Appendix E

Impact Fee Process and SC Laws

Process for Instituting Impact Fees

According to South Carolina law, in order for the Town of Chapin to adopt an ordinance imposing development impact fees, the Town must have adopted a comprehensive plan and a capital improvements plan.[1] Currently, the Town has a Future Land Use Plan, which acts as a comprehensive plan (it should be verified that this document is sufficient for comprehensive planning requirements), but does not have a capital improvements plan. With a comprehensive plan in place, Chapin Town Council may enact a resolution directing the planning commission to perform appropriate studies and recommend an impact fee ordinance.

As part of the planning commission's work, a capital improvements plan should be drafted and recommended to Chapin Town Council. The capital improvements plan must be adopted by ordinance and can be amended or altered, as new information on future development impact becomes available. The plan must contain the following elements:

- Description of existing public facilities and their deficiencies within the service area of the town;
- Plan to develop funding sources, which includes existing resources;
- Systems analysis that takes into consideration total capacity, the level of current usage, and commitments for usage of existing public facilities;
- Description of land use assumptions and a table showing the service units for each system improvement as it pertains to a particular type of land use;
- Total number of service units attributable to new development within the service area based upon land use assumptions;
- Projected demand for system improvements using projected new service units not to exceed a twenty-year time period;
- Cost estimates for improvements;
- Identification of all funding sources available to the town; and
- Schedule for construction commencement and completion of all system improvements identified in the capital improvements plan.

In addition to the capital improvements plan, other tasks must be performed by the planning commission or Town staff. If impact fees are to be assessed on residential development, a report must be prepared showing the effect imposing impact fees would have on affordable housing in the community. The amount of the impact fee for each unit in a development project must be included in the impact fee ordinance. The amount of the impact fee must be based upon actual costs or reasonable estimates found through sound engineering studies. An application process for determining impact fees must be created as well, and an annual report describing the amounts collected, appropriated, and spent during the preceding year is required.

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[1] SC Code of Laws referencing impact fees are 6-1-910 through 6-1-2010.

Explanations of the impact fee calculation and systems for which the impact fees intend to serve should also be included in the ordinance. The amount of the impact fee is determined by dividing the total costs of the system improvements by the total number of service units. The impact fee may not exceed a proportionate share of the costs incurred by the Town in providing system improvements to service new development (i.e., developers may not be required to pay more than their proportionate share of the costs). Revenues from development impact fees must be kept in interest bearing accounts, with any accrued interest considered a part of the development impact fee funds.

Finally, the Town must pass the impact fee ordinance by a "positive majority" (i.e., approval by the majority of members of the governing body, whether present or not) to begin collecting impact fees. Developers have the right to appeal the impact fee; therefore, an appeals process must be established. Additionally, if fees are not expended within three (3) years of collection, then the developer may request and must receive a refund.

TITLE 6, CHAPTER 1, ARTICLE 9.

DEVELOPMENT IMPACT FEES

SECTION 6-1-910. Short title.

This article may be cited as the "South Carolina Development Impact Fee Act".

SECTION 6-1-920. Definitions.

As used in this article:
(1) "Affordable housing" means housing affordable to families whose incomes do not exceed eighty percent of the median income for the service area or areas within the jurisdiction of the governmental entity.
(2) "Capital improvements" means improvements with a useful life of five years or more, by new construction or other action, which increase or increased the service capacity of a public facility.
(3) "Capital improvements plan" means a plan that identifies capital improvements for which development impact fees may be used as a funding source.
(4) "Connection charges" and "hookup charges" mean charges for the actual cost of connecting a property to a public water or public sewer system, limited to labor and materials involved in making pipe connections, installation of water meters, and other actual costs.
(5) "Developer" means an individual or corporation, partnership, or other entity undertaking development.
(6) "Development" means construction or installation of a new building or structure, or a change in use of a building or structure, any of which creates additional demand and need for public facilities. A building or structure shall include, but not be limited to, modular buildings and manufactured housing. "Development" does not include alterations made to existing single-family homes.
(7) "Development approval" means a document from a governmental entity which authorizes the commencement of a development.
(8) "Development impact fee" or "impact fee" means a payment of money imposed as a condition of development approval to pay a proportionate share of the cost of system improvements needed to serve the people utilizing the improvements. The term does not include:
(a) a charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development;
(b) connection or hookup charges;
(c) amounts collected from a developer in a transaction in which the governmental entity has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements;
(d) fees authorized by Article 3 of this chapter.

