

MILLVILLE CITY CODE
TITLE 3 - REVENUE AND FINANCE
CHAPTER 3.28 - MUNICIPAL IMPACT FEES

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3.28.010: PURPOSE

This chapter revises and prescribes the city's impact fee policies and procedures and is promulgated pursuant to the requirements of the Utah impact fees act. Further, this chapter:

- A. Revises currently assessed impact fees within the service area,
- B. Describes certain capital improvements to be funded by impact fees,
- C. Provides a schedule of impact fees for differing types of land use development, and
- D. Sets forth direction for challenging, modifying and appealing impact fees. (Ord. 2016-2, 2016)

3.28.020: EFFECT ON PREVIOUS ORDINANCES; REPEAL OF EXISTING IMPACT FEE ORDINANCES

The existing impact fee ordinances of Millville City, Utah, are superseded and amended to read as set forth in this chapter; provided, however, that this chapter shall be deemed a continuation of the previous ordinances, and not a new enactment, insofar as the substance of revisions of the previous ordinances are included, whether in the same or in different language; and this chapter shall be so interpreted upon all questions of construction. Currently existing impact fees ordinances are hereby repealed, subject to this section, and the fact that their repeal shall not be viewed as reenacting any prior fee ordinances or any other enactments by the city. (Ord. 2016-2, 2016)

3.28.030: DEFINITIONS

Words and phrases that are defined in the act shall have the same definition in this chapter. The following words and phrases shall have the following meanings:

BUILDING PERMIT FEE: The fees charged to enforce the uniform building codes adopted by the city and/or the state of Utah.

CAPITAL FACILITIES PLAN OR CAPITAL IMPROVEMENT PLAN: The plan or other reasonable plan for capital improvements, required and allowed by section 11-36a-301 of the act. In section 11-36a-301(3) there is an exception to the capital facilities plan for cities of five thousand (5,000) or less in population, based on the latest census. Millville City meets this exception, however, capital facilities plans and/or capital improvement plans have been prepared and can be found at the city office. Reference to the city's capital facilities plans and/or capital improvement plans shall also refer to any CFP and reasonable plan prepared and is still in full force and effect.

CITY: A local political subdivision of the state of Utah and is referred to herein as Millville City (the "city").

DEVELOPMENT ACTIVITY: Any construction or expansion of a building, structure or use, any change in use of a building or structure, or any change in the use of land that creates additional demand and need for public facilities. Development activity will include all development that will connect to the referenced systems.

DEVELOPMENT APPROVAL: Any written authorization from the city that authorizes the commencement of development activity.

IMPACT FEE: A payment of money imposed upon development activity as a condition of development approval. "Impact fee" includes development impact fees, but does not include a tax, special assessment, hookup fee, building permit fee, fee for project improvements, or other reasonable permit or application fees.

PROJECT IMPROVEMENTS: Site improvements and facilities that are planned and designed to provide service for development resulting from a development activity and are necessary for the use and convenience of the occupant or users of development resulting from a development activity. "Project improvements" do not include "system improvements" as defined herein.

PROPORTIONATE SHARE (Of The Cost Of Public Facility Improvements): An amount that is roughly proportionate and reasonably related to the service demands and needs of development activity.

PUBLIC FACILITIES: System improvements of the city relating to the services for which impact fees will be assessed.

SERVICE AREA: Refers to a geographic area designated by the city based on sound planning or engineering principles in which a defined set of the city's public facilities provides service. The service area for purposes of this analysis is found in the written impact fee analysis.

