

**ORDINANCE 2022-07**

**AN ORDINANCE AMENDING THE ZONING CODE OF THE VILLAGE OF COMMERCIAL POINT TO REPEAL AND REPLACE SECTION 1117.04, SECTION 1141.03, AND SECTION 1195.05 OF THE ZONING CODE, REPEAL AND REPLACE INCONSISTENT PROVISIONS IN ORDINANCE 2021-40, AND DECLARING AN EMERGENCY.**

**WHEREAS**, Ohio Revised Code Chapters 711, 713, and 715 provide a statutory village the authority to enact zoning laws, rules, and regulations and provide for the enforcement thereof; and

**WHEREAS**, Article XVIII, Section 3, of the Ohio Constitution provides municipalities such as the Village of Commercial Point the “authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws”; and

**WHEREAS**, the Village of Commercial Point has adopted a Zoning Code, as amended from time to time, to regulate property within the Village; and

**WHEREAS**, the Village of Commercial Point continues to experience rapid residential, commercial, and industrial development; and

**WHEREAS**, such development necessitates the continued enhancement of the existing Village public utilities infrastructure, including the expansion of the Village’s water and sewer system; and

**WHEREAS**, the Village Council wishes to clarify its intent as to the adoption of Ordinance 2021-40, which was adopted on November 29, 2021 and established a utilities facilities construction impact fee to be collected from commercial, industrial, and residential subdividers and updated Sections 1117.04, 1141.03, and 1195.05 of the Zoning Code accordingly; and

**WHEREAS**, specifically, among other things, the Village Council wishes to clarify that (a) no utilities facilities construction impact fee shall be collected with respect to the construction of parking lots; and (b) the utilities facilities construction impact fee is generally non-refundable, but a subdivider shall not be required to pay a fee more than once for the same building square footage; and

**WHEREAS**, the Village intends to retain all rights and authority provided to it under the Ohio Revised Code and Zoning Code as amended to enforce the zoning laws, rules, and regulations of the Village.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF COMMERCIAL POINT, PICKAWAY COUNTY, OHIO THAT:**

**SECTION 1. Repeal and Replacement of Section 1117.04 of the Zoning Code.** The Zoning Code of the Village of Commercial Point is hereby amended to repeal the current version of Section 1117.04 in its entirety and replace it with Exhibit A attached to this Ordinance and which is incorporated herein by reference. All other components of the Zoning Code of the Village of Commercial Point, as amended, are hereby reaffirmed and readopted. Nothing in this Section shall be construed as the Village waiving any of its rights or authority under the Ohio Revised Code or Zoning Code as amended to enforce the zoning laws, rules, and regulations of the Village.

**SECTION 2. Repeal and Replacement of Section 1141.03 of the Zoning Code.** The Zoning Code of the Village of Commercial Point is hereby amended to repeal the current version of Section 1141.03 in its entirety and replace it with Exhibit A attached to this Ordinance and which is incorporated herein by reference. All other components of the Zoning Code of the Village of Commercial Point, as amended, are hereby reaffirmed and readopted. Nothing in this Section shall be construed as the Village waiving any of its rights or authority under the Ohio Revised Code or Zoning Code as amended to enforce the zoning laws, rules, and regulations of the Village.

**SECTION 3. Repeal and Replacement of Section 1195.05 of the Zoning Code.** The Zoning Code of the Village of Commercial Point is hereby amended to repeal the current version of Section 1195.05 in its entirety and replace it with Exhibit A attached to this Ordinance and which is incorporated herein by reference. All other components of the Zoning Code of the Village of Commercial Point, as amended, are hereby reaffirmed and readopted. Nothing in this Section shall be construed as the Village waiving any of its rights or authority under the Ohio Revised Code or Zoning Code as amended to enforce the zoning laws, rules, and regulations of the Village.

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**SECTION 4. Reasonable Connection Between Need for Additional Utilities Facilities and the Growth in Population or Use Generated by Each Subdivision.** The Village Council hereby finds and determines that there exists a reasonable connection between the need for additional utilities facilities within the Village of Commercial Point and the growth in population or use generated by each subdivision.