(9) "Development permit" means a permit issued for construction on or development of land when no subsequent building permit issued pursuant to Chapter 9 of Title 6 is required.
(10) "Fee payor" means the individual or legal entity that pays or is required to pay a development impact fee.
(11) "Governmental entity" means a county, as provided in Chapter 9, Title 4, and a municipality, as defined in Section 5-1-20.
(12) "Incidental benefits" are benefits which accrue to a property as a secondary result or as a minor consequence of the provision of public facilities to another property.
(13) "Land use assumptions" means a description of the service area and projections of land uses, densities, intensities, and population in the service area over at least a ten-year period.
(14) "Level of service" means a measure of the relationship between service capacity and service demand for public facilities.
(15) "Local planning commission" means the entity created pursuant to Article 1, Chapter 29, Title 6.
(16) "Project" means a particular development on an identified parcel of land.
(17) "Proportionate share" means that portion of the cost of system improvements determined pursuant to Section 6-1-990 which reasonably relates to the service demands and needs of the project.
(18) "Public facilities" means:
(a) water supply production, treatment, laboratory, engineering, administration, storage, and transmission facilities;
(b) wastewater collection, treatment, laboratory, engineering, administration, and disposal facilities;
(c) solid waste and recycling collection, treatment, and disposal facilities;
(d) roads, streets, and bridges including, but not limited to, rights-of-way and traffic signals;
(e) storm water transmission, retention, detention, treatment, and disposal facilities and flood control facilities;
(f) public safety facilities, including law enforcement, fire, emergency medical and rescue, and street lighting facilities;
(g) capital equipment and vehicles, with an individual unit purchase price of not less than one hundred thousand dollars including, but not limited to, equipment and vehicles used in the delivery of public safety services, emergency preparedness services, collection and disposal of solid waste, and storm water management and control;
(h) parks, libraries, and recreational facilities.
(19) "Service area" means, based on sound planning or engineering principles, or both, a defined geographic area in which specific public facilities provide service to development within the area defined. Provided, however, that no provision in this article may be interpreted to alter, enlarge, or reduce the service area or boundaries of a political subdivision which is authorized or set by law.
(20) "Service unit" means a standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements.

(21) "System improvements" means capital improvements to public facilities which are designed to provide service to a service area.
(22) "System improvement costs" means costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering, and other costs attributable to the improvements, and also including the costs of providing additional public facilities needed to serve new growth and development. System improvement costs do not include:
(a) construction, acquisition, or expansion of public facilities other than capital improvements identified in the capital improvements plan;
(b) repair, operation, or maintenance of existing or new capital improvements;
(c) upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;
(d) upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;
(e) administrative and operating costs of the governmental entity; or
(f) principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance capital improvements identified in the capital improvements plan.

SECTION 6-1-930. Developmental impact fee.

(A)(1) Only a governmental entity that has a comprehensive plan, as provided in Chapter 29 of this title, and which complies with the requirements of this article may impose a development impact fee. If a governmental entity has not adopted a comprehensive plan, but has adopted a capital improvements plan which substantially complies with the requirements of Section 6-1-960(B), then it may impose a development impact fee. A governmental entity may not impose an impact fee, regardless of how it is designated, except as provided in this article. However, a special purpose district or public service district which (a) provides fire protection services or recreation services, (b) was created by act of the General Assembly prior to 1973, and (c) had the power to impose development impact fees prior to the effective date of this section is not prohibited from imposing development impact fees.
(2) Before imposing a development impact fee on residential units, a governmental entity shall prepare a report which estimates the effect of recovering capital costs through impact fees on the availability of affordable housing within the political jurisdiction of the governmental entity.
(B)(1) An impact fee may be imposed and collected by the governmental entity only upon the passage of an ordinance approved by a positive majority, as defined in Article 3 of this chapter.
(2) The amount of the development impact fee must be based on actual improvement costs or reasonable estimates of the costs, supported by sound engineering studies.
(3) An ordinance authorizing the imposition of a development impact fee must:
(a) establish a procedure for timely processing of applications for determinations by the governmental entity of development impact fees applicable to all property subject to

impact fees and for the timely processing of applications for individual assessment of development impact fees, credits, or reimbursements allowed or paid under this article;
(b) include a description of acceptable levels of service for system improvements; and
(c) provide for the termination of the impact fee.
(C) A governmental entity shall prepare and publish an annual report describing the amount of all impact fees collected, appropriated, or spent during the preceding year by category of public facility and service area.
(D) Payment of an impact fee may result in an incidental benefit to property owners or developers within the service area other than the fee payor, except that an impact fee that results in benefits to property owners or developers within the service area, other than the fee payor, in an amount which is greater than incidental benefits is prohibited.