SYSTEM IMPROVEMENTS: Refer both to existing public facilities designed to provide services to the service area within the city at large and to future public facilities identified in a reasonable plan for capital improvements adopted by the city that are intended to provide service to service areas within the city at large. "System improvements" do not include "project improvements" as defined herein. (Ord. 2016-2, 2016)

3.28.040: WRITTEN IMPACT FEE ANALYSIS

- A. Executive Summary: A summary of the findings of the written impact fee analysis that is designed to be understood by a layperson is included in the written impact fee analysis and demonstrates the need for impact fees to be charged. A copy of the executive summary is included in the written impact fee analysis, which is hereby approved and adopted, and has been available for public inspection at least ten (10) days prior to the adoption of this chapter and shall remain available for public inspection at the city office.
- B. Written Analysis: The city has prepared a written impact fee analysis for the impact fees that identifies the impact upon the public utilities and systems required by the development activity and demonstrates how those impacts on system improvements are

reasonably related to the development activity, estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the development activity and identifies how the impact fees are calculated. A copy of the written impact fee analysis has been available for public inspection at least ten (10) days prior to the adoption of this chapter, and shall remain available for public inspection at the city office.

- C. Proportionate Share Analysis: The city prepared a proportionate share analysis which analyzes whether the proportionate share of the costs of future public facilities is reasonably related to new development activity. The proportionate share analysis identifies the costs of existing public facilities, the manner of financing existing public facilities, the relative extent to which new development will contribute to the cost of existing facilities and the extent to which new development is entitled to a credit for payment toward the costs of new facilities from general taxation or other means apart from user charges in other parts of the city. A copy of the proportionate share analysis is included in the written impact fee analysis and has been available for public inspection at least ten (10) days prior to the adoption of this chapter, and shall remain available for public inspection at the city office. (Ord. 2016-2, 2016)

3.28.050: IMPACT FEE CALCULATIONS

- A. Impact Fees: The city council, by this chapter, approves and imposes impact fees in accordance with the written impact fee analysis. Unless otherwise provided by the city council, impact fees shall be due at the time of an application for a building permit, and paid to the city prior to the issuance of a building permit by city.
 - 1. Elements: In calculating the impact fee, the city has included the construction contract price, land acquisition costs, costs of improvements, material costs, fees for engineering services provided for and directly related to the construction of system improvements, and debt service charges if the city might use impact fees as revenue stream to pay principal and interest on bonds or other obligations to finance the cost of system improvements.
 - 2. Notice And Hearing: Before approving this chapter, the city held a public hearing on April 28, 2016, and made a copy of this chapter available to the public at least ten (10) days before the date of the hearing, all in conformity with the requirements of Utah Code Annotated 10-9a-205. After the public hearing, the city council adopted this chapter and the supporting documents as presented herein.

3. Contents: This chapter adopting or modifying municipal impact fees contains such detail and elements as deemed appropriate by the city council, including a designation of the service area within which the impact fees are to be calculated and imposed. The service area for this chapter includes the area shown in the written impact fee analysis. This chapter includes: a) a schedule of impact fees imposed for each type of system improvement or b) the formula used or to be used by the city in calculating the impact fees, or both. A copy of this requirement is included in the written impact fee analysis.
 4. Adjustments: The standard impact fee may be adjusted at the time the fee is charged in response to unusual circumstances or to fairly allocate costs associated with impacts created by a development activity or project. The standard impact fee may also be adjusted to ensure that impact fees are imposed fairly for affordable housing projects, in accordance with the local government's affordable housing policy, and other development activities with broad public purposes.
 5. Previously Incurred Costs: To the extent that the new growth and development will be served by previously constructed improvements, the city's impact fees may include public facility and bond costs previously incurred by the city. These projects are included in the calculation of the impact fees and are under construction or completed but have not been utilized to their capacity, as evidenced by outstanding debt obligations, engineering analysis, or otherwise.
- B. Developer Credits: A developer may be allowed a credit against impact fees for any dedication of land, or improvement to, or new construction of system improvements provided by the developer provided that: 1) it is identified in the city's capital facilities or other reasonable plan and 2) required by the city as a condition of approving the development activity. Otherwise, no credit may be allowed.
- C. Impact Fees Accounting: The city will establish separate interest bearing ledger accounts for each type of public facility for which an impact fee is collected and deposited into the appropriate ledger account. Interest earned on each fund or account shall be segregated to that account.
1. Reporting: At the end of each fiscal year, the city shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned and received by the fund or account and each expenditure from the fund or account.
 2. Impact Fee Expenditures: The city may expend impact fees covered by the impact fee policy only for system improvements that are: a) public facilities

identified in the city's capital facilities plan or other reasonable plan and b) of the specific public facility type for which the fee was collected.

