 sq. ft.	\$8,114	\$0	\$830	\$992	*	\$0	\$9,936
Office	1,000 sq. ft.	\$6,187	\$0	\$467	\$558	*	\$0	\$7,212
Industrial	1,000 sq. ft.	\$3,909	\$0	\$291	\$348	*	\$0	\$4,548
Warehouse	1,000 sq. ft.	\$2,287	\$0	\$187	\$223	*	\$0	\$2,697
Church/Synagogue	1,000 sq. ft.	\$3,121	\$0	\$467	\$558	*	\$0	\$4,146
School/College	1,000 sq. ft.	\$1,134	\$0	\$467	\$558	*	\$0	\$2,159
Hospital	1,000 sq. ft.	\$9,875	\$0	\$467	\$558	*	\$0	\$10,900
Nursing Home	1,000 sq. ft.	\$2,780	\$0	\$467	\$558	*	\$0	\$3,805
Other Institutional	1,000 sq. ft.	\$6,187	\$0	\$467	\$558	*	\$0	\$7,212

* see wastewater impact fees by water meter size below for nonresidential development

** does not include wastewater impact fees for nonresidential development

Water Meter Size	Wastewater Impact Fee
5/8" x 3/4" Meter	\$3,785
1" Meter	\$9,463
1-1/2" Meter	\$18,926
2" Meter	\$30,281
3" Meter	\$60,563
4" Meter	\$94,630
6" Meter	\$189,259
8" Meter	\$302,814
10" Meter	\$548,851

(b) The fees set out above in subsection (a) shall be adjusted annually to account for inflation. At the end of each calendar year during which the fees have not been comprehensively updated, the impact fee administrator shall prepare an adjusted fee schedule, which will be posted on the County's web site and be made publicly available. The adjusted fee schedule will go into effect on January 1 of the following year. The adjustment factor shall be the ratio of the appropriate cost index for the quarter during which the adjustment is made (even if projected) to the same cost index for the quarter during which the fees were last adopted, updated or adjusted. The appropriate cost indices shall be as follows from the most recent edition of the U.S. Army Corps of Engineers, Civil Works Construction Cost Index System, utilizing the Hawaii adjustment factors:

- (1) For road impact fees, the roads, railroads and bridges index;
- (2) For park impact fees, the recreation facilities index;
- (3) For fire/EMS, police and solid waste impact fees, the buildings, grounds and

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utilities index;

- (4) For wastewater impact fees, the pumping plant index.

In the event that the referenced cost indices become unavailable, the updates shall be based on reasonable alternative indices as determined by the impact fee administrator.

- (c) Impact fees due and payable shall be net of any approved offsets available pursuant to Section 36-13, Pre-ordinance offsets. It shall be the responsibility of the applicant to claim offsets prior to payment of the impact fees. Any offsets not claimed shall be deemed waived.
- (d) If the type of impact-generating development is not specified on the above schedule, the impact fee administrator shall determine the fee on the basis of the fee applicable to the most nearly comparable type of land use on the fee schedule. In the case of road impact fees, the impact fee administrator shall be guided in the selection of a comparable type of land use by trip generation rates contained in the most current edition of the report titled *Trip Generation*, prepared by the Institute of Transportation Engineers (ITE), or articles or reports appearing in the ITE Journal.
- (e) If a new wastewater customer is not also a water customer, the impact fee administrator shall determine what size water meter would be required to serve the development. If a larger or smaller water meter is required solely due to abnormally low or high pressure in the County's main, the impact fee administrator shall adjust the wastewater impact fee to reflect more accurately the wastewater demand.
- (f) In general, impact fees shall be paid based on the principal use of a building or lot. For example, a warehouse that contained a small administrative office would be assessed at the warehouse rate for all of the square footage. Shopping centers are assessed at the retail/commercial rate, regardless of the type of tenants. For a true mixed-use development, such as one that includes both residential and nonresidential development, the fee shall be determined by adding up the fees that would be payable for each use as if it was a free-standing land use type pursuant to the fee schedule.
- (g) If the type of impact-generating development is for a change of land use type or for the expansion, redevelopment, or modification of an existing development, the fee shall be based on the net increase in the fee for the new land use type as compared to the previous land use type.
- (h) In the event that the proposed change of land use type, redevelopment, or modification results in a net decrease in the fee for the new use or development as compared to the previous use or development, there shall be no refund of impact fees previously paid.
- (i) Square feet in the fee schedule refers to gross floor area as herein defined.