**SECTION 5. Reasonable Connection Between Utilities Facilities Construction Impact Fee and the Benefits to Subdivision.** The Village Council hereby finds and determines that there exists a reasonable connection between the utilities facilities construction impact fee of \$0.25 per square foot of building to be developed within a residential, commercial, or industrial subdivision, and the benefit that accrues to such subdivision. The Village Council further finds and determines that building water and sewer usage tends to increase as the square footage of a building increases, providing a reasonable basis for collecting a utilities facilities construction impact fee as determined by the square footage of the building(s) to be developed within a subdivision. In addition, the Village Council finds and determines that, because commercial and industrial buildings and their accessory structures require greater fire suppression systems and sewage usage, the utilities facilities construction impact fee bears a reasonable connection between the cost of such fee and the benefit to buildings and accessory structures within a commercial and industrial subdivision given the enhanced need for additional water system facilities to support such fire suppression systems and need for greater sewage infrastructure.

**SECTION 6. Restricted Use of Impact Fees, Deposit of Fees into Water Fund.** Ninety percent (90%) of all utilities facilities construction impact fees collected pursuant to this Ordinance shall be used solely for the construction of new public water facilities, such as new water towers, new water plants, and other similar facilities. "Construction" shall include, but not be limited to, all services and material reasonably related to the design, planning, engineering, and building of new public water facilities, including all related professional services, such as accounting, engineering, legal, and surveying fees incurred in relation to the building of new public water facilities. The impact fees shall be deposited into the Water Fund (Account Numbers beginning with 5101). The Fiscal Officer shall have the authority to create any new necessary account(s) for the deposit of impact fee revenue under this Section.

**SECTION 7. Restricted Use of Impact Fees, Deposit of Fees into Sewer Fund.** Ten percent (10%) of all utilities construction impact fees collected pursuant to this Ordinance shall be used solely for the construction of new public sewer facilities, such as expansion of sewer facilities, new sewer lines, new sewer plants, and other similar facilities. "Construction" shall include, but not be limited to, all services and material reasonably related to the design, planning, engineering, and building of new public sewer facilities, including all related professional services, such as accounting, engineering, legal, and surveying fees incurred in relation to the building of new public sewer facilities. The impact fees shall be deposited into the Sewer Fund (Account Numbers beginning with 5201). The Fiscal Officer shall have the authority to create any new necessary account(s) for the deposit of impact fee revenue under this Section.

**SECTION 8. Repeal of Inconsistent Provisions of Ordinance 2021-40.** All provisions of Ordinance 2021-40, adopted on November 29, 2021, which are inconsistent with this Ordinance, are hereby repealed.

**SECTION 9. Open Meetings Certification.** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any other committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

**SECTION 10. Emergency Declaration and Effective Date.** Because the Village must collect the necessary fees to expand its existing utilities system as soon as possible and to ensure compliance with all Ohio environmental laws, rules, regulations, and guidance, and because the Village must be able to provide adequate utilities services to Village residential, commercial, and industrial buildings, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety in the Village of Commercial Point, and shall, therefore, go into effect immediately upon passage.

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Vote on Suspension of the Readings:

Motion by: Ross Crego

2<sup>nd</sup>: Nancy Geiger

Roll Call:

Yes Nancy Geiger

Yes Tracy Joiner

Yes Jason West

Yes Ross Crego

Yes Ryan Mitchem

Yes Laura Wolfe

Vote on Passage of the Ordinance:

Motion by: Tracy Joiner

2<sup>nd</sup>: Ross Crego

Roll Call:

Yes Nancy Geiger

Yes Tracy Joiner

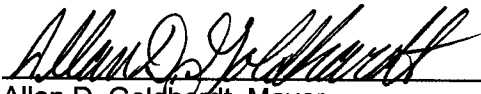
Yes Jason West

Yes Ross Crego

Yes Ryan Mitchem

Yes Laura Wolfe

Adopted this 8<sup>th</sup> day of February, 2022.

  
Allan D. Goldhardt, Mayor

  
Wendy Hastings, Fiscal Officer

Approved as to Form:

  
Joshua Cartee, Village Solicitor

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**Exhibit A**

**1117.04 FEES.**

Subdividers shall be responsible for payment of the following fees, which shall be submitted with the plats, unless otherwise noted. These fees are subject to review and revision by Council.

