

CHESTER COUNTY, SOUTH CAROLINA

ORDINANCE NO. 2025-9

PROVIDING FOR THE IMPOSITION OF FEES FOR SERVICES PROVIDED BY THE COUNTY INSIDE MUNICIPAL LIMITS; ACKNOWLEDGING THE MUNICIPALITY'S CONSENT TO PROVIDE SUCH SERVICES; INVOKING THE PENDING ORDINANCE DOCTRINE; AND OTHER RELATED MATTERS.

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CLERK OF COURT
CHESTER CO.S.C.

WHEREAS, the Chester County Council ("County Council"), as the governing body of Chester County, South Carolina ("County") finds and determines:

- (a) the County is a political subdivision of the State of South Carolina ("State");
- (b) each of the five municipalities, which is inside the jurisdictional limits of the County, is an incorporated municipality and body corporate and politic created and existing under the laws of the State (each, a "Town");
- (c) the County, by and through its County Council, is authorized and empowered to provide for the County's operations according to South Carolina Constitution Article VIII, section 17, and the Home Rule Act of 1975, including section 4-9-10, *et seq.* of the Code of Laws of South Carolina 1976, as amended;
- (d) the South Carolina Constitution, Article VIII, Section 13, provides that the County may provide for any function and exercise of powers and the sharing of the costs within an incorporated municipality;
- (e) the lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning;
- (f) assurance to a developer regarding compliance with applicable laws and policies, strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning, reduces the economic costs of development, allows for the orderly planning of public facilities and services, and allows for the equitable allocation of the cost of public services;
- (g) because the development approval process involves the expenditure of considerable sums of money, predictability encourages the maximum efficient utilization of resources at the least economic cost to the public;
- (h) numerous public benefits exist from certain and consistent development process, which, may include, but are not limited to, affordable housing, design standards, and on and off-site infrastructure and other improvements;
- (i) it is the intent of the County Council to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development;
- (j) the County currently exercises all powers available to the County as a political subdivision of the State and provides various services, including, for example, but not limited to, for public health, social services, public safety, planning, zoning, and land use regulations (collectively, and intending to encompass all services legally available to be provided by a political subdivision, but without requiring the County to provide such services, collectively, "Services"), in all unincorporated areas of the County and, by express or implied consent of each Town and by express or implied contractual relationship,

within each Town to the same extent and in the same manner that the Town would be lawfully permitted to provide Services under State law as an incorporated municipality;

- (k) when a Town annexes area into the municipal limits of that Town (each, an “Annexed Area”), the County, by express or implied consent, then becomes responsible for providing Services in the Annexed Area as and to the same extent the County was already providing Services in the pre-annexation (existing) municipal limits;
- (l) providing Services to a residential property costs the County more than the direct tax benefit received by the County from the *ad valorem* property taxes received from that same residential parcel;
- (m) this burden is even more so evident with new residential development for which the net cost burden is borne by the County’s existing taxpayers prior to the arrival of any new taxpayers to offset any portion of that burden, such that the existing taxpayers receive no additional benefit but pay for the entire costs for providing Services to the new residential development but the future, new taxpayers receive a disproportionately high benefit but pay a disproportionately low cost;
- (n) this burden is even more so evident when a Town places the new residential development area into an Annexed Area but does not recoup and remit to the County the initial and annual costs associated with Services the County provides;
- (o) the County provides, and desires to continue to provide, support through the provision of Services to each Town;
- (p) the County, however, cannot continue to provide Services in an Annexed Area for new residential development without receiving from the Town the fee(s), as described in this Ordinance;
- (q) to lessen the burden and impact on existing County taxpayers, each Town shall pay its share of the cost of Services, as set out in this Ordinance, to the County; and
- (r) the County does not intend for this Ordinance to apply to any property for which annexation has been fully completed and/or to any existing “in city” residential development;

NOW, THEREFORE, by a majority vote of the Council members present, the County **ORDAINS**:

Section 1. Acceptance of Implied Consent for Provision of Services. By annexing the Annexed Area, each Town impliedly consents to the County providing, and authorizes the County to provide, and to exercise all powers and to provide any and all Services in the Annexed Area as and to the same extent an incorporated municipality would be lawfully permitted to provide in the same area under South Carolina law as an incorporated municipality and/or for the County to provide in an unincorporated area of the County.

Section 2. Imposition of Residential Fees. The County hereby imposes (a) the per unit “development fee” as that term is generally understood and/or described in Ordinance No. 2021-12, as amended by Ordinance No. 2023-12 (and as may be further amended and/or supplemented), in the Annexed Area, and (b) an annual fee for services as the County shall provide by subsequent County Council action.

Section 3. Provision of Services. The County, in its sole discretion, may provide some, all, or none, of the Services in the Annexed Area as the County deems appropriate and consistent with the nature and level of such services as the County generally provides to the Town and/or unincorporated areas of the County.

Section 4. Authorization for County Officials to Execute Documents. The Council authorizes the Chairman of County Council, the County Administrator, the County Treasurer, and the Clerk to County Council to execute and consent to documents and instruments as may be necessary to effect this Ordinance’s intent.

Section 5. Reservation to County. This Ordinance is not a contract with any entity. The County reserves the right to suspend and/or terminate Services and any other activities the County provides in and/or to the Town, and/or to amend this Ordinance at any time, from time to time, as often as the County, in its sole

discretion, deems appropriate, and without intending to permanently amend or repeal this Ordinance, provide for amendments to the Services and/or any other activities the County provides in and/or to the Town. Any amendment(s) to this Ordinance may be made by subsequent resolution.

Section 6. Budget Ordinance Amendment. Notwithstanding the enactment of the County's annual budget ordinance, it is the County Council's intent that this Ordinance remain in full force and effect unless and until the County Council enacts a subsequent ordinance specifically revising or repealing this Ordinance.

Section 7. Pending Ordinance Doctrine; Effective Date. The "Pending Ordinance Doctrine," as described and applied by the South Carolina Supreme Court in *Sherman vs. Reavis*, 273 S.C. 542, 257 S.E.2d 735 (1979), and as adopted and applied by South Carolina courts in other decisions, is adopted and declared to be in full force and effect in the County with respect to application of any County planning, zoning, and development matters, including the matters contained in this Ordinance. As a result, this Ordinance shall be deemed to be applicable at and after first reading and shall apply to any annexation into an Annexed Area that occurs on or after first reading of this Ordinance.

Section 8. General Repealer. Each ordinance, resolution, order, policy, or similar directive, or any part of the same, in conflict with this Ordinance is, to the extent of that conflict, repealed.

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CHESTER COUNTY, SOUTH CAROLINA

By: Pete Wilson
Pete Wilson, Chairman
Chester County Council

[SEAL]

ATTEST:

Kristie Donaldson
Kristie Donaldson
Clerk to County Council

First Reading:	March 3, 2025
Second Reading:	March 17, 2025
Public Hearing:	April 7, 2025
Third Reading:	April 7, 2025

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