SECTION 6-1-940. Amount of impact fee.

A governmental entity imposing an impact fee must provide in the impact fee ordinance the amount of impact fee due for each unit of development in a project for which an individual building permit or certificate of occupancy is issued. The governmental entity is bound by the amount of impact fee specified in the ordinance and may not charge higher or additional impact fees for the same purpose unless the number of service units increases or the scope of the development changes and the amount of additional impact fees is limited to the amount attributable to the additional service units or change in scope of the development. The impact fee ordinance must:
(1) include an explanation of the calculation of the impact fee, including an explanation of the factors considered pursuant to this article;
(2) specify the system improvements for which the impact fee is intended to be used;
(3) inform the developer that he may pay a project's proportionate share of system improvement costs by payment of impact fees according to the fee schedule as full and complete payment of the developer's proportionate share of system improvements costs;
(4) inform the fee payor that:
(a) he may negotiate and contract for facilities or services with the governmental entity in lieu of the development impact fee as defined in Section 6-1-1050;
(b) he has the right of appeal, as provided in Section 6-1-1030;
(c) the impact fee must be paid no earlier than the time of issuance of the building permit or issuance of a development permit if no building permit is required.

SECTION 6-1-950. Procedure for adoption of ordinance imposing impact fees.

(A) The governing body of a governmental entity begins the process for adoption of an ordinance imposing an impact fee by enacting a resolution directing the local planning commission to conduct the studies and to recommend an impact fee ordinance, developed in accordance with the requirements of this article. Under no circumstances may the governing body of a governmental entity impose an impact fee for any public facility which has been paid for entirely by the developer.
(B) Upon receipt of the resolution enacted pursuant to subsection (A), the local planning commission shall develop, within the time designated in the resolution, and make recommendations to the governmental entity for a capital improvements plan and impact

fees by service unit. The local planning commission shall prepare and adopt its recommendations in the same manner and using the same procedures as those used for developing recommendations for a comprehensive plan as provided in Article 3, Chapter 29, Title 6, except as otherwise provided in this article. The commission shall review and update the capital improvements plan and impact fees in the same manner and on the same review cycle as the governmental entity's comprehensive plan or elements of it.

SECTION 6-1-960. Recommended capital improvements plan; notice; contents of plan.

(A) The local planning commission shall recommend to the governmental entity a capital improvements plan which may be adopted by the governmental entity by ordinance. The recommendations of the commission are not binding on the governmental entity, which may amend or alter the plan. After reasonable public notice, a public hearing must be held before final action to adopt the ordinance approving the capital improvements plan. The notice must be published not less than thirty days before the time of the hearing in at least one newspaper of general circulation in the county. The notice must advise the public of the time and place of the hearing, that a copy of the capital improvements plan is available for public inspection in the offices of the governmental entity, and that members of the public will be given an opportunity to be heard.

(B) The capital improvements plan must contain:

(1) a general description of all existing public facilities, and their existing deficiencies, within the service area or areas of the governmental entity, a reasonable estimate of all costs, and a plan to develop the funding resources, including existing sources of revenues, related to curing the existing deficiencies including, but not limited to, the upgrading, updating, improving, expanding, or replacing of these facilities to meet existing needs and usage;

(2) an analysis of the total capacity, the level of current usage, and commitments for usage of capacity of existing public facilities, which must be prepared by a qualified professional using generally accepted principles and professional standards;

(3) a description of the land use assumptions;

(4) a definitive table establishing the specific service unit for each category of system improvements and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, agricultural, and industrial, as appropriate;

(5) a description of all system improvements and their costs necessitated by and attributable to new development in the service area, based on the approved land use assumptions, to provide a level of service not to exceed the level of service currently existing in the community or service area, unless a different or higher level of service is required by law, court order, or safety consideration;

(6) the total number of service units necessitated by and attributable to new development within the service area based on the land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(7) the projected demand for system improvements required by new service units projected over a reasonable period of time not to exceed twenty years;

(8) identification of all sources and levels of funding available to the governmental entity for the financing of the system improvements; and

(9) a schedule setting forth estimated dates for commencing and completing construction of all improvements identified in the capital improvements plan.
(C) Changes in the capital improvements plan must be approved in the same manner as approval of the original plan.