1. For processing of a Preliminary Subdivision Plat, the sum of \$400.00, plus \$5.00 per lot for each plat.
2. For processing of a Final Subdivision Plat and final improvement plans, the sum of \$200.00, plus \$10.00 per lot, plus two percent of the estimated construction cost.
3. For processing of Minor Subdivision Plats that require improvement plans, two percent of the estimated construction cost (\$600 minimum).
4. For processing of Minor Subdivision Plats that do not require improvement plans, the sum of \$400.00 plus \$10.00 per lot.
5. Processing of resubmitted Final Plats are subject to a fee of \$5.00 per lot, and are subject to a fee of up to 50 percent of the original fees.
6. A retainer for all inspection fees, supervision, and testing of materials, in the amount of five (5) percent of the cost of construction of the required improvements based upon the subdivider's detailed estimate of said cost as approved by the Municipal Engineer. Said fee to be paid prior to the beginning of construction. If the inspecting, supervision, and testing fees are anticipated to exceed the retained amount, an additional amount will be required to be deposited. Any of these amounts remaining at the completion of construction will be returned to the subdivider.
7. Tests performed for the Village by commercial laboratories to verify compliance with construction standards shall be billed to the subdivider at the rates charged by the laboratories.
8. If the fees collected for processing of plats exceed the costs incurred by the Village, the balance will be returned to the subdivider.
9. For Re-Zoning of a Planned District, the sum of \$500 (five-hundred) dollars.
10. Site Development Plan Fees:
  - (a) Major: \$500 (five hundred) Processing Fee and \$10,000 (ten thousand) Review Retainer Fee.
  - (b) Minor: \$100 (one hundred) Processing Fee and \$2,000 (two thousand) Review Retainer Fee.If the amount incurred by the Village in reviewing any Site Development Plan exceeds the Review Retainer Fee, then an additional amount will be charged to the developer and required to be deposited. This amount shall not exceed the actual amounts incurred by the Village in reviewing the Site Development Plan. Any Review Retainer Fee(s) remaining at the completion of the review shall be returned to the developer.
11. Flood Plain Development Permit Fee, the sum of \$500 (five-hundred) dollars.

In addition to the required fees for processing a subdivision application, said fees as stipulated by ordinance, the subdivider shall be responsible for the following:

(a) Payment to the municipality of a retainer for inspection, monitoring and the testing of materials consisting of an amount as stipulated by ordinance of the construction cost of the required improvements based on the subdivider's engineer's detailed estimate of said costs as reviewed by the municipal engineer. Any retainage remaining at the completion of the construction will be returned to the subdivider. If the inspection, supervision and testing fees are anticipated to exceed the original retainage amount, the subdivider shall be required to deposit additional fees to the municipality. The Planning and Zoning Administrator shall inform the subdivider if this situation should occur. The municipality may temporarily stop construction work until additional retainage has been provided.

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**Exhibit A (continued)**

(b) A water tower maintenance fee of one-thousand dollars (\$1,000) per each platted lot. This fee will be paid in phases at the time each phase is approved for construction.

(c)(1) For all commercial, industrial, and warehousing subdivisions, a utilities facilities construction impact fee of twenty-five cents (\$0.25) per square foot of building of principal and accessory structures to be developed within the subdivision. The utilities facilities construction impact fee shall be collected at the time a subdivider submits a written site plan application per Chapter 1141. If an accessory structure is not included in the written site plan application and the subdivider later submits an application to obtain a Certificate of Zoning Compliance per Sections 1135.02 and 1135.03 for an accessory structure, the utilities facilities construction impact fee for the accessory structure shall be collected at the time the subdivider submits an application for a Certificate of Zoning Compliance.

(2) The utilities facilities construction impact fee shall be refundable only if Council denies approval of the major site plan application. If the site plan is approved but approval has expired per Section 1141.07(e), a subdivider shall not be required to pay the same utilities facilities construction impact fee more than once. If the site plan approval has expired, then the subdivider shall be given a credit for the utilities facilities construction impact fee already paid. If site plan approval expires and the subdivider submits a new written site plan application that differs from the originally approved site plan application, the subdivider shall be responsible for payment of additional fees if the building square footage contained in the new site plan application is greater than the previously approved building square footage.