Section 36-8. Affordable housing deferral.

The County may defer payment of impact fees by qualifying first-time home-buyers or owner-builders through a zero-interest loan program.

- (a) The maximum amount of the loan shall be equal to the impact fees that had been

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paid for the housing unit. The money shall be provided by the County to the homebuyer at the time of closing on the sale of a newly-built housing unit to reduce the size of the mortgage. For owner-builders, the money will be used to pay the impact fees at the time of building permit issuance.

- (b) The loan shall be due and payable when the recipient sells the house or no longer occupies it as a principal residence, whichever occurs first.
- (c) To apply for the affordable housing deferral, the buyer must provide the following:
 - (1) Federal income tax returns for all persons whose name will be listed on the title; and
 - (2) a notarized affidavit signed by each person whose name will be listed on the title stating that they have never been listed on the title of a housing unit.
- (d) To qualify for an affordable housing deferral loan, the following conditions must be met:
 - (1) the combined adjusted gross income of all persons whose names will be listed on the title is less than 140 percent of the median adjusted gross income for households in Hawaii County as reported by the U.S. Department of Housing and Urban Development or its governmental successor in function; and
 - (2) the purchase price of the housing unit is less than the median home sales price in Hawaii County for the most recent 12-month period for which data is available from the Hawaii County Real Property Tax Office or other source. In the case of an owner-builder, the price of the unit shall be estimated based on the market value of the land as recorded by the Real Property Tax Office and the estimated construction cost used on the building permit application.
- (e) An affordable housing trust fund shall be created to provide funding for the zero-interest loans. No impact fee receipts will be deposited in the affordable housing trust fund. The primary initial source of funding for the affordable housing trust fund will be non-impact fee appropriations from the County's general fund. The proceeds of loan repayments under this program shall be deposited back into the affordable housing trust fund.

Section 36-9. Independent fee calculation.

- (a) The impact fee may be computed by the use of an independent fee calculation study at the election of the applicant, or upon the request of the impact fee administrator, for any proposed land development activity interpreted as not one of those types listed on the fee schedule or as one that is not comparable to any land use on the fee schedule, and for any proposed land development activity for which the impact fee administrator concludes the nature, timing or location of the proposed development makes it likely to generate impacts costing substantially more to mitigate than the amount of the fee that would be generated by the use of the fee schedule.
- (b) The preparation of the independent fee calculation study shall be the sole responsibility and cost of the applicant.
- (c) Any person who requests to perform an independent fee calculation study shall pay

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an application fee for administrative costs associated with the review and decision on such study.

- (d) The independent fee calculation study shall be based on the same service standards and unit costs for facilities used in the needs assessment study (as adjusted by the same cost inflation factors used in annual adjustments since the study was prepared), and shall document the methodologies and assumptions used.
- (e) An independent fee calculation study submitted for the purpose of calculating a road impact fee may be based on data, information or assumptions from independent sources, provided that:
 - (1) The independent source is an accepted standard source of transportation engineering or planning data; or
 - (2) The independent source is a local study on trip characteristics carried out by a qualified transportation planner or engineer pursuant to an accepted methodology of transportation planning or engineering.
- (f) The road impact fees shall be calculated according to the following formula.

$\text{FEE} = \text{VMT} \times \text{NET COST/VMT}$
<u>Where:</u>
$\text{VMT} = \text{TRIPS} \times \% \text{ NEW} \times \text{LENGTH} \div 2$
$\text{NET COST/VMT} = \text{COST/VMC} \times \text{VMC/VMT} - \text{CREDIT/VMT}$
$\text{TRIPS} = \text{Trip ends during an average weekday}$
$\% \text{ NEW} = \text{Percent of trips that are primary trips, as opposed to passby or diverted-link trips}$
$\text{LENGTH} = \text{Average length of a trip on the major roadway facilities}$
$\div 2 = \text{Avoids double-counting trips for origin and destination}$
$\text{COST/VMC} = \text{Average cost to add a new daily vehicle-mile of capacity}$
$\text{VMC/VMT} = \text{System-wide ratio of VMC to VMT on the major roadway facilities (assumed 1:1)}$
$\text{CREDIT/VMT} = \text{DEBT/VMT} + \text{PAST/VMT} + \text{GRANT/VMT}$
$\text{DEBT/VMT} = \text{Outstanding debt used for capacity improvements on existing road facilities divided by total existing VMT}$
$\text{PAST/VMT} = \text{The net present value of property taxes paid over the last five years by vacant land for road capacity improvements, including general fund expenditures as well as debt service payments, per VMT}$
$\text{GRANT/VMT} = \text{The net present value of future Federal and State roadway capacity funding anticipated to be forthcoming per VMT over the next 20 years}$

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(g) The park impact fees shall be calculated according to the following formula.