SECTION 6-1-970. Exemptions from impact fees.

The following structures or activities are exempt from impact fees:
(1) rebuilding the same amount of floor space of a structure that was destroyed by fire or other catastrophe;
(2) remodeling or repairing a structure that does not result in an increase in the number of service units;
(3) replacing a residential unit, including a manufactured home, with another residential unit on the same lot, if the number of service units does not increase;
(4) placing a construction trailer or office on a lot during the period of construction on the lot;
(5) constructing an addition on a residential structure which does not increase the number of service units;
(6) adding uses that are typically accessory to residential uses, such as a tennis court or a clubhouse, unless it is demonstrated clearly that the use creates a significant impact on the system's capacity; and
(7) all or part of a particular development project if:
(a) the project is determined to create affordable housing; and
(b) the exempt development's proportionate share of system improvements is funded through a revenue source other than development impact fees.

SECTION 6-1-980. Calculation of impact fees.

(A) The impact fee for each service unit may not exceed the amount determined by dividing the costs of the capital improvements by the total number of projected service units that potentially could use the capital improvement. If the number of new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee for each service unit must be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to the projected new service units by the total projected new service units.
(B) An impact fee must be calculated in accordance with generally accepted accounting principles.

SECTION 6-1-990. Maximum impact fee; proportionate share of costs of improvements to serve new development.

(A) The impact fee imposed upon a fee payor may not exceed a proportionate share of the costs incurred by the governmental entity in providing system improvements to serve the new development. The proportionate share is the cost attributable to the development after the governmental entity reduces the amount to be imposed by the following factors:

(1) appropriate credit, offset, or contribution of money, dedication of land, or construction of system improvements; and
(2) all other sources of funding the system improvements including funds obtained from economic development incentives or grants secured which are not required to be repaid.
(B) In determining the proportionate share of the cost of system improvements to be paid, the governmental entity imposing the impact fee must consider the:
(1) cost of existing system improvements resulting from new development within the service area or areas;
(2) means by which existing system improvements have been financed;
(3) extent to which the new development contributes to the cost of system improvements;
(4) extent to which the new development is required to contribute to the cost of existing system improvements in the future;
(5) extent to which the new development is required to provide system improvements, without charge to other properties within the service area or areas;
(6) time and price differentials inherent in a fair comparison of fees paid at different times; and
(7) availability of other sources of funding system improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation.

SECTION 6-1-1000. Fair compensation or reimbursement of developers for costs, dedication of land or oversize facilities.

A developer required to pay a development impact fee may not be required to pay more than his proportionate share of the costs of the project, including the payment of money or contribution or dedication of land, or to oversize his facilities for use of others outside of the project without fair compensation or reimbursement.

SECTION 6-1-1010. Accounting; expenditures.

(A) Revenues from all development impact fees must be maintained in one or more interest-bearing accounts. Accounting records must be maintained for each category of system improvements and the service area in which the fees are collected. Interest earned on development impact fees must be considered funds of the account on which it is earned, and must be subject to all restrictions placed on the use of impact fees pursuant to the provisions of this article.
(B) Expenditures of development impact fees must be made only for the category of system improvements and within or for the benefit of the service area for which the impact fee was imposed as shown by the capital improvements plan and as authorized in this article. Impact fees may not be used for:
(1) a purpose other than system improvement costs to create additional improvements to serve new growth;
(2) a category of system improvements other than that for which they were collected; or
(3) the benefit of service areas other than the area for which they were imposed.

SECTION 6-1-1020. Refunds of impact fees.

(A) An impact fee must be refunded to the owner of record of property on which a development impact fee has been paid if:
(1) the impact fees have not been expended within three years of the date they were scheduled to be expended on a first-in, first-out basis; or
(2) a building permit or permit for installation of a manufactured home is denied.
(B) When the right to a refund exists, the governmental entity shall send a refund to the owner of record within ninety days after it is determined by the entity that a refund is due.
(C) A refund must include the pro rata portion of interest earned while on deposit in the impact fee account.
(D) A person entitled to a refund has standing to sue for a refund pursuant to this article if there has not been a timely payment of a refund pursuant to subsection (B) of this section.

