ORDINANCE 737-26

AN ORDINANCE ESTABLISHING IMPACT FEES ON NEW DEVELOPMENT IN THE TOWN OF SUMMERDALE

WHEREAS, in accordance with Act 2006-300, as codified at §§ 45-2-243.80-243.87, *Code of Alabama* (1975) (the "Act"), the Town of Summerdale (the "Town") is authorized by the Legislature of the State of Alabama to adopt and impose impact fees on new development within the Town's corporate limits.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SUMMERDALE, ALABAMA, as follows:

Section 1. **Findings.** In support of the adoption and imposition of impact fees authorized by the Act, the TOWN Council makes the following findings:

A. The Town is a municipal corporation vested with a portion of the state's sovereign power to protect and provide for the public health, safety, and welfare. The TOWN is authorized to adopt and implement comprehensive plans, zoning ordinances, and other land use regulations to assure its orderly development.

B. The TOWN is a fast-growing community of over 1682 full-time residents. In calendar years 2024- 25, approximately 132 new building permits and renovation permits were issued.

C. The Town encourages development that will make the Town a vital, attractive community to serve both residents of the Town and the substantial and significant number of visitors who visit the Town on a yearly basis.

D. New residential and nonresidential development, however, imposes increased and excessive demands upon public facilities. As demand for public facilities has increased, funding sources for those facilities have decreased at both the state and federal level. In addition, demand for new facilities necessitated by new development impairs the ability of the Town to maintain existing facilities because funds must be diverted to construction or expansion of new facilities.

E. The Town's current Comprehensive Plan projects that new development will continue and will place ever-increasing demands on the Town to provide public facilities to serve new development.

F. Following the adoption of the Act by the Legislature of the State of Alabama, the Town engaged the consulting firm TischlerBise for purposes of preparing an impact fee study. With input from the Town, TischlerBise prepared an "Impact Fee Study" for the Town dated September 30, 2025 and May 22, 2026 _(the "Study").

G. The Study demonstrates the monetary needs of the Town in adding the additional governmental infrastructure necessary to keep pace with the Town's growth.

H. In accordance with Alabama Code§ 45-2-243.86, a public meeting during the Town Council Meeting was held on April 13, 2026, at Town Hall with a representative of TischlerBise to present the Study to the Council and the public and to address the Town's governmental infrastructure needs as a result of new development. A public hearing was held on April 13, 2026, at 6:00pm, to give the public the opportunity to provide additional comments.

I. To the extent that new development places demand upon public facilities, those demands should be satisfied by shifting the responsibility for financing the provision of such facilities from the public to the development creating the demands an impact fee, established in accordance with this Ordinance, will benefit new development.

Section 2. **Authorization.** This Ordinance is adopted pursuant to the Act and the Town's general police power and land use authority.

Section 3. **Purpose and Intent.** The purpose of this Ordinance is to establish procedures to:

A. determine what local capital improvements are reasonably necessary to serve New Development and the cost thereof;
B. determine the portion of the demand for local capital improvements created by particular types of New Development; and
C. assess against New Development an Impact Fee to finance the cost of local capital improvements proportional to the New Development's demand for said capital improvements.

Section 4. **Definitions.** Whenever used in this Ordinance, the following capitalized words, terms, and phrases, and their derivations, shall have the meanings ascribed to them below except where the context clearly indicates a different meaning:

A. "Act" shall mean the enabling legislation for Impact Fees applicable to Baldwin County, Alabama as established by the Alabama Legislature and set forth in Alabama Code§§ 45-2-243.80 through 45-2-243.87 (Act 2006-300), as the same may hereafter be altered or amended from time to time.

B. "All Other Housing" means residential housing units and/or structures other than single-family residential structures, and includes, without limitation, duplexes, triplexes, apartments, condominiums and other multi-family developments.

C. "Applicant" shall mean any person or entity making an application for a Building Permit with the Town.

D. "Benefit Area" means one or more areas as defined herein which are used to calculate the costs and expenses relative to the Governmental Infrastructure needs created by a particular type of New Development.

E. "Building Department" means the Town's Building and Inspection Department.

F. "Building Permit" means a document issued by the Town authorizing construction of new buildings and/or improvements within the Town's corporate limits.

G. "Business Park" means a cluster of associated businesses, usually in a campus setting, typically consisting of the use of buildings for the administration of business, professional firms and other organizations.

H. "Calculate" means to determine the amount of the Impact Fees assessed against a particular New Development in accordance with the terms and conditions of this Ordinance and the Act.

I. "Town" means the Town of Summerdale, Alabama.

J. "Com/Shop Ctr" means a building or series of buildings in which retail and/or wholesale sales and services will be delivered to the public.

