

**MILLCREEK, UTAH
ORDINANCE NO. 18-__**

**ORDINANCE REAFFIRMING THE ADOPTION OF THE PARKS, RECREATION,
TRAILS, AND OPEN SPACE IMPACT FEE FACILITIES PLAN AND PARKS,
RECREATION, TRAILS, AND OPEN SPACE IMPACT FEE ANALYSIS; ADOPTING AN
IMPACT FEE ENACTMENT THAT IMPOSES A PARKS, RECREATION, TRAILS, AND
OPEN SPACE IMPACT FEE; PROVIDING FOR THE CALCULATION AND
COLLECTION OF SUCH FEE; AND PROVIDING FOR APPEAL, ACCOUNTING,
SEVERABILITY OF THE SAME, AND OTHER RELATED MATTERS**

WHEREAS, the Millcreek Council (“Council”) met in regular meeting on _____, 2018, to consider, among other things, reaffirming the adoption of the Parks, Recreation, Trails, and Open Space Impact Fee Facilities Plan, and Parks, Recreation, Trails, and Open Space Impact Fee Analysis; adopting an Impact Fee Enactment that imposes a Parks, Recreation, Trails, and Open Space Impact Fee ; providing for the calculation and collection of such fee; and providing for appeal, accounting, severability of the same, and other related matters; and

WHEREAS, the Council finds that it is in the public interest to reaffirm the adoption of a Parks, Recreation, Trails, and Open Space Impact Fee Facilities Plan (“Impact Fee Facilities Plan”) and Parks, Recreation, Trails, and Open Space Impact Fee Analysis; (“Impact Fee Analysis”) to address impacts of development upon the City; and adopt this Impact Fee Enactment (“Impact Fee Enactment”) that imposes a Parks, Recreation, Trails, and Open Space Impact Fee; and

WHEREAS, the City is a local political subdivision of the state of Utah and has authority pursuant to Utah Code Ann. § 11-36a-101, et seq. (the “Impact Fee Act”) to mitigate the impact of new development on public facilities by enacting an impact fee; and

WHEREAS, on _____, 2018, the Council adopted the Impact Fee Facilities Plan and on _____, 2018, the Council adopted the Impact Fee Analysis after notice and public hearing according to law; and

WHEREAS, the Council finds that the Impact Fee Facilities Plan identifies demands placed upon existing public facilities by new development activity and proposes means by which the City will meet those demands and has generally considered all revenue sources, including impact fees, and anticipated dedication of system improvements, to finance the impacts on system improvements; and

WHEREAS, the Council finds that the Impact Fee Analysis identifies the anticipated impacts on or consumption of existing capacity of public facilities by anticipated development activities, identifies impact on system improvements required by anticipated development activities to maintain the established level of service for each public facility, demonstrates how those anticipated impacts are reasonably related to the anticipated development activities and estimates the proportionate share of the cost for existing capacity that will be recouped and the cost

of impacts on system improvements that are reasonably related to the new development activity;
and

WHEREAS, the Council finds that the impact fees which are enacted pursuant to this Impact Fee Enactment are necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the future, in comparison to the benefits already received and yet to be received; and

WHEREAS, on _____, notice of the date, time, and place of a public hearing to consider the adoption of this Impact Fee Enactment was mailed to each affected entity, posted on the City's official website, published in the *Salt Lake Tribune* and *Deseret News*, and published on the Utah Public Notice website; and

WHEREAS, on _____, copies of this Impact Fee Enactment were made available to the public; and

WHEREAS, on _____, 2018, the Council held a public hearing regarding the adoption of this Impact Fee Enactment.

NOW, THEREFORE, BE IT ORDAINED as follows:

Section 1. Findings; Authority; Purpose.

The Council finds and determines that growth and development activities in the City will create additional demand and need for parks, recreation, trails, and open space, and the Council finds that persons responsible for growth and development activities should pay a proportionate share of the costs of such planned facilities needed to serve the growth and development activity. The Council further finds that based on the Impact Fee Facilities Plan and Impact Fee Analysis that impact fees are necessary to achieve an equitable allocation of the costs borne in the past and to be borne in the future, in comparison with the benefits already received and yet to be received. The provisions of this Impact Fee Enactment shall be liberally construed in order to carry out the purpose and intent of the Council in establishing this impact fee program.

Section 2. Definitions.

Except as provided below, words and phrases that are defined in the Impact Fee Act shall have the same meaning in this Impact Fee Enactment.

2.1 Applicant shall mean any person or entity that intends, or is otherwise interested in obtaining, development approval, such as a building permit.

2.2 Impact Fee(s) shall mean the stated impact fee assessed (less all allowable exemptions, adjustments, credits, reimbursements, or other adjustments required by this Impact Fee Enactment and/or the Impact Fee Act) for system improvements based on the requirements of this Impact Fee Enactment.

Section 3. Reaffirming the Adoption of the Impact Fee Facilities Plan and Impact Fee Analysis. The Council hereby reaffirms the adoption of the Impact Fee Facilities Plan attached as exhibit “A” and the analysis reflected therein. The Council also hereby reaffirms the adoption of the Impact Fee Analysis attached as exhibit “B” and the analysis reflected therein. The Council hereby adopts and determines to maintain the current level of service as set forth in the Impact Fee Facilities Plan and Impact Fee Analysis.

Section 4. Impact Fees Accounting.