SECTION 6-1-1030. Appeals.

(A) A governmental entity which adopts a development impact fee ordinance shall provide for administrative appeals by the developer or fee payor.
(B) A fee payor may pay a development impact fee under protest. A fee payor making the payment is not estopped from exercising the right of appeal provided in this article, nor is the fee payor estopped from receiving a refund of an amount considered to have been illegally collected. Instead of making a payment of an impact fee under protest, a fee payor, at his option, may post a bond or submit an irrevocable letter of credit for the amount of impact fees due, pending the outcome of an appeal.
(C) A governmental entity which adopts a development impact fee ordinance shall provide for mediation by a qualified independent party, upon voluntary agreement by both the fee payor and the governmental entity, to address a disagreement related to the impact fee for proposed development. Participation in mediation does not preclude the fee payor from pursuing other remedies provided for in this section or otherwise available by law.

SECTION 6-1-1040. Collection of development impact fees.

A governmental entity may provide in a development impact fee ordinance the method for collection of development impact fees including, but not limited to:
(1) additions to the fee for reasonable interest and penalties for nonpayment or late payment;
(2) withholding of the certificate of occupancy, or building permit if no certificate of occupancy is required, until the development impact fee is paid;
(3) withholding of utility services until the development impact fee is paid; and
(4) imposing liens for failure to pay timely a development impact fee.

SECTION 6-1-1050. Permissible agreements for payments or construction or installation of improvements by fee payors and developers; credits and reimbursements.

A fee payor and developer may enter into an agreement with a governmental entity, including an agreement entered into pursuant to the South Carolina Local Government

Development Agreement Act, providing for payments instead of impact fees for facilities or services. That agreement may provide for the construction or installation of system improvements by the fee payor or developer and for credits or reimbursements for costs incurred by a fee payor or developer including interproject transfers of credits or reimbursement for project improvements which are used or shared by more than one development project. An impact fee may not be imposed on a fee payor or developer who has entered into an agreement as described in this section.

SECTION 6-1-1060. Article shall not affect existing laws.

(A) The provisions of this article do not repeal existing laws authorizing a governmental entity to impose fees or require contributions or property dedications for capital improvements. A development impact fee adopted in accordance with existing laws before the enactment of this article is not affected until termination of the development impact fee. A subsequent change or reenactment of the development impact fee must comply with the provisions of this article. Requirements for developers to pay in whole or in part for system improvements may be imposed by governmental entities only by way of impact fees imposed pursuant to the ordinance.
(B) Notwithstanding another provision of this article, property for which a valid building permit or certificate of occupancy has been issued or construction has commenced before the effective date of a development impact fee ordinance is not subject to additional development impact fees.

SECTION 6-1-1070. Shared funding among units of government; agreements.

(A) If the proposed system improvements include the improvement of public facilities under the jurisdiction of another unit of government including, but not limited to, a special purpose district that does not provide water and wastewater utilities, a school district, and a public service district, an agreement between the governmental entity and other unit of government must specify the reasonable share of funding by each unit. The governmental entity authorized to impose impact fees may not assume more than its reasonable share of funding joint improvements, nor may another unit of government which is not authorized to impose impact fees do so unless the expenditure is pursuant to an agreement under Section 6-1-1050 of this section.
(B) A governmental entity may enter into an agreement with another unit of government including, but not limited to, a special purpose district that does not provide water and wastewater utilities, a school district, and a public service district, that has the responsibility of providing the service for which an impact fee may be imposed. The determination of the amount of the impact fee for the contracting governmental entity must be made in the same manner and is subject to the same procedures and limitations as provided in this article. The agreement must provide for the collection of the impact fee by the governmental entity and for the expenditure of the impact fee by another unit of government including, but not limited to, a special purpose district that does not provide water and wastewater utilities, a school district, and a public services district unless otherwise provided by contract.

SECTION 6-1-1080. Exemptions; water or wastewater utilities.