K. "Estimated Fair and Reasonable Market Value" shall have the meaning ascribed to such term in Alabama Code§ 45-2-243.84.

L. "Fire" means a Benefit Area for (i) the construction, development and/or improvement of fire stations, (ii) the acquisition of fire fighting vehicles, (iii) the acquisition of firefighting apparatus, and (iv) the fire component of the Study and/or any other impact fee study obtained by the Town in connection with the imposition of Impact Fees.

M. "Governmental Infrastructure" shall have the meaning ascribed to such term in the Act."Impact Fee" shall have the meaning ascribed to such term in the Act.

N. "Impact Fee Account" means a special interest-bearing account of the Town established by the Town at a banking institution whose deposits are insured by the Federal Deposit Insurance Corporation.

O. "Impact Fee Committee" means the Summerdale Town Council.

P. "Impact Fee Schedule" means the schedule of fees adopted by the Council setting the base fee amount for each Benefit Area and the total Impact Fee for each type of New Development, which schedule is attached hereto as **Exhibit A** and incorporated herein by reference.

Q. "Light Industrial" means facilities used for the manufacturing or assembly of products to their final form. These uses could be enclosed or could have outside storage of equipment, materials or merchandise. In addition to the actual production of goods, industrial facilities generally also have incidental office, warehouse and associated functions.

R. "Lodging" means a building or group of buildings having five (5) or more guest rooms under a common or individual ownership and single management. These buildings are designed to give, for a fee, transient guests sleeping accommodation and may include as incidental uses, restaurants, cafes, lounges or other guest services. These buildings typically, but do not necessarily have to, have an inner lobby and furnish a room cleaning service for their paying customers.

S. "Manufacturing" means a building or series of buildings for businesses engaged in economic activity involving construction, production, processing, transformation, warehousing, wholesale, and disposal of goods, products and component parts of goods and products, including related services.

T. "New Development" shall mean the subdivision of land, the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; any use of the extension of the use of land; any of which increases the demand on governmental infrastructure.

U. "Nonresidential Development Project" means all New Development in the Town other than Residential Development Projects, and shall include, without limitation, any New Development project consisting of one or any combination of Comm/Shop Ctr, Office/Inst, Business Park, Light

Industrial, Warehousing, Manufacturing and Lodging.

V. "Occupancy classification" means the intended use of a structure or tenant spaces within a structure as defined by the International Building Code.

W. "Office/Inst" means a building used for professional, administrative, financial, clerical and similar uses. This definition includes, without limitation, institutional uses such as churches, schools, hospitals, libraries, clubs, police and fire stations and other public buildings.

X. "Parks and Recreation" means a Benefit Area for (i) the acquisition of new public park lands, (ii) the construction, development and/or improvement of public recreational facilities, (iii) the construction, development and/or improvement of public park amenities, (iv) the acquisition of new park vehicles, and (v) the parks and recreation component of the Study and/or any other impact fee study obtained by the Town in connection with the imposition of Impact Fees.

Y. "Police" means a Benefit Area for (i) the cost recovery of the Town's cost and expense related to the construction, development and improvement of its justice center, (ii) the cost recovery of the Town's cost and expense related to the construction, development and improvement of its animal shelter,

a. (iii) the acquisition of police vehicles, and (iv) the acquisition of police-related apparatus and equipment, and (v) the police component of the Study and/or any other impact fee study obtained by the Town in connection with the imposition of Impact Fees.

Z. "Residential Development Project" means any New Development in the Town undertaken with respect to a Single-Family development and/or an All-Other Housing development.

AA. "Single Family" means a detached residential dwelling unit designed for and occupied by one family as a home.

BB. "Transportation" means a Benefit Area for the cost of intersection improvements made to address additional demand generated by New Development.

CC. "Warehousing" means the storage of materials but may also include incidental office and maintenance areas.

Section 5. **Imposition of Impact Fees.** The Town hereby imposes an Impact Fee in accordance with the Impact Fee Schedule against all New Development and renovation or expansion of existing structures within the town's corporate limits subject to any limitations on the amount of the Impact Fee set forth in the Act. In the event the town does not agree with the estimated fair and reasonable market value submitted by the developer the Town may obtain an appraisal by a license appraiser and the Town and the Applicant shall share equally in the cost of any appraisal obtained at the request of both the Town and the Applicant. This Ordinance and/or the Impact Fee Schedule may be amended at any time hereafter and from time to time by the Council in accordance with the procedure set forth in the Act for the adoption of an Impact Fee. The Impact Fee shall be collected and administered as hereinafter provided.

