

Sponsor: Councilman DeFeo
First Reading: 02/02/15
Second Reading: waived
Third Reading: 02/02/15
Ord. No.: 001-15

AN ORDINANCE TO AMEND CHAPTER 32 (“IMPACT FEES”) TO UPDATE THE IMPACT FEES TO REFLECT PAST INCREASES BASED ON THE CONSUMER PRICE INDEX, TO INCREASE GENERAL IMPACT FEES FOR IMPROVEMENTS TO THE TOWN’S WATER AND SEWER SYSTEM, TO INCLUDE A WATER AND SEWER IMPACT FEE FOR DEVELOPMENT NORTH OF DUCK CREEK, AND TO REQUIRE THE IMPACT FEE TO BE USED FOR WATER AND SEWER INFRASTRUCTURE COSTS

WHEREAS, the Town of Smyrna is authorized by sections 4.2.13, 4.2.14, 21 and 22 of the Town Charter to provide water and sewer services to properties located inside and outside of the town limits of the Town of Smyrna;

WHEREAS, the Town of Smyrna is authorized by sections 4.2.13, 4.2.14, 21 and 22 of the Town Charter to establish fees for water and sewer services provided by the Town;

WHEREAS, the Town of Smyrna is authorized by section 4.2.29 of the Town Charter to impose impact fees that are “reasonably and proportionally calculated to recover the cost of installing, enlarging, improving, or expanding public or municipal improvements;”

WHEREAS, the Town has lawfully increased impact fees since January 1, 2000 based on the consumer price index, which increases are reflected in the Town’s schedule of fees but are not reflected in the Town Code;

WHEREAS, the Town of Smyrna is undertaking an extensive water and sewer expansion project for purposes of extending water and sewer services to areas of town located north of Duck Creek;

WHEREAS, the Town of Smyrna reasonably anticipates that development throughout the Town will require improvements to the Town’s water and sewer system in the coming years; and

WHEREAS, in the opinion of the Town Council of the Town of Smyrna, it is necessary to require all future development benefiting from the availability of water and sewer to pay an impact fee to connect to the system in order for the Town to create a fund for those expenses that will be incurred by the Town to upgrade, add to, and improve the town’s water and sewer system

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that the Town Code of the Town of Smyrna be and hereby is amended as follows:

Section 1. Amend Chapter 32 (“Impact Fees”), Section 32-1 (“Applicability”), by making deletions as shown by strike through and additions as shown by underlining as follows:

Sec. 32-1. – Applicability

This chapter shall apply ~~not only to all properties located within the municipal limits of the town but also as a condition precedent to all properties located outside the town’s limits~~ seeking to all properties with new construction seeking connection to any of the town’s public utilities. For purposes of this chapter, properties with new construction include (a) all properties with proposed construction that will require a building permit from the town and (b) all properties seeking to connect to the town’s public utilities within six (6) months of a certificate of occupancy having been issued.

Section 2. Amend Chapter 32 (“Impact Fees”), Section 32-8 (“Time of payment”), by making deletions as shown by strike through and additions as shown by underlining as follows:

Sec. 32-8. – Time of Payment

(a) ~~Properties located within the town.~~ Payment of impact fees shall be a condition precedent for new construction to obtaining a building permit or connect to the town’s public utilities. Where adequate utilities to serve the properties in a subdivision are already in place, the town council may, in the exercise of its reasonable discretion, allow impact fees to be paid at any time prior to the issuance of a building permit; however, when adequate utilities are not in place to serve properties within a subdivision, impact fees shall be due and payable as a condition of final subdivision approval.

(b) ~~Properties located outside the town.~~ Payment of impact fees shall be a condition ~~precedent to the connection of any property located outside the town to the town’s electric distribution system, sanitary sewage collection facilities and/or to the town’s water treatment and distribution system.~~

Section 3. Amend Chapter 32 (“Impact Fees”), Section 32-9 (“Amount of impact fees”), by making additions as shown by underlining and deletions as shown by strike through as follows:

(a) *Residential properties.* ~~\$1,800.00~~ \$3,784.39 per approved dwelling unit. This includes additions to existing structures which create additional dwelling units and dividing existing structures which creates additional dwelling units.

(b) *Manufacturing, industrial/office/research park properties.* For all buildings and additions in any manufacturing or industrial/office/research park zoning district, ~~\$0.25~~ \$0.41 per square foot of the buildings or additions as documented on the approved permit application.

(c) *Commercial and all other properties.* For all buildings and additions in any commercial or other zoning districts ~~\$1.00~~ \$1.38 per square foot of any buildings and/or additions as documented on the approved building permit application.