The provisions of this chapter do not apply to a development impact fee for water or wastewater utilities, or both, imposed by a city, county, commissioners of public works, special purpose district, or nonprofit corporation organized pursuant to Chapter 35 or 36 of Title 33, except that in order to impose a development impact fee for water or wastewater utilities, or both, the city, county, commissioners of public works, special purpose district or nonprofit corporation organized pursuant to Chapter 35 or 36 of Title 33 must:
(1) have a capital improvements plan before imposition of the development impact fee; and
(2) prepare a report to be made public before imposition of the development impact fee, which shall include, but not be limited to, an explanation of the basis, use, calculation, and method of collection of the development impact fee; and
(3) enact the fee in accordance with the requirements of Article 3 of this chapter.

SECTION 6-1-1090. Annexations by municipalities.

A county development impact fee ordinance imposed in an area which is annexed by a municipality is not affected by this article until the development impact fee terminates, unless the municipality assumes any liability which is to be paid with the impact fee revenue.

SECTION 6-1-2000. Taxation or revenue authority by political subdivisions.

This article shall not create, grant, or confer any new or additional taxing or revenue raising authority to a political subdivision which was not specifically granted to that entity by a previous act of the General Assembly.

SECTION 6-1-2010. Compliance with public notice or public hearing requirements.

Compliance with any requirement for public notice or public hearing in this article is considered to be in compliance with any other public notice or public hearing requirement otherwise applicable including, but not limited to, the provisions of Chapter 4, Title 30, and Article 3 of this chapter.

TITLE 6, CHAPTER 7, ARTICLE 13.

LOCAL PLANNING -- OFFICIAL MAP

SECTION 6-7-1210. "Official map" defined.

"Official map" means a map or maps showing the location of existing or proposed public street, highway, and public utility rights-of-way, public building sites and public open spaces adopted by the governing authority of a municipality or county in accordance with the provisions of this chapter. A public building site is one on which a building is to be constructed for public use with public funds.

SECTION 6-7-1220. Authorization for and purpose of official maps.

Counties and municipalities may establish official maps to reserve future locations of any street, highway, or public utility rights-of-way, public building site or public open space for future public acquisition and to regulate structures or changes in land use in such rights-of-way, building sites or open spaces. This authority is declared necessary in order to promote and preserve the public safety, economy, good order, appearance, convenience, prosperity, and general welfare and is one of the several instruments of land use control authorized by this chapter for the implementation of comprehensive plans, or parts thereof, adopted in accordance with the provisions of this chapter.

SECTION 6-7-1230. Establishment of official map.

The governing authority of a municipality may establish an official map of the municipality. The governing authority of a county may establish an official map of the unincorporated areas of the county. Such official maps may show the location of existing or proposed public street, highway and utility rights-of-way, public building sites, and public open spaces. The official map may include the whole or any part or parts of the municipality or county within the jurisdiction of the establishing governing authority. The governing authority shall certify the fact of the establishment of the official maps to the clerk of the circuit court of the county.
The official map may consist of any number of separate maps which need not be drawn to the same scale; however, such maps shall be indexed on a single map depicting the area of jurisdiction of the governing authority.

SECTION 6-7-1240. Creation of maps by planning commission showing recommended lines of streets or highways, public building sites, public utilities or public open space.

After the local planning commission shall have prepared and adopted a comprehensive plan or at least the major street portion of such plan and upon receiving approval thereof by the appropriate governing authority, the local planning commission may make or cause to be made surveys for the exact location of the lines of proposed new, extended, widened and otherwise improved streets and highways in the whole or in any portion of the municipality or county and to make and certify to the governing authority a map or

maps of the area thus surveyed on which are indicated the lines recommended by the local planning commission as the mapped lines of the rights-of-way required for future streets and highways and for future extensions, widenings and other improvements to existing streets and highways.
After the local planning commission shall have prepared and adopted a comprehensive plan or at least the public building sites, public open spaces or public utilities portion of such comprehensive plan, and upon receiving approval thereof by the appropriate governing authority, the local planning commission may make or cause to be made, from time to time, surveys of the exact location of the boundary lines of proposed new and enlarged sites for public buildings, public parks, public playgrounds, public utilities and other public open spaces in the whole or in any portion of the municipality or county and to make and certify to the governing authority of the municipality or to the governing authority of the county maps of the areas thus surveyed on which are indicated the locations of the lines recommended by the planning commission as the mapped boundary lines of future public building sites, public parks, public playgrounds, public utilities and other future open space areas.
The making or certifying of such maps by the planning commission shall be in the form of a recommendation and shall not of itself constitute the opening or establishment of any street or highway or public building site or public park, public playground, public utility or other public open space or the taking or acceptance of any land for such purpose.