Section 6. **Calculation and Collection of Impact Fees.** Impact Fees may be imposed on New Development or renovation or expansion of existing structures as defined in Section 8 hereof, and subject to any limitations on the imposition and collection thereof in the Act. Impact Fees shall be Calculated using either 1% of the combined construction and land cost, or per the fees listed in **Exhibit A**, and the lesser of the two calculations will apply. Land cost will not be assessed or added to renovation, expansion, or change in occupancy classification of existing structures. Fees shall be collected by the Building Department prior to the issuance of a Building Permit for New Development and in accordance with the Impact Fee Schedule. Except as is hereafter provided in Section 14 hereof, all Impact Fees shall be paid by an Applicant to the Town in cash or other immediately available funds.

Section 7. **No Additional Capacity.** No Impact Fee may be assessed for or expended upon the construction, improvement, operation or maintenance of any Governmental Infrastructure that does not create additional capacity for use by the general public. The following shall be exempt from the payment of impact fees:

A. Alteration or expansion of an existing dwelling unit which does not result in any additional dwelling units or increase in the number of families for which such dwelling unit is arranged, designed or intended to accommodate for the purposes of living quarters.

B. The replacement of a building or dwelling unit where no additional square footage or dwelling units are created and when the existing and replacement or dwelling unit are located on the same lot. To be eligible for this exemption, official evidence such as, but not limited to, aerial photos, property surveys, Revenue Commission property appraiser data, or building permit data must be provided that confirms a building of equivalent use existed within the parcel boundaries in which the replacement structure is to be located.

Section 8. **Change in Size and Use.** An impact fee shall be imposed and calculated for alteration, expansion or replacement of a building if the alteration, expansion or replacement of a building results

in a use that it is determined to generate greater impact than the present under the applicable fee rate schedule. Impact fee shall be calculated as follows:

A. If the impact fee is based on a per dwelling unit method, the impact fee shall be the amount due under the applicable impact fee rate schedule, less the calculated impact fee applicable prior to the alteration, expansion or replacement.

B. If the impact fee is based on the square footage method, the impact fee due for the increased square footage shall be calculated by determining the impact fee due according to the square footage resulting from the alteration, expansion or replacement, less the impact fee that would have been imposed for the original square footage prior to the alteration, expansion or replacement.

C. All single-family residential fees in the fee schedule are based on an assumed 3-bedroom home. If the replacement structure has an increase in the number of bedrooms or sleeping rooms as defined by the Town of Summerdale Building Code any partial impact fee will be calculated on a percentage basis based on the increased number of sleeping rooms within the structure.

D. If a building is demolished in preparation of a new structure, a pre-demolition inspection will be performed to determine the number of sleeping rooms in the existing structure to establish the baseline for the calculation of any partial impact fee imposed.

E. All changes in use or Occupancy classification as defined by the International Building Code will be subject to full impact fees calculated at the new construction fee based of Occupancy classification. Credit will be given for the calculation of the new construction fee of the previous building based on Occupancy Classification.

Section 9. **Nature of Impact Fee.** An Impact Fee is both a personal liability of the Applicant and a lien upon the real property upon which the New Development is to be constructed and/or improved. Said lien may be foreclosed upon in accordance with the procedure for the foreclosure of real estate mortgages in the State of Alabama.

Section 10. **Refund of Impact Fee.** Except as is specifically required by the Act, Impact Fees are not refundable, unless the applicable Building Permit is voided in writing by the Applicant and no construction or construction-related activities have taken place. In the event a refund is made pursuant to the foregoing sentence, a processing fee of five hundred and no/100 dollars ($500.00) shall be withheld by the Town from any such refund.

Section 11. **Impact Fee Amounts.** The funds collected pursuant to this Ordinance shall be deposited into the Impact Fee Account. The funds of the Impact Fee Account shall not be commingled with other funds of the Town. The Town shall separately account for fees collected for the Benefit Areas of Parks and Recreation, Fire, Police and Transportation. In the event that less than the full Impact Fee is assessed for any reason, including, without limitation, any cap on such fee contained in the Act, said partial Impact Fee shall be allocated to the applicable Benefit Areas in the same proportion as the full Impact Fee would be allocated to and among the applicable Benefit Areas.

Section 12. **Use of Impact Fees.** Impact Fees may be expended only for the Benefit Area for which they were imposed, calculated, and collected and according to the time limits and procedures established in this Ordinance and the Act, if any. All impact fees collected for a Benefit Area must be spent in that Benefit Area. Impact Fees generated by this Ordinance may be used for any purpose permitted by the Act.