(3) A credit for payment of the utilities facilities construction impact fees already paid shall, upon request by the subdivider who submitted a written site plan application per Chapter 1141, be given to any transferee, assignee, or future owner of the property that is described in the site plan application. If the credit is not sufficient to cover the square footage of any written site plan application re-submitted per Chapter 1141, the transferee, assignee, or future owner shall be required to deposit additional fees to the municipality.

(4) Utilities facilities construction impact fees shall be collected only on the basis of building square footage. The square footage of structures such as parking lots shall not be considered when calculating the overall impact fee owed.

(5) All moneys generated pursuant to the utilities construction impact fee under this division shall be divided 90% among the Water Fund and 10% among the Sewer Fund.

(d)(1) For all residential subdivisions, a utilities facilities construction impact fee of twenty-five cents (\$0.25) per square foot of building of principal structures to be developed within the subdivision. No utilities facilities construction impact fee shall be collected for accessory structures within a residential subdivision. The utilities facilities construction impact fee shall be collected at the time a subdivider submits an application to obtain a Certificate of Zoning Compliance per Sections 1135.02 and 1135.03.

(2) All moneys generated pursuant to the utilities facilities construction impact fee under this division shall be divided 90% among the Water Fund and 10% among the Sewer Fund.

(e) Other applicable fees as stipulated by ordinance.

**1141.03 PROCEDURE FOR PREPARING AN APPLICATION SUBMITTAL.**

(a) It is strongly recommended that, prior to submitting a site plan application, the applicant meet with municipal officials regarding plan requirements.

(b) A written application for site plan shall be filed with the Planning and Zoning Administrator. For Major Site Plans, twelve (12) 11" by 17" size copies and two (2) full size copies of all plans and supporting information including, but not limited to, information listed in Section 1141.05, as applicable, shall be included with the Major Site Plan application filing. In addition, plan sheets shall be submitted in electronic form in either jpeg or tif formats. Upon the filing of a site plan application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1141. Should any information not be included with the application, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete site plan application shall be reviewed by village officials until all required information has been received by the Planning and Zoning Administrator.

(c) A fee as stipulated by this ordinance, paid by the applicant, shall be included with all site plan application filings. As required by Section 1117.04(c), the utilities facilities construction impact fee of twenty-five cents (\$0.25) per square foot of building proposed to be developed in such site plan application shall be paid by the applicant at the time such application is filed. The utilities facilities construction impact fee is calculated only on the basis of building square footage and is not calculated on the basis of other structures such as parking lots.

(d) All site plans shall be prepared by a professional engineer duly registered by the State of Ohio and include a boundary survey, conducted within two (2) years of the submittal date, by a professional land surveyor duly registered by the State of Ohio.

(e) Site plans and related engineering plans shall be prepared at a scale not smaller than one (1) inch equals one hundred (100) feet. Site plans may be prepared on one or more sheets to clearly show the information required by this chapter, and to facilitate the review and approval of the site plan. If prepared on more than one sheet, match lines shall be used to clearly indicate where the several sheets join. No sheet shall exceed forty-two (42) inches horizontally and twenty-eight (28) inches vertically in size.

**1195.05 COMMERCIAL/INDUSTRIAL LOCATION, EXTERIOR, AND MAINTENANCE.**

(a) Location. For all commercial, industrial, and warehousing lots and parcels, accessory uses and structures, shall be located completely to the rear or side of the principal structure and shall be no closer than ten (10) feet from any part of the principal structure. Accessory uses and structures shall meet the rear and side yard setback requirements of the applicable zoning district. Accessory uses and structures shall not be located within a recorded easement.

(b) Exterior. In order to protect property values and encourage neighborhood stability an accessory structure shall have an exterior that meets this standard and is compatible in appearance to the principal building on the parcel or lot.

(c) Maintenance. Accessory uses and structures shall be maintained in conformance with the requirements of this Code.

(d) Site Plan Required. Accessory uses and structures shall be indicated on an approved site plan in conformance with the requirements of Chapter 1141.

(e) Utilities Facilities Construction Impact Fee Required. At the time an application for Certificate of Zoning Compliance is submitted for an accessory structure on a commercial, industrial, or warehousing lot or parcel that is not otherwise part of an approved site plan application under Chapter 1141, the utilities facilities construction impact fee described in Section 1117.04(c) shall be paid. The square footage of parking lots shall not be considered when calculating the overall impact fee owed.