FEE	=	EDUs x NET COST/EDU
Where:		
EDUs	=	UNITS X EDUs/UNIT
UNITS	=	Number of dwelling units of each housing type in the development
EDUs/UNIT	=	Number of Equivalent Dwelling Units represented by one dwelling unit of a given housing type
NET COST/EDU	=	COST/EDU - CREDIT/EDU
COST/EDU	=	Total replacement cost of existing park facilities divided by total existing residential development in the county, expressed in terms of EDUs
CREDIT/EDU	=	DEBT/EDU + PAST/EDU + GRANT/EDU
DEBT/EDU	=	Outstanding debt on existing park facilities divided by total existing EDUs
PAST/EDU	=	The net present value of property taxes paid over the last five years by vacant land for park capacity improvements, including general fund expenditures as well as debt service payments, per EDU
GRANT/EDU	=	The net present value of future Federal and State grant funding anticipated to be forthcoming per EDU over the next 20 years

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(h) The fire/EMS impact fees shall be calculated according to the following formula.

$FEE = EDUs \times NET\ COST/EDU$
Where:
$EDUs = UNITS \times EDUs/UNIT$
$UNITS =$ Number of dwelling units of each housing type in the development or thousands of square feet of nonresidential buildings of each land use type
$EDUs/UNIT =$ Equivalent Dwelling Units represented by one dwelling unit of a given housing type or 1,000 square feet of nonresidential floor area of a given land use type. Calculated as the ratio of the functional population per dwelling unit or per 1,000 square feet to the functional population of the typical single-family detached unit. For residential development, functional population per unit is one-half the average household size for that housing type. For nonresidential development, the functional population per unit is determined by the following formula:
$Functional\ population/1000\ sf = (employee\ hours/1000\ sf + visitor\ hours/1000\ sf) \div 24\ hours/day$
Where:
$Employee\ hours/1000\ sf = employees/1000\ sf \times 10\ hrs/day$
$Visitor\ hours/1000\ sf = visitors/1000\ sf \times 1\ hour/visit$
$Visitors/1000\ sf = weekday\ ADT/1000\ sf \times avg.\ vehicle\ occupancy - employees/1000\ sf$
$Weekday\ ADT/1000\ sf = one-way\ average\ daily\ trips\ (total\ trip\ ends \div 2)$
$NET\ COST/EDU = COST/EDU - CREDIT/EDU$
$COST/EDU =$ Total replacement cost of existing fire/EMS facilities divided by total existing residential and nonresidential development in the county, expressed in terms of EDUs
$CREDIT/EDU = DEBT/EDU + PAST/EDU + GRANT/EDU$
$DEBT/EDU =$ Outstanding debt on existing fire/EMS facilities divided by total existing EDUs
$PAST/EDU =$ The net present value of property taxes paid over the last five years by vacant land for fire/EMS capacity improvements, including general fund expenditures as well as debt service payments, per EDU
$GRANT/EDU =$ The net present value of future Federal and State grant funding anticipated to be forthcoming per EDU over the next 20 years

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(i) The police impact fees shall be calculated according to the following formula.