SECTION 6-7-1250. Adoption of and hearing on map of proposed boundary lines.

After the local planning commission shall have made and recommended to the appropriate governing authority maps on which are indicated the locations of the lines recommended by the planning commission as the mapped boundary lines of future streets and highways, future street and highway extensions and widenings, future public building sites, public parks, public utilities, public playgrounds and other future public open space areas, the appropriate governing authority may adopt such maps as the official maps.
Before adopting the map as the official map, the governing authority shall hold a public hearing thereon which shall be advertised and conducted according to the lawfully prescribed procedures for that municipality or county. If no established procedures exist, then at least fifteen days' notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the municipality or county.

SECTION 6-7-1260. Procedure for making additions and modifications to map.

The governing authority of the municipality or the governing authority of the county from time to time may make additions to or modifications of its official maps.
No change in or departure from the maps shall be made until such proposed changes or departures shall first have been submitted to the local planning commission for review and recommendation. The local planning commission shall have thirty days within which to submit its report. If the local planning commission fails to submit a report within the thirty-day period, it shall be deemed to have recommended that the changes or departures be approved. Before taking such action, the governing authority shall hold a public hearing thereon, according to the provisions set forth in this chapter.

SECTION 6-7-1270. No permits for construction or change in land use allowed within mapped lines; procedure for appeal.

After adoption of any official map by the governing authority of the municipality or the governing authority of the county no permit shall be issued for the construction, improvement, repair or moving of any building or structure and no change in land use shall be made on any land located within the mapped lines of any street or highway, public building site, public utility line, or public open space as shown on the official map. In cases where any permit has been refused under this authority, the following appeal procedure may be utilized by any affected property owner:
(1) An appeal shall be presented to the appropriate local planning commission.
(2) The local planning commission shall evaluate the appeal and make a report within thirty days to the governing authority and to any other appropriate public agency. If no report is made within thirty days, the planning commission shall be deemed to have recommended that the appeal be granted.
(3) The local planning commission's report shall recommend:
(a) That the governing authority take official action to exempt the affected land from the restrictions of the official map; or
(b) That the governing authority take official action to authorize the issuance of desired permits subject to specified conditions; or
(c) That the governing authority initiate appropriate action to acquire the property.
(4) Upon receipt of the report of the local planning commission the governing authority shall within one hundred days:
(a) Take official action to exempt the affected land from the restrictions of the official map; provided, that such exemption shall have no effect on any applicable zoning restrictions pertaining to permitted uses; or
(b) Take official action to authorize the issuance of the denied permits subject to specified conditions accepted by the owner; provided, that such conditions shall not be contrary to any applicable zoning restrictions pertaining to permitted uses; or
(c) Either enter into an agreement to acquire or institute condemnation proceedings to acquire the property affected. Action to acquire such property may be instituted by the governing authority or other appropriate public agency.
Failure of the governing authority to act within one hundred days of the receipt of the report of the local planning commission shall be deemed to constitute approval of the proposed appeal. Thereupon, denied permits shall be issued upon demand.

SECTION 6-7-1280. Procedure for obtaining exemption of property from restrictions of official map.

After adoption of any official map by the governing authority of the municipality or the governing authority of the county any property owner owning property located within the mapped lines of any street or highway, public building site, public utility line, or public open space as shown on the official map, may apply to the local planning commission for exemption of such property from the restrictions of the official map. When such application has been made the following procedure shall be utilized:

(1) The local planning commission shall evaluate the application and make a report within thirty days to the governing authority and to any other appropriate public agency. If no report is made within thirty days, the planning commission shall be deemed to have recommended that the application be granted.
(2) The local planning commission's report shall recommend:
(a) That the governing authority take official action to exempt the affected property from the restrictions of the official map; or
(b) That the governing authority initiate appropriate action to acquire the property.
(3) Upon receipt of the report of the local planning commission the governing authority shall within seventy-five days:
(a) Take official action to exempt the affected property from the restrictions of the official map; provided, that such exemption shall have no effect on any applicable zoning restrictions pertaining to permitted uses; or
(b) Either enter into an agreement to acquire or institute condemnation proceedings to acquire the property affected. Action to acquire such property may be instituted by the governing authority or other appropriate public agency. Failure of the governing authority to act within seventy-five days of the receipt of the report of the local planning commission shall be deemed to constitute granting of the application.