First Reading: 12-10-18

Second Reading: 1-14-19

ARTICLE IV, TITLE 43

AN ORDINANCE AMENDING ARTICLE IV, TITLE 43 OF THE GENERAL ORDINANCES OF THE TOWN OF FELTON BY UPDATING “AN ORDINANCE PROVIDING FUNDS FOR THE TOWN’S CAPITAL IMPROVEMENTS FUND AND FOR THE FELTON COMMUNITY FIRE COMPANY FUND BY IMPOSING AN IMPACT FEE ON ALL NEW STRUCTURES CONSTRUCTED, ERECTED, ASSEMBLED, OR PLACED IN THE TOWN” TO REVISE THE DISTRIBUTION OF THE IMPACT FEE, TO CLARIFY THE USE OF THE FEE, AND TO MAKE OTHER HOUSEKEEPING CHANGES

WHEREAS, Section 3.2.42 of the Charter of the Town of Felton authorizes the Town to impose impact fees on new development in town subject to those parameters outlined in the Charter;

WHEREAS, the Town Council has adopted an ordinance imposing impact fees on new development and now desires to make certain amendments to the regulations pertaining to impact fees;

WHEREAS, in the opinion of the Town Council of the Town of Felton, it is necessary and in the best interest of the public health, safety, and welfare to reallocate the distribution of the impact fee between the Town of Felton and the Felton Community Fire Company to account for increased capital improvements costs the Town of Felton anticipates experiencing in the future.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Felton, a majority thereof concurring in Council duly met, that Article IV, Title 43, “An Ordinance Providing Funds for the Town’s Capital Improvements Fund and for the Felton Community Fire Company Fund by Imposing an Impact Fee on All New Structures Constructed, Erected, Assembled, or Placed in the Town” is hereby repealed in its entirety and a new Article IV, Title 43 be and hereby is adopted as follows:

AN ORDINANCE PROVIDING FUNDS FOR THE TOWN’S CAPITAL IMPROVEMENTS FUND AND FOR THE FELTON COMMUNITY FIRE COMPANY FUND BY IMPOSING AN IMPACT FEE ON ALL NEW STRUCTURES CONSTRUCTED, ERECTED, ASSEMBLED, OR PLACED IN THE TOWN

1. Impact Fee Charge. Payment of an impact fee will be required of all new primary structures constructed, erected, assembled, or placed (hereinafter "built") within the Town, including, but not limited to, all residential, commercial, and industrial structures. No impact fee shall be imposed upon any accessory structures (e.g. garages, sheds, outbuildings) located on the same lot as the principal structure.
   1. Residential. An impact fee of $1,200 shall be required for new residential dwelling units built within the Town, including manufactured housing. Any multi-family dwelling unit (i.e. town-homes, condominiums, etc.) shall be required to pay an impact fee of $1,200 for each individual residential dwelling unit located within the structure.
   2. Commercial. An impact fee of $1,200 shall be required for each new structure designed or used for any commercial use authorized under the Town of Felton Zoning Ordinance. Any structure containing multiple commercial units (e.g. a strip mall) shall be required to pay an impact fee of $1,200 for each individual commercial unit located within the structure.
   3. Industrial. An impact fee of $1,200 shall be required for each new structure designed or used for any industrial use authorized under the Town of Felton Zoning Ordinance. Any structure containing multiple industrial units shall be required to pay an impact fee of $1,200 for each individual industrial unit located within the structure.
   4. Other. An impact fee of $1,200 shall be required for any other new structure (e.g. churches, structures for non-profit organizations) which does not fall within any of the previously mentioned categories.
2. When Impact Fee Due. The appropriate impact fee shall be paid before a zoning compliance letter will be issued. Irrespective of any previous investments made or expenses incurred by the applicant, the Town shall be under no obligation to issue a zoning compliance letter unless the appropriate impact fee has been paid.
3. Authorized Use for Impact Fees. Impact fees collected by the Town shall be authorized for the following uses.
   1. Felton Community Fire Company Fund. For every $1,200 impact fee collected by the Town, $300 shall be allocated to the Felton Community Fire Company Fund and shall be used for operating and capital expenses of the Fire Company. The Felton Community Fire Company Fund shall be annually distributed by the Town to the Fire Company, but the Town Council may distribute the funds more frequently if the Council deems such an action necessary. The Town shall not be responsible for the Fire Company's application of the funds received.
   2. Capital Improvements Fund. For every $1,200 impact fee collected by the Town, $900 shall be allocated to the Town’s Capital Improvements Fund. The Capital Improvements Fund shall be only used for installing, enlarging, improving, or expanding public or municipal improvements and services (e.g. construction of municipal structures) and shall not be used for operating or maintenance expenses. The Capital Improvements Fund shall be maintained in the same account as the Town's general funds, but the Town shall use internal accounting procedures to ensure the fund is strictly used for the fund's intended purposes.
4. Revisions to Amount of Impact Fee. The Town Council may review the amount of the impact fee annually and may revise the amount as it deems necessary. The Town Council’s failure to review the amount of the impact fee in any particular year shall not invalidate the amount of the impact fee or the Town’s ability to impose the impact fee.
5. Exemptions. No impact fee shall be assessed on any new structure to be built within the Town where such structure is being built to replace a structure previously existing within the Town which structure was destroyed by fire, flood, or other natural disaster and where construction of the replacement structure is commenced within two years of the previous structure’s destruction. All applications for an exemption under this subsection shall be in writing and decided by the Town Council at a public meeting of the Town Council.
6. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that the Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the Town Council’s intent.
7. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

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Synopsis

This ordinance repeals the prior Article IV, Title 43 and adopts an amended version of the ordinance that reallocates the distribution of the impact fee imposed on new development so that for each impact fee collected by the Town, $900 is distributed to the Town of Felton and $300 is distributed to the Felton Community Fire Company. This ordinance clarifies how the Town may use the impact fee, along with the Town’s ability to annually review the amount of the impact fee.

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This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Felton at a duly-noticed and convened meeting at which a quorum was present on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2019.

So Certifies:

Attest:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Town Clerk Mayor

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This shall certify that the title and synopsis of the foregoing ordinance was posted in three public places in the Town (including the Town Hall) on \_\_\_\_\_\_\_\_\_\_\_\_\_, 2019.

So Certifies:

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Date Town Clerk