$FEE = EDUs \times NET\ COST/EDU$
Where:
$EDUs = UNITS \times EDUs/UNIT$
$UNITS =$ Number of dwelling units of each housing type in the development or thousands of square feet of nonresidential buildings of each land use type
$EDUs/UNIT =$ Equivalent Dwelling Units represented by one dwelling unit of a given housing type or 1,000 square feet of nonresidential floor area of a given land use type. Calculated as the ratio of the functional population per dwelling unit or per 1,000 square feet to the functional population of the typical single-family detached unit. For residential development, functional population per unit is one-half the average household size for that housing type. For nonresidential development, the functional population per unit is determined by the following formula:
$Functional\ population/1000\ sf = (employee\ hours/1000\ sf + visitor\ hours/1000\ sf) \div 24\ hours/day$
Where:
$Employee\ hours/1000\ sf = employees/1000\ sf \times 10\ hrs/day$
$Visitor\ hours/1000\ sf = visitors/1000\ sf \times 1\ hour/visit$
$Visitors/1000\ sf = weekday\ ADT/1000\ sf \times avg.\ vehicle\ occupancy - employees/1000\ sf$
$Weekday\ ADT/1000\ sf = one-way\ average\ daily\ trips\ (total\ trip\ ends \div 2)$
$NET\ COST/EDU = COST/EDU - CREDIT/EDU$
$COST/EDU =$ Total replacement cost of existing police facilities divided by total existing residential and nonresidential development in the county, expressed in terms of EDUs
$CREDIT/EDU = DEBT/EDU + PAST/EDU + GRANT/EDU$
$DEBT/EDU =$ Outstanding debt on existing police facilities divided by total existing EDUs
$PAST/EDU =$ The net present value of property taxes paid over the last five years by vacant land for police capacity improvements, including general fund expenditures as well as debt service payments, per EDU
$GRANT/EDU =$ The net present value of future Federal and State grant funding anticipated to be forthcoming per EDU over the next 20 years

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(j) The solid waste impact fees shall be calculated according to the following formula.

FEE	=	EDUs x NET COST/EDU
Where:		
EDUs	=	UNITS X EDUs/UNIT
UNITS	=	Number of dwelling units of each housing type in the development
EDUs/UNIT	=	Number of Equivalent Dwelling Units represented by one dwelling unit of a given housing type
NET COST/EDU	=	COST/EDU - CREDIT/EDU
COST/EDU	=	Total replacement cost of existing solid waste facilities that serve residential development utilizing transfer stations divided by all existing single-family detached units
CREDIT/EDU	=	DEBT/EDU + PAST/EDU + GRANT/EDU
DEBT/EDU	=	Outstanding debt on existing solid waste facilities attributable to residential development utilizing transfer stations divided by all existing single-family detached units
PAST/EDU	=	The net present value of property taxes paid over the last five years by vacant land for solid waste capacity improvements attributable to residential development utilizing transfer stations, including general fund expenditures as well as debt service payments, per EDU
GRANT/EDU	=	The net present value of future Federal and State grant funding anticipated to be forthcoming for solid waste capital improvements attributable to residential development per EDU over the next 20 years

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- (k) The wastewater impact fees shall be calculated according to the following formula.

$FEE = SFES \times NET\ COST/SFE$
Where:
$SFES = UNITS \times SFES/UNIT$
$UNITS =$ Number of dwelling units of each housing type in a residential development or the number of water meters of various sizes in a nonresidential development
$SFES/UNIT =$ Number of Single-Family Equivalents represented by one dwelling unit of a given housing type or by a water meter of a particular size
$NET\ COST/SFE = COST \div CAPACITY \times GPD/SFE - CREDIT/SFE$
$COST =$ Total replacement cost of existing major facilities, excluding lines less than 12" in diameter typically installed by developers
$CAPACITY =$ Capacity of existing treatment plants in gallons per day
$GPD/SFE =$ 230 gallons per day per SFE
$CREDIT/SFE = DEBT/SFE + PAST/SFE$
$DEBT/SFE = DEBT \div CAPACITY \times GPD/SFE$
$DEBT =$ Outstanding debt on existing major wastewater facilities and equipment
$PAST/SFE = PAST \div CAPACITY \times GPD/SFE$
$PAST =$ The net present value of property taxes paid over the last five years by vacant land for wastewater capacity improvements, including general fund expenditures as well as debt service payments

Section 36-10. Use of fees.

- (a) An impact fee fund that is distinct from the general fund of the County is hereby created, and the impact fees received will be deposited in the following interest-bearing accounts of the impact fee fund:
- (1) Road Impact Fee Account;
 - (2) Park Impact Fee Account;
 - (3) Fire/EMS Impact Fee Account;
 - (4) Police Impact Fee Account;
 - (5) Solid Waste Impact Fee Account; and
 - (6) Wastewater Impact Fee Account;
- (b) Within each account, with the exception of the wastewater impact fee account, there are hereby created five sub-accounts, corresponding to four sub-area benefit zones

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and one county-wide benefit zone. The sub-area benefit zones shall consist of the following aggregations of judicial districts:

- (1) 1-North Kohala/South Kohala;
 - (2) 2-North Hilo/South Hilo and Hamakua;
 - (3) 3-Puna/Kau; and
 - (4) 4-North Kona/South Kona.
- (c) Within the wastewater impact fee account, there are hereby created five sub-accounts, corresponding to the five County wastewater systems, as follows:
- (1) 1-Kealakehe;
 - (2) 2-Kapehu;
 - (3) 3-Kulaimano;
 - (4) 4-Papaikou; and
 - (5) 5-Hilo.
- (d) With the exception of solid waste and wastewater impact fees, up to 20 percent of the impact fee revenues collected within a benefit zone may be used to fund improvements located outside the benefit zone in which the fees were collected, provided that the County Council makes a finding that the improvement will provide significant benefit to new development in the collecting zone. For solid waste impact fees, the percentage shall be 40 percent. Wastewater impact fee revenues shall be placed in the sub-area account corresponding to the wastewater system to which the fee payer is connected, and shall be spent only for improvements to that wastewater system.
- (e) Each account shall contain only those impact fees collected pursuant to this chapter for the type of facility reflected in the title of the account plus any interest that may accrue from time to time on such amounts. Any accrued interest shall be subject to the same restrictions as other funds in the account.
- (f) Monies in each impact fee account shall be considered to be spent in the order collected or accrued, on a first-in/first-out basis.
- (g) The monies in each impact fee account shall be used only for the following:
- (1) To acquire or construct system improvements of the type reflected in the title of the account;
 - (2) To pay debt service on any portion of any current or future general obligation bond or revenue bond that was used to create capacity of the type reflected in the title of the account that will be available to serve development occurring after the effective date of this chapter;
 - (3) As described in Section 36-11, Refunds; or

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- (4) As described in Section 36-12, Post-Ordinance Reimbursements.
- (h) The monies in each impact fee account shall not be used for the following:
 - (1) Rehabilitation, reconstruction, replacement or maintenance of existing facilities; or
 - (2) Ongoing operational costs

Section 36-11. Refunds.

- (a) If a building permit for which an impact fee was paid expires, is revoked or voluntarily surrendered and therefore voided, and no construction or improvement of land has commenced, then the feepayer is entitled to a refund of the impact fee paid as a condition for its issuance, except that up to three percent of the impact fee paid will be retained as an administrative fee to offset the cost of processing the refund. No interest will be paid to the feepayer on refunds due to noncommencement.
- (b) Any monies in the impact fee fund that have not been spent or encumbered within six (6) years after the date on which such fee was paid shall be returned to the current owners with interest since the date of payment.
 - (1) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the present owners of the property within thirty (30) days of the date the refund becomes due. The sending by regular mail of the notices to all present owners of record shall be sufficient to satisfy the requirement of notice.
 - (2) Application for a refund shall be submitted to the County within one year of the date on which the right to a refund arises.
 - (3) Following approval of the refund application by the impact fee administrator, the refund shall be paid in full.
 - (4) Any unclaimed refund shall be retained in the appropriate account and expended as provided in Section 36-10, Use of Funds.
 - (5) In the event that the County terminates impact fee requirements, all unexpended or unencumbered funds shall be refunded as provided in this section. The County shall give public notice of termination and availability of refunds at least two times. All funds available for refund shall be retained for a period of one year at the end of which any remaining funds may be transferred to the County's general fund and expended for any public purpose not involving water supply or service as determined by the County Council.

Section 36-12. Post-ordinance reimbursements.

- (a) Credit for reimbursements from impact fees collected by the County shall be provided for contributions toward the cost of system improvements for the same type of facility.
 - (1) Approved credits shall generally become effective when the improvements

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have been completed and have been accepted by the County.