3. Time Of Expenditure: Impact fees collected pursuant to the requirements of this impact fee policy are to be expended, dedicated or encumbered for a permissible use within six (6) years of the receipt of those funds by the city, unless otherwise directed by the city council. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.
 4. Extension Of Time: The city may hold previously dedicated or unencumbered fees for longer than six (6) years if it identifies in writing: a) an extraordinary and compelling reason why the fees should be held longer than six (6) years and b) an absolute date by which the fees will be expended.
- D. Refunds: The city shall refund any impact fees paid by a developer, plus interest actually earned when: 1) the developer does not proceed with the development activity and files a written request for a refund; 2) the fees have not been spent or encumbered; and 3) no impact has resulted. An impact that would preclude a developer from a refund from the city may include any impact reasonably identified by the city, including, but not limited to, the city having sized facilities and/or paid for, installed and/or caused the installation of facilities based, in whole or in part, upon the developer's planned development activity even though that capacity may, at some future time, be utilized by another development.
- E. Other Impact Fees: To the extent allowed by law, the city council may negotiate or otherwise impose impact fees and other fees different from those currently charged. Those charges may, at the discretion of the city council, include, but not be limited to, reductions or increases in impact fees, all or part of which may be reimbursed to the developer who installed improvements that service the land to be connected with the city's system.
- F. Additional Fees And Costs: The impact fees authorized hereby are separate from and in addition to user fees and other charges lawfully imposed by the city, such as engineering and inspection fees, and other fees and costs that may not be included as itemized component parts of the impact fee schedule. In charging any such fees as a condition of development approval, the city recognizes that the fees must be a reasonable charge for the service provided.
- G. Fees Effective At Time Of Payment: Unless the city is otherwise bound by a contractual requirement, the impact fees shall be determined from the fee schedule in effect at the time of payment in accordance with the provisions of subsection A of this section, and section 3.28.070 of this chapter.

- H. Imposition Of Additional Fee Or Refund After Development: Should any developer undertake development activities such that the ultimate density or other impact of the development activity is not revealed to the city, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the impact fee is not initially charged against all units or the total density within the development, the city shall be entitled to charge an additional impact fee to the developer or other appropriate person covering the density for which an impact fee was not previously paid. (Ord. 2016-2, 2016)

3.28.060: CAPITAL FACILITIES PLANS; REASONABLE PLANS

- A. Capital Facilities Plans; Reasonable Plans: The city has prepared capital improvement plans or other reasonable plans for water (based on an existing master plan for water), transportation, and a master plan for parks. The plans have been prepared based on reasonable growth assumptions for the city, general demand characteristics of future users of each system, and engineering principles. Furthermore, the plans identify the impact on system improvements created by development activity and estimate the proportionate share of the costs of impacts on system improvements that are reasonably related to new development activity. (Ord. 2016-2, 2016)

3.28.070: IMPACT FEE SCHEDULES AND CALCULATIONS

- A. Maximum Supportable Impact Fees: The fee schedules included herein represent the maximum impact fees which the city may impose on development within the defined service area and are based upon general demand characteristics and potential demand that can be created by each class of user. The city reserves the right under the impact fees act¹ to assess an adjusted fee to respond to unusual circumstances to ensure that the fees are equitably assessed.

This adjustment may result in a higher fee if the city determines that a user would create a greater than normal impact on the system. The city may also decrease the fee if the developer provides documentation that the proposed impact will be less than what could be expected given the type of user².

