

ORDINANCE NO. 2 , 2015

AN ORDINANCE ESTABLISHING A NEW ENVIRONMENTAL IMPACT FEE  
STRUCTURE AND AMENDING CODE SECTION 153.05

**WHEREAS**, City Council previously enacted § 153.05 of the Code of Ordinances which established an environmental impact fee for all new construction within the City to support infrastructure improvements, accommodate traffic, improve recreation facilities, and to control the flow of surface waters within the City; and

**WHEREAS**, City Council did pass a moratorium on the assessment of such fees while Staff updated the Code to meet the requirements of Ohio law; and

**WHEREAS**, after researching Ohio law, Staff believes such fees are permissible when there is a specific public interest to be protected, when such fees have a reasonable nexus to support such interest, and when the use of such fees does not provide a general benefit to the community at large, but targets and benefits the development area to be assessed; and

**WHEREAS**, as a fully developed community, Staff has found that new development presents the unique challenge of managing stormwater runoff and accommodating any increased runoff within the aging stormwater infrastructure, which at times needs to be repaired, replaced or even re-engineered to accommodate such increased demand; and

**WHEREAS**, Council has addressed stormwater management best practices applicable to commercial and large scale development by enacting Chapter 154 of the Code of Ordinances and by adopting the rules and regulations of the Hamilton County Stormwater District; and

**WHEREAS**, most residential new development within the City consists of teardowns or in-fill development which replace older homes with larger homes, increasing stormwater runoff into the City's residential stormwater system which can cause breakdowns and at times flooding. Further, in reviewing available data, Staff has concluded that new in-fill development in 2014 alone has increased impervious surface coverage and therefore stormwater runoff on average by 17% per site; and

**WHEREAS**, the current Code and regulations do not adequately address residential in-fill development and the increased demand upon the infrastructure with such developments; and

**WHEREAS**, Staff recommends that a restructured impact fee program should be enacted to address this gap to meet the challenges of managing stormwater runoff and to be able to fund improvements to better manage such runoff; and

**WHEREAS**, Staff has tracked stormwater runoff patterns in the natural watershed throughout the community and the areas where in-fill construction has occurred to be able to identify impacted areas, and Staff recommends that the City be divided into four impact areas from which fees will be collected and segregated to focus the use of any collected fees to specifically benefit the areas impacted.

**NOW THEREFORE, BE IT ORDAINED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

**SECTION 1.** Current § 153.05 of the Code of Ordinances is hereby repealed.

**SECTION 2.** Council accepts the recommendation of the Staff to re-establish environmental impact fees to be assessed against teardown and in-fill residential development. To accomplish this purpose, the City is hereby divided into four residential stormwater impact districts as depicted on the attached Schedule A and respectively identified as Residential Impact Area I, II, III and IV.

**SECTION 3.** In addition to any other building permit or zoning fees which may be assessed in conjunction with the reconstruction of residential teardown and in-fill development, there shall be assessed a fee of \$1,500.00 per building site, applicable to residential in-fill or teardown construction, payable at the time of the application for permit, which fee shall be an environmental impact fee collected by the City to be able to fund the reconstruction and repair of stormwater infrastructure within the specific Residential Impact Area in which such construction occurs. The fee as collected shall be deposited to a separate fund matched to the environmental impact area within which such construction occurs. The Council annually shall appropriate from other municipal revenue sources a sum not less than an amount equal to the impact fees collected under this Section 3 during the preceding calendar year. Such sum shall be irrevocably appropriated to the Environmental Impact Area Fund for the impact area from which such fees were collected. Thereafter, the funds may be used for stormwater infrastructure improvements, including reconstruction or repair of stormwater systems and/or green solutions consistent with stormwater management best practices, which improvements may only be funded and constructed within the impact area from which such funds were collected. Any unexpended funds in any tax year shall be carried forward to the next year, but shall not diminish nor relieve the requirement of an appropriation to be made pursuant to this section for any ensuing or subsequent tax year.

**SECTION 4.** There are hereby established four separate funds to be known as Impact Area I Fund, Impact Area II Fund, Impact Area III Fund, and Impact Area IV Fund into which such collected funds shall be segregated and from which such funds shall be appropriated consistent with Section 3 herein.

**SECTION 5.** Nothing contained in this Chapter shall relieve any person, firm or corporation from complying with all other Ordinances, laws, rules, regulations or fee

requirements of the City, or of any other governmental agency which now or hereafter regulate or govern the issuance of permits for the construction of structures within the City. Further, nothing contained in this Ordinance shall prohibit City Council from establishing appropriate fees and charges for any review to be undertaken in conjunction with the issuance of building permits or in conjunction with other applications and municipal procedures.

**SECTION 6.** All sections, subsections, parts and provisions of this Ordinance are hereby declared to be independent sections, subsections, parts and provisions, and the holding of any section, subsection, part or provision to be unconstitutional, void or ineffective for any reason shall not affect or render invalid any other section, subsection, part or provision of this Ordinance.

**SECTION 7.** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**SECTION 8.** This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: January 7, 2015

ATTEST: Susan J. Hamm  
Susan J. Hamm, Clerk of Council

Todd A. Steinbrink  
Todd A. Steinbrink, Mayor

APPROVED AS TO FORM:  
Terrence M. Donnellon  
Terrence M. Donnellon, Law Director