- (2) No credit will be applied to the road impact fee for improvements to the major roadway facilities that primarily serve traffic generated by the applicant's project, such as acceleration/deceleration lanes into and out of the project.
 - (3) Approved credits for land dedication shall become effective when the land has been conveyed to the County and has been accepted by the County.
- (b) In order to receive credit for system improvements, the developer shall submit complete engineering drawings, specifications, and construction cost estimates or property appraisals to the impact fee administrator. The impact fee administrator shall determine the amount of credit due based on the information submitted, or where such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the impact fee administrator. The impact fee administrator may independently determine the amount of credit to be approved for land dedication by securing other property appraisals, or requiring submittal of other relevant information.
 - (c) To qualify for an impact fee reimbursement credit, the developer must enter into an agreement with the County. At a minimum, the developer agreement shall specify the amount of the credit, and within how many years the developer will be reimbursed from impact fees collected by the County, assuming adequate funds are available for such repayment.
 - (d) The County will allocate a maximum of 25 percent of annual impact fees collected for each facility type to reimburse developers for eligible improvement credits. If the amount allocated for reimbursements is not sufficient to make all payments due to developers for that year, each developer will receive a pro rata share of the amount owed, and the unpaid amount will be added to the amount owed for the following year. If less than 25 percent of annual impact fee collections is required for reimbursements in any given year, the remainder may be used for project expenditures.
 - (e) Credits provided pursuant to this chapter shall be valid from the effective date of such credits until ten (10) years after such date.

Section 36-13. Pre-ordinance offsets.

- (a) Owners of property for which capital contributions (system improvements, land dedications or fair share payments) were made prior to the effective date of this chapter may apply for an offset against impact fees for the same type of facilities. Offsets may be used to reduce the amount of impact fees due from the property on a dollar-for-dollar basis.
- (b) Application for such offsets must be made, on forms provided by the County, within one (1) year after the effective date of this chapter.
- (c) In the event that the impact-generating development for which the offset is claimed is partially completed, the amount of the offset shall be reduced by the amount of the impact fees that would have been charged for the completed portion of the development had this chapter been in effect. In the event that the impact-generating development project has been fully completed, no offset shall be authorized.

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- (d) If some offset is warranted, the amount of the offset shall be determined by the impact fee administrator based on the information supplied by the property owner. The amount of the offset shall be equal to the cost of the improvement, the fair market value of the land dedicated or the amount of the fair share payment, inflated to present value.
- (e) The offset shall be applied against the impact fees due for building permits issued on the property until the amount of the offset is exhausted or the development project for which the capital contribution was made is completed. In no case shall any offset be transferred from the development project for which the capital contribution was made.

Section 36-14. Miscellaneous provisions.

- (a) Nothing in this chapter shall restrict the County from requiring the construction of reasonable project improvements required to serve the development project, whether or not such improvement are of a type for which credits are available under Section 36-12, Post-Ordinance Reimbursements.
- (b) The impact fee administrator shall maintain accurate records of the impact fees paid, including the name of the person paying such fees, the project for which the fees were paid, the date of payment of each fee, the amounts received in payment for each fee, and any other matters that the County deems appropriate or necessary to the accurate accounting of such fees. Records shall be available for review by the public during normal business hours and with reasonable advance notice.
- (c) Annually, the impact fee administrator shall present to the County Council a proposed capital improvements program that shall assign monies from each impact fee fund to specific projects and related expenses for eligible improvements of the type for which the fees in that fund were paid. Any monies, including any accrued interest, not assigned to specific projects within such capital improvements program and not expended pursuant to Section 36-11, Refunds, or Section 36-12, Post-Ordinance Reimbursements, shall be retained in the same impact fee fund until the next fiscal year.
- (d) If an impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated.
 - (1) Any amounts overpaid by an applicant shall be refunded by the impact fee administrator to the applicant within thirty (30) days after the acceptance of the recalculated amount, with interest since the date of such overpayment.
 - (2) Any amounts underpaid by the applicant shall be paid to the impact fee administrator within thirty (30) days after the acceptance of the recalculated amount, with interest since the date of such underpayment.
 - (3) In the case of an underpayment to the impact fee administrator, the County shall not issue any additional permits or approvals for the project for which the impact fee was previously underpaid until such underpayment is corrected, and if amounts owed to the County are not paid within such thirty (30) day period, the County may also rescind any permits issued in reliance on the previous payment of such impact fee.

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- (e) The impact fees and the administrative procedures established by this chapter shall be reviewed at least once every three (3) years.

Section 36-15. Appeals.

Any determination made by the impact fee administrator charged with the administration of any part of this chapter may be appealed to the County Council within thirty (30) days from the date of the decision appealed.

Section 36-16. Violation.

Furnishing false information on any matter relating to the administration of this chapter, including without limitation the furnishing of false information regarding the expected size, use, or impacts from a proposed development, shall be a violation of this chapter.

Section 36-17. Effective date.

The provisions of this chapter will take effect one year following the date of adoption of the ordinance creating this chapter.