(d) *Money in lieu of parkland.* Where a cash contribution in lieu of land dedication is required by the town under section 5.07(a)(2) of the town's subdivision regulations, ~~\$300.00~~ \$419.61 per "approved dwelling unit."

(e) Electric system impact fee: ~~\$682.00~~ \$1,251.71 for each equivalent dwelling unit (EDU). An EDU for residential properties is an approved dwelling unit as set forth in section 32-9(a). For commercial and industrial properties the EDU is computed using the following formula. The town will determine the size of the transformer for any commercial or industrial customer based upon the anticipated load of the customer. The kva rating of the transformer will be divided by 50. The result is rounded to the nearest whole number. This number is the EDU value for that commercial or industrial customer. In any event the minimum EDU's for any commercial or industrial customer will not be less than two EDU's. The number of EDU's is multiplied by the rate per EDU, which yields the amount payable as an impact fee. Below is a chart demonstrating several typical transformer ratings and the resulting EDUs.

Class of Service	Transformer Rating (KVA)	EDU's
Residential	—	1
Commercial	100	2
Industrial	100	2
Industrial	200	4
Industrial	300	6
Industrial	500	10
Industrial	750	15
Industrial	1000	20

Section 4. Amend Chapter 32 (“Impact Fees”), Section 32-9 (“Amount of impact fees”), by adding a new subsection (i) as shown by underlining as follows:

(i) Water and sewer impact fee. In recognition of the additional cost associated with future upgrades, additions, and improvements to the town's water and sewer utility services, an impact fee of \$879.50 shall be paid for each equivalent dwelling unit (EDU) located north of Duck Creek. For purposes of this subsection, an EDU shall be assigned for every 300 gallons per day (gpd) of water estimated to be consumed by a particular use based on the table located in section 70-65 herein. For any uses not specifically enumerated in the table, the Town shall calculate the EDUs based on the use or uses in the table that are individually or collectively the most comparable to the proposed use.

Section 5. Amend Chapter 32 ("Impact Fees"), Section 32-12 ("Impact fee subject to adjustment for inflation"), by making additions and show by underline and deletions and shown by strike through as follows:

Sec. 32-12. - Impact fee subject to adjustment for inflation.

Annually, beginning ~~January 1, 2000~~ January 1, 2015, the amount of the impact fees set out above shall automatically be increased to reflect inflation based upon changes in the consumer price index as established by the U.S. Department of Labor for the Philadelphia-Wilmington-Atlantic City (Pennsylvania, New Jersey, Delaware, Maryland) region for the preceding 12 months; provided however, that the town council may act, by resolution adopted on or before December 31st of each year, to waive or to increase the adjustment more than the posted change in the CPI for the following year.

Section 6. Amend Chapter 32 ("Impact Fees"), Section 32-13 ("Allocation of impact fees") by adding a new sentence as shown by underlining as follows:

Sec. 32-13. – Allocation of impact fees.

The distribution of impact fees among the different accounts shall be set by resolution of mayor and council. This distribution can be changed by resolution of mayor and council for newly collected fees. Notwithstanding the foregoing, all water and sewer impact fees collected, \$685.59 of each residential impact fee, \$0.07 per square foot of each manufacturing, industrial/office/research park properties impact fee, and \$0.12 per square foot of each commercial and other properties impact fee shall be specifically designated to pay for the costs of upgrading, adding to, and improving water and sewer infrastructure, provided that the Town Council shall determine the time and manner in which these impact fees are applied towards the water and sewer infrastructure costs.

Section 7. Amend Chapter 32 ("Impact Fees"), by adding a new Section 32-14 ("Severability") as shown by underlining as follows:

Sec. 32-14. – Severability.

If any provision, section, subsection, paragraph, sentence, or clause of this Chapter 32 ("Impact Fees") shall be held to be unconstitutional, invalid, or unenforceable by any court of competent jurisdiction, such holding shall not be deemed to invalidate the remaining provisions.

sections, subsections, paragraphs, sentences or clauses of this Chapter.

SYNOPSIS

This ordinance updates the stated impact fees to reflect past increases that have occurred based on the consumer price index. This ordinance requires a water and sewer impact fee of \$879.50 to be paid for all new construction located north of Duck Creek and revises the existing general town impact fees for residential, manufacturing, industrial, office, research park, commercial, and all other properties to include an additional component pertaining to future water and sewer infrastructure costs. This ordinance adds a severability section applicable to the Impact Fees Chapter.

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on _____, 2015.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in “The Smyrna/Clayton Sun Times” on _____, 2015 and posted at the Town Hall on _____, 2015.

So Certifies:

Town Clerk

This shall certify that the title, effective date and synopsis of this Ordinance was published in “The Smyrna/Clayton Sun Times” on _____, 2015 and posted at the Town Hall on _____, 2015.

So Certifies:

Town Manager