- 1. Water Impact Fees:

TABLE 6.2
IMPACT FEE PER METER SIZE

| Meter Size (Inches) | Nominal Multiplier ¹ | Impact Fee Per Meter Size |
|---------------------|---------------------------------|---------------------------|
| 1 | 1.00 | \$ 3,050 |
| 1½ | 1.99 | \$ 6,070 |
| 2 | 3.19 | \$ 9,730 |
| 3 | 6.99 | \$ 21,340 |
| 4 | 11.98 | \$ 36,570 |
| 6 | 24.95 | \$ 76,170 |

Note:

1. ERC multiplier based on updated AWWA M6 manual "Water Meters".

2. Transportation Impact Fees:

TABLE 6.4
TRANSPORTATION IMPACT FEE BY LAND USE TYPE

| Land Use | ITE Codes | Per | Adjusted Trips | Impact Fee |
|---------------------------|-----------------------------------|------|----------------|------------|
| Residential dwellings | 210 | Unit | 4 .79 | \$1,760 |
| General commercial | 822, 860, 862, 869, 875, 890, 942 | KSF | 7 .76 | \$2,850 |
| Manufacturing/warehousing | 140, 150 | KSF | 1 .85 | \$680 |

3. Parks And Recreation Impact Fees:

TABLE 6.6
PARK IMPACT FEE PER BY LAND USE TYPE

| Impact Fee Per HH | Persons Per HH | Fee Per HH |
|--------------------------|----------------|------------|
| Single-family (per unit) | 3.39 | \$5,330 |
| Multi-family (per unit) | 1.04 | \$1,630 |

Further calculation and presentation is included in the exhibit B: Millville City impact fee analysis on file in the city. (Ord. 2016-2, 2016)

3.28.080: FEE EXCEPTIONS AND ADJUSTMENTS

- A. Waiver For Public Purpose: The city council may, on a project by project basis, authorize exceptions or adjustments to the then impact fee structure for those projects the city council determines to be of such benefit to the community as a whole to justify the exception or adjustment. Such projects may include facilities being funded by tax supported agencies, affordable housing projects, or facilities of a temporary nature.
 - 1. Procedures: Applications for exceptions are to be filed with the city at the time the applicant first requests the extension of service to the applicant's development or property. (Ord. 2016-2, 2016)

3.28.090: APPEAL PROCEDURE

- A. Filing: Any person or entity that has paid an impact fee pursuant to this chapter may challenge the impact fee by filing:
 - 1. An appeal to the city pursuant to subsections B, C and D of this section;
 - 2. A request for arbitration or other procedure, as provided in Utah Code Annotated section 11-36a-701 to 705, as amended; or
 - 3. An action in state district court as provided in Utah Code Annotated section 11-36a-703(2), as amended.

- B. Application: Any person or entity that has paid an impact fee pursuant to this chapter may challenge or appeal the impact fee by filing a written notice of appeal with the city council within thirty (30) days of the date that the fee was paid, or within such other time limit as set by Utah Code Annotated section 11-36a-702.
- C. Hearing: Upon receiving the written notice of appeal, the city council shall set a hearing date to consider the merits of the challenge or appeal. The person or entity challenging or appealing the fee may appear at the hearing and present any written or oral evidence deemed relevant to the challenge or appeal. Representatives of the city may also appear and present evidence to support the imposition of the fee.
- D. Decision: The hearing panel, which shall consist of the city council or such other body as the city shall designate, shall hold a hearing and make a decision within thirty (30) days after the date the challenge or appeal is filed. (Ord. 2016-2, 2016)

3.28.100: MISCELLANEOUS

- A. Severability: If any section, subsection, paragraph, clause or phrase of this chapter shall be declared invalid for any reason, such decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect, and for this purpose, the provisions of this chapter are declared to be severable.
- B. Interpretation: This chapter has been divided into sections, subsections, paragraphs and clauses for convenience only and the interpretation of this chapter shall not be affected by such division or by any heading contained herein.
- C. Effective Date: Except as otherwise specifically provided herein, this chapter shall not repeal, modify or affect any other impact fee of the city in existence as of the effective date hereof. All impact fees established, including amendments and modifications to previously existing impact fees, after the effective date hereof shall comply with the requirements of this chapter. This code amendment shall take effect ninety (90) days after the day on which this chapter is approved. (Ord. 2016-2, 2016)

Footnotes -

Footnote 1: UCA § 11-36a-402(1)(c,d).

Footnote 2: UCA § 11-36a-402.