

ORDINANCE NO. 308.2017

2017 AUG 18 PM 2:59
JANET C. HAYES
CLERK OF COURTS
KERSHAW COUNTY
FOR RECORD

AN ORDINANCE BY KERSHAW COUNTY COUNCIL AMENDING KERSHAW COUNTY ORDINANCE NO. 126.2008- TAP FEES AND SEWER IMPACT FEES TO REQUIRE THAT IMPACT FEES FOR NEW DEVELOPMENT SHALL BE COLLECTED AT THE TIME A BUILDING PERMIT IS REQUESTED FROM THE COUNTY

WHEREAS, the Kershaw County Council adopted an Ordinance requiring the payment of Impact Fees at the time a sewer availability letter is requested for the development, or, in the discretion of the County Administrator thirty (30) days thereafter; and

WHEREAS, requiring payment of Impact Fees at the time a sewer availability letter is requested for the development has proven to impose a burden on developers given the upfront out of pocket cost and uncertainty as to when individual projects within developments will be completed; and

WHEREAS, Kershaw County wishes to remove said burden and uncertainty and more narrowly tailor this Ordinance to individual building projects instead of entire developments; and

WHEREAS, Kershaw County wishes to amend the Ordinance to require payment of Impact Fees at the time a building permit is requested from the County.

NOW, THEREFORE, BE IT ORDAINED by the Kershaw County Council that:

Article II, Section 2.02(5)(a) is amended as follows:

ARTICLE II

PROCEDURE SEWER IMPACT FEES IMPOSED, COLLECTION PROCEDURES

Article II, "Procedure Sewer Impact Fees Imposed, Collection Procedures" is amended by amending and adding the following provisions to Subsection 5 of Section 2.02.

Section 2.02 Sewer Impact Fee Imposed

5. Impact Fees will become due and will be collected in cash or its equivalent by the Planning and Zoning Department as follows:
 - (a) Impact Fees for new development, when the RDUs requested do not exceed 125 RDUs, will become due and will be collected in full at the time a building permit is requested from the County, or if a building permit is not required, at the time an application is filed for a new connection to the County's sewer system;
 - (b) For existing industrial customers or other customers seeking to increase their permitted discharge volumes into the System when the total RDUs requested is

not to exceed 125 RDUs, the Impact Fees will become due and will be collected in full at the time the changes in discharge volumes are contracted for.

- (c) Impact Fees when the RDUs requested exceed 125 RDUs for new development or for increased permitted discharge in excess of 125 RDUs will become due and will be collected in full at the time a building permit is requested from the County, or if a building permit is not required, at the time an application is filed for a new connection to the County's sewer system, or 3) for existing industrial customers or other customers seeking to increase their permitted discharge volumes into the system may be paid in the following manner and under the following conditions:
- (1) 25% of the Impact Fee immediately;
 - (2) the remainder of the Impact Fee is paid in 36 monthly installments to be billed and paid in conjunction with the sewage usage fee, if any, and if no sewer usage fee is incurred, then paid independently in 36 monthly installments; and, in addition,
 - (3) when the remainder of the Impact Fee is paid in monthly installments, there shall also be collected with that installment payment a fee for interest on the outstanding balance of the Impact Fee to be computed and paid monthly as follows: 5% per annum divided by 12 months times the balance due on the billing date, with unpaid interest payments added to the amount due and owing;
 - (4) provided, that this method of payment is only available to entities that are current with all of the following charges: usage fees, payments of interest due on unpaid Impact Fees, and payments of any and all taxes, fees, Fees in Lieu of Taxes, and penalties, assessments or statutory costs due to or otherwise owed to Kershaw County or to any of its elected or appointed officials; and
 - (5) provided further that failure to pay the balance due of the Impact Fee in monthly installments shall result in termination of sewer service to the entity in like manner for failure to pay sewer usage fees, with sewer service being subject to being terminated by physically blocking access to the collector lines without notice of any kind as of the thirtieth day after the due date set forth on the sewer usage notice for payment without penalty, or as set forth in any correspondence on the subject addressed to customer or its counsel; and if no sewer usage fee is due, then the reservation of capacity will be cancelled if failure to pay after thirty (30) days' notice is not remedied.
 - (6) Kershaw County will have no liability whatsoever for any denial of service, including the blockage of any sewer line, resulting from or related to the failure to pay when due any bill, fee, charge or other amount due by the customer. In the event of any dispute, the date of actual receipt of payment in the offices of Kershaw County shall be determinative of the question.

- (7) Further provided, however, that in the event of a bona fide dispute, the customer shall have the right to request in writing that the County forbear terminating sewer service and, with the prior approval of the County, shall have the option of providing a commercial surety bond or a letter of credit from a Bank qualified to do business in South Carolina in the full amount of the disputed charges, including the amounts of any subsequent installments or usage charges that are reasonably expected to accrue while the dispute is litigated, mediated, arbitrated or otherwise resolved.
- (8) The statute of limitations on any claim by the County against any customer who defaults on any installment payments due shall not begin to run until the last day scheduled for the payment of the last installment payment without penalty.
- (9) As further consideration for the County's granting a customer the option to pay an Impact Fee in installment payments as set forth hereinabove, venue and jurisdiction over any dispute arising from the payment or non-payment of any Impact Fee or any installment thereof, or from any resulting termination or limitation of services, or from any matter relating thereto, shall be in a court of competent jurisdiction in Kershaw County, South Carolina. Any mediation or arbitration, which the parties may subsequently agree to, shall also be held in Kershaw County.

THIS ORDINANCE SHALL BECOME EFFECTIVE UPON THIRD READING.

ADOPTED by Kershaw County Council this 13th day of June, 2017.

KERSHAW COUNTY COUNCIL

By: 

ATTEST:



Merri M. Seigler
Clerk to County Council

First Reading: May 9, 2017
Second Reading: May 23, 2017
Third Reading: June 13, 2017