4.1 Impact Fees Accounting. The City has established a separate interest-bearing ledger account with the Utah Public Treasurer’s Investment Fund for each type of public facility for which impact fees are collected. Interest earned on such account shall be allocated to that account.

(a) *Reporting.* At the end of each fiscal year, the City shall prepare a report on each fund or account 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. The report shall identify impact fees by the year in which they were received, the project from which the funds were collected, the system improvements for which the funds were budgeted, and the projected schedule for expenditures. The report shall be in a format developed by the State Auditor that is certified by the City’s Chief Financial Officer and shall be transmitted annual to the State Auditor.

(b) *Impact Fee Expenditures.* The City may expend Impact Fees collected pursuant to this enactment only for systems improvements that are (i) identified in the Impact Fee Facilities Plan and (ii) for specific public facilities type for which the fee was collected.

(c) *Time of Expenditure.* Impact Fees collected pursuant to this Impact Fee Enactment shall be expended or encumbered for a permissible use within six (6) years of the receipt of those funds by the City. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

(d) *Extension of Time.* The City may hold unencumbered impact fees collected pursuant to this Impact Fee Enactment for longer than six (6) years if the Council identifies in writing (i) an extraordinary and compelling reason why the fees should be held longer than six (6) years; and (ii) an absolute date by which the fees will be expended.

4.2 Refunds. The City shall refund any Impact Fee collected pursuant to this Impact Fee Enactment paid by an Applicant, plus interest actually earned on such amounts, when (i) the Applicant does not proceed with the development and/or building activity and files a written request for a refund; (ii) the fees have not been spent or encumbered; and (iii) no impact has resulted.

4.3 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, building permit fees, review fees, and other fees and costs that may not be included as part of the Impact Fee.

4.4 Fees Effective at Time of Payment. Unless the City is otherwise bound by a contractual requirement, the Impact Fee shall be determined in accordance with the provisions of Section 5 below.

Section 5. Impact Fee Imposed, Amount, and Procedure.

5.1 Impact Fee Imposed. Impact Fees are hereby imposed on the basis of the Impact Fee Analysis and shall be paid as a condition of issuing a building permit from the City or other development approval.

5.2 Impact Fee Amount. There is hereby imposed an impact fee as follows:

Single-Family Residential	\$494.68
Multi-Family Residential	\$440.75

5.3 Application Procedure. Each Applicant shall make application in writing to the City on forms provided by the City for determination of the amount of the required Impact Fee payable by the Applicant. Each Applicant shall provide all information requested by the City to allow the City to verify the accuracy of the information presented by the Applicant. The City's designated representative shall consider the information presented by the Applicant and determine the resulting Impact Fee.

Section 6. Exemptions, Adjustments, and Credits.

6.1 Exemption. The City may, on a project-by-project basis, authorize exemptions to the Impact Fee imposed for development activity that the City determines to be of broad public purpose to justify the exception, such as low income housing, the state, a school district, or a charter school (the school district and charter school on the same basis) and, except for low-income housing, establish one or more sources of funds other than the Impact Fee to pay for that development activity.

6.2 Adjustments. The City may adjust Impact Fees at the time the fee is charged to ensure that the Impact Fees are imposed fairly and respond to (i) unusual circumstances in specific cases, (ii) a request for a prompt and individualized impact review for the development

activities of the state or a school district or a charter school and an offset or credit for a public facility for which an Impact Fee has been or will be collected, or (iii) permits adjustments of the amount of the Impact Fee to be imposed on a particular development based upon studies and data submitted by the Applicant.

6.3 Credits and Reimbursements.

(a) The City shall give the Applicant a credit against the Impact Fee for any dedication of land for, improvements to, or new construction of, any system improvements provided by the Applicant if the facilities are system improvements or are dedicated to the public and offset the need for identified system improvements.

(b) The City shall ensure that the Applicant be allowed a credit against or proportionate reimbursement of the Impact Fee if the Applicant, including a school district or charter school, dedicates land for a system improvement, builds and dedicates some or all of the system improvement, or dedicates a public facility that the City and the Applicant agrees will reduce the need for a system improvement.

Section 7. Service Area. Service areas are hereby designed and established as the entire City.

Section 8. Appeal Procedures.

8.1 Application. The appeal procedure applies to challenges to the legality of Impact Fees, the interpretation and/or application of those fees.

8.2 Request for Information Concerning the Fee. Any person or entity required to pay the Impact Fee may file a written request for information concerning the fee with the City. The City will provide the person or entity with the Impact Fee Facilities Plan, Impact Fee Analysis, and other relevant information relating to the impact fee within two (2) weeks after receipt of the request for information.

8.3 Appeals. The validity of the Impact Fee may be challenged as set forth in the Impact Fee Act.

Section 9. Severability. If any section, subsection, paragraph, clause, or phrase of this Impact Fee Enactment shall be declared invalid for any reason, such decision shall not affect the remaining provisions of this Impact Fee Enactment, which shall remain in full force and effect, and for this purpose, the provisions of this Impact Fee Enactment are declared to be severable.

Section 10. Effective Date. The Impact Fee imposed pursuant to this Impact Fee Enactment shall take effect _____ (at least 90 days after its enactment).

ADOPTED by the Council this _____ day of _____, 2018.

MILLCREEK

Jeff Silvestrini, Mayor

ATTEST:

Elyse Greiner, CMC, City Recorder