

DEVELOPMENT FEE JUSTIFICATION

Pursuant to Title 62 of the Oklahoma Statutes (O.S.), Section 895, municipalities are given the authority to, by ordinance, resolution or regulation adopt Development Fees, which is defined in 62 O.S. Sec. 895 (A) (1) as meaning: “any payment of money imposed, in whole or in part, as a condition of approval of any building permit, plat approval, or zoning change, to the extent the fee is to pay for public infrastructure systems that are attributable to new development or to expand or modify existing development.” Pursuant to 62 O.S. Sec. 895 (B) and (C) the following information is required to be ascertained by the municipality to be able to adopt a Development Fee:

1. 62 O.S. Sec. 895 (B)(1): Development fees shall not exceed a clear, ascertainable, and reasonably determined proportionate share of the cost of capital improvement to the public infrastructure system attributable to the expansion or increase in functional service capacity generated, or to be generated by, the development being charged the fee. There shall be a clearly established functional nexus between the purpose and amount of the development fee being charged and the development against which the fee is charged. In determining the development fee, the municipality shall make a documented effort to quantify the projected impact from development and determine that the proposed development fee is reasonably and roughly proportional to the nature and extent of the impact of development.

Response: The City of Midwest City commissioned an engineering evaluation of various lift stations and sewer lines on the East side of the Midwest City to determine capacity. The reason for the requested study was due to the anticipated equivalent construction of between 2,900 to 4,000 new homes in the affected service area. The study found that 3 lift stations and certain sewer lines were near or at capacity. The addition of the anticipated construction would make the lift stations and certain sewer lines beyond capacity. The estimated cost to remedy the over capacity of the lift stations and sewer lines was determined to be approximately \$62,037,464.00. The engineering study recommended a Development Fee of \$6,325.00 that would be added to each building permit that was issued in the affected area. According to the engineering study and based on projected development over the next twenty-five (25) years, the Development Fee would cover 30% of the estimated costs to remedy the over capacity of the lift stations and sewer lines. The additional 70% would be covered by sewer rate increases approved by the City Council for the City of Midwest City.

2. 62 O.S. Sec. 895 (B)(2): Development fees cannot be adopted or used to fund repairs, maintenance, restorations, refurbishments, alterations, improvements, or fixes to existing public infrastructure systems in any way that does not result in an increase or expansion in the functional service capacity of the system which is available to serve new or expanded existing growth and development in the applicable service area.

Response: The Development Fee would be used to fund sewer system improvements that would increase or expand the capacity of the sewer system, including: lift station upgrades; enlargement of sewer piping, necessary to meet growth capacity demands for the anticipated construction of between 2,900 to 4,000 new homes in the affected service area.

3. 62 O.S. Sec. 895 (B)(3): The development fees shall be based on actual system improvement costs or reliable, ascertainable and reasonable projected estimates of the costs. Any estimates of costs shall be based upon factual and historically realized costs for similar system capital improvements.

Response: As stated above the Development Fee is based on the projected cost to expand the wastewater system in the affected service area to meet growth capacity demands as determined by the previously referenced engineering report. As previously stated, it is anticipated that the Development Fee will only cover 30% of the projected costs of the project to meet the portion of costs related to growth, with the other 70% to be covered by an increase in the sewer rates for all residents in Midwest City to meet the portion of costs related to existing capacity demands.

4. 62 O.S. Sec. 895 (B)(4): Development fees may only be imposed to recover or fund the costs of public infrastructure system capital improvements, including, but not limited to, the cost of real property interest acquisitions, rights-of-ways, capital improvements, design, construction, inspection, and capital improvement construction administration, related to one or more public infrastructure systems.

Response: The Development Fee will only be used to cover those costs anticipated to expand the capacity of the sewer system so that the sewer system can safely and properly handle the additional wastewater flow from the anticipated construction of the equivalent of 2,900 to 4,000 new homes in the affected service area.

A municipal development fee ordinance, resolution, or regulation shall provide for the following:

5. 62 O.S. Sec. 895 (C)(1): A schedule of development fees specifying the development fee for various land uses per unit of development, the purpose for the development fee, and termination of the development fee when the applicable public infrastructure system has been fully funded and the expanded or modified development has no additional impact on the public infrastructure system.

Response: See the proposed Development Fee Ordinance.

6. 62 O.S. Sec. 895 (C)(2): A component capital improvement plan that:
 - a. lists public infrastructure system capital projects or facility expansions that are necessitated by development of various land uses in designated areas,
 - b. provides reasonable notice to developers of specific public infrastructure system impacts from development of various land uses within the area of the development, and

c. delineates the property locations that are clearly served by the public infrastructure system that will be funded through the development fee.

In the alternative, a municipality may establish one or more service areas for the collection of development fees. As used in this section, "service area" means a geographic area defined by a municipality in which a defined public infrastructure system provides service to developments within that service area. Service areas shall be carefully drawn so as to include only property locations that are clearly served by the cost of capital improvements that increase or expand the functional service capacity of the public infrastructure system that will be funded through the development fee that is associated with the service area. The determinations regarding the establishment of one or more service areas will be a matter of legislative determination and discretion. Different public infrastructure systems may have different and separately defined service areas unique to each system's coverage. The development fees within a particular service area may be different as applied to different types of land uses.

Response: A Component Capital Improvement Plan has been developed as a part of the engineering report. The public infrastructure capital projects are identified for the Eastside affected service area. The sewer system impact from development in the affected service area has been in the engineering report to be \$6,325 per single dwelling unit equivalent. The affected service area boundary is delineated in the engineering report as the Eastside service area but includes extra-territorial property that discharges into the Eastside sewer service area.