Section 13. **Time Limitations on Use of Impact Fees.** The Town shall expend or contract for the expenditure of all Impact Fees collected in accordance with this Ordinance within any time periods set forth in the Act; provided, however, that in the event the Act does not impose any limitation on the timing of the expenditure of Impact Fees, then the Town shall have no obligation to expend any Impact Fees within any specific period of time. In the event it becomes necessary for the Town to refund any Impact Fees due to the failure to expend or contract for the expenditure of such Impact Fees within a given period of time as required by the Act, the Town shall refund such Impact Fees to the Applicant who paid such Impact Fees.

Notwithstanding anything contained herein to the contrary, no party entitled to a refund of any Impact Fee hereunder shall be entitled to any interest on said refunded Impact Fee.

Section 14. **Appeals.** In the event the Building Department and an Applicant are unable to agree upon the Estimated Fair and Reasonable Value following the appraisal process set forth in Alabama Code § 45- 2-243.84, the Applicant against which an Impact Fee has been assessed may pay the Impact Fee as Calculated by the Building Department and preserve the right to appeal the amount of the Impact Fee by submitting with payment a written statement that payment is made "under protest" or that includes other language that would notify a reasonable person that the Applicant intends to preserve its right of appeal. Any Applicant intending to appeal the Calculation of an Impact Fee must file said appeal in writing with the Town Clerk of the Town within thirty (30) days of the last to occur of the Calculation of the Impact Fee by the Building Department and the payment of the Impact Fee by the

Applicant to the Town. In the written appeal provided to the Town Clerk by the Applicant, the Applicant shall set forth enough detail to allow the Town to reasonably determine the basis for the Applicant's appeal. All appeals of Impact Fee assessments shall be heard by the Council at a regularly held meeting of the Council within thirty (30) days of the date of the filing of the notice of appeal by the Applicant with the Town Clerk. At such appeal hearing, the Applicant and the Town shall have the right to present evidence relative to the establishment of the Estimated Fair and Reasonable Market Value of a New Development. In making such presentations, each of the Applicant and the Town shall be limited to fifteen (15) minutes for the presentation of such evidence. Thereafter, a majority decision by the Council shall be required to overturn the decision of the Building Department with regard to the Calculation of the applicable Impact Fee.

Section 15. **Review of Impact Fee Structure.** The Town Staff shall report at least once every three (3) years to the Council with:

A. recommendations, if any, for amendments to this Ordinance.

B. proposals identifying capital improvements to be funded as a whole or in part by the Impact Fees collected pursuant to this Ordinance; and

C. proposals for changes to the Impact Fee Schedule.

In connection with the foregoing, the Town Council is hereby authorized to engage such consultants as it deems reasonably necessary to prepare additional impact fee studies for purposes of arriving at an appropriate and reasonable impact fee rate structure.

Section 16. **Credits.** An Applicant who offers to dedicate land or otherwise provide for the funding of Governmental Infrastructure may be eligible for a credit for such contribution against the Impact Fee otherwise due for that Benefit Area. In the event an Applicant desires to obtain a credit in accordance with the foregoing, the Applicant shall submit its proposal for a credit in writing to the Building Department. To the extent the Town prepares forms for the credit process, the Applicant shall make its submittal on said Town provided forms.

Thereafter, the Building Department shall submit said proposal to the Town Council The Council shall make written findings with regard to (a) the value of the Applicant's proposed contribution; (b) whether the proposed contribution meets capital improvement needs for which the particular Impact Fee has been imposed; and (c) whether the proposed contribution will substitute or otherwise reduce the need for Governmental Infrastructure anticipated to be provided with Impact Fees otherwise assessable against the Applicant.

The Town Council shall transmit for whether to accept or decline the Applicant's offer. The Council shall make the final determination as to whether to accept the Applicant's proposed contribution; provided, however, that in no event shall the credit given to any such Applicant exceed the amount of the otherwise applicable Impact Fee.

Section 17. **Recovery of Public Hearing Costs.** Any costs incurred by the Town (a) in preparing for and conducting any public hearing required by the Act and (b) in connection with the Study or any similar study conducted hereafter may be recovered as a part of the Impact Fees assessed and collected in accordance with this Ordinance.

Section 18. **Severability.** Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-exemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 19. **Effective Date.** This Ordinance shall take effect and be in force commencing October 1, 2026, and following publication as required by law.

ADOPTED AND APPROVED on this 14th of September 2026

Randy Farris
Mayor

ATTEST:

Tiffany Reamondo
Town Clerk

EXHIBIT A

Impact Fee Schedule

	Police	Parks and Rec.	Fire
Single	396.45	292.20	412.80
Multi-Family (Per Unit)	217.05	159.90	226.20
Industrial	511.80	-	151.80
Commercial/Retail	692.10	-	762.60
Office/Institutional	1,767.50	-	338.40