

ORDINANCE NO. 160

AN ORDINANCE SETTING A WASTEWATER NEW CONSTRUCTION FEE REGULATING COLLECTION, DISBURSEMENT OF FEE AND DECLARING AN EMERGENCY.

WHEREAS, the protection of the health, safety, and general welfare of the citizens of the City of Bethel Heights, Arkansas requires that the wastewater system of the City be expanded to meet the demands of new developments; and

WHEREAS, the creation of an equitable Wastewater New Construction Fee would enable the City to impose a proportionate share of the costs of required improvements to the wastewater system on those developments and non-residential structures that create the need; and

WHEREAS, the improvements to the wastewater system will benefit all new connections to the City's wastewater system, and it is therefore appropriate to treat the City's entire utility service area as a single service area for purposes of calculating, collecting, and spending the fee for each type of facility; and

WHEREAS, there is both a rational nexus and a rough proportionality between the development impacts created by each type of new development covered by this ordinance and the Wastewater New Construction Fee that such development will be required to pay; and

WHEREAS, this Ordinance creates a system by which the Wastewater New Construction Fee paid by new developments will be used to expand the wastewater system, so that the new developments that pay the fee will receive a corresponding benefit within a reasonable period of time after the fee is paid.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BETHEL HEIGHTS, ARKANSAS:

Section 1. Wastewater New Construction Fee

A. Applicability

1. The following provisions shall apply to all of the territory within the City's wastewater service areas, including areas outside the corporate city limits.
2. The following types of development shall be required to pay a Wastewater New Construction Fee:
 - a. New development seeking a new connection to the City's wastewater system.
 - b. New development seeking a new connection to the system of a wholesale customer of the City's wastewater system, where collection of the City's Wastewater New Construction fee is required by the City's contact with the wholesale customer.
 - c. Residential redevelopment involving the construction of one or more additional dwelling units.

- d. Nonresidential redevelopment seeking a larger capacity.

B. Intent

3. The intent of the Wastewater New Construction Fee is to ensure that new development bears a proportionate share of the cost of improvements to the City's wastewater system; to ensure that the proportionate share does not exceed the cost of providing wastewater facilities to the development that paid the fee; and to ensure that funds collected from developments are used to construct wastewater facilities that serve such developments.
4. It is not the intent of this Ordinance to collect any money from any development in excess of the actual amount necessary to offset demands generated by that development for the wastewater facilities for which the fee was paid.
5. It is not the intent of this Ordinance that any monies collected for the Wastewater New Construction Fee ever be commingled or ever used for a type of facility different from that for which the fee was paid.

C. Time of Collection

1. Wastewater New Construction Fee for subdivisions shall be paid when the preliminary plat is approved.
2. Wastewater New Construction Fee for large-scale developments shall be determined according to the service needed and paid with the approval of the large-scale.
3. Wastewater New Construction Fee for individual new residential shall be paid before the building permit is issued.
4. Wastewater New Construction Fee for non-residential structures shall be determined according to the service needed and paid before the building permit is issued.

D. Fee Determination

1. Wastewater New Construction Fee for subdivisions and individual new residential shall be set at \$5,000 per EDU (equivalent residential unit).
2. Large-scale and non-residential structures shall be determined according to the service needed and paid before the building permit is issued, the amount not to be less than \$5,000.

E. Use of Fee

1. Establishment of Accounts. A Wastewater New Construction Fee Fund that is distinct from the General Fund of the City is hereby created, and the Wastewater New Construction Fee received will be deposited in the following interest-bearing account of the Wastewater New Construction Fee Fund
 - a. Wastewater New Construction Fee Fund.
2. Wastewater New Construction Fee Account. The Wastewater New Construction Fee Account shall contain only those Wastewater New Construction Fees collected

pursuant to this Ordinance plus any interest, which may accrue, from time to time on such amounts.

3. Order of Use. Monies in the Wastewater New Construction Fee account shall be considered to be spent in the order collected, on a first-in / first-out basis.
4. Use of Fees. The monies from the Wastewater New Construction Fee shall be used only for the following:
 - a. To acquire land for and / or acquire or construct wastewater system improvements as well as extension of service to new developments paying a Wastewater New Construction Fee.
 - b. To pay debt service on any portion of any current or future general obligation bond issue or revenue bond issue used to finance wastewater system improvements of the type reflected in the title of the account that created or will create capacity to serve new development.
 - c. As described in subsection F, Refunds.

F. Refunds

1. According to act 1719 of 2003 The City of Bethel Heights shall refund the portion of collected Wastewater New Construction Fee, including accrued interest that has not been expended seven (7) years from the date the fees were paid. Interest shall be based on a four (4%) annual rate.
2. A refund shall be paid to the present owner of the property that was the subject of new development and against which the fee was assessed and collected.
3. Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the present owners of the property no later than thirty (30) days after the date which the refund becomes due. The sending by regular mail of the notices to all present owners of record shall be sufficient to satisfy the requirements of notice.
4. The refund shall be made on a prorata basis, and shall be paid in full no later than ninety (90) days after the date certain upon which the refund becomes due.
5. At the time of payment of the Wastewater New Construction Fee under this ordinance, the fee Administrator shall provide the applicant paying such fee with written notice of those circumstances under which refunds of such fees will be made. Failure to deliver such written notice shall not invalidate any collection of any impact fee under this Ordinance.

G. Definitions

Wastewater New Construction Fee Administrator: The Mayor or designee.

New Development: (Wastewater New Development Fee) Construction of a new single family home and the construction or expansion of any other building or structure. The change in use of a building or structure that results in increased demand from wastewater treatment facilities shall also be considered new development.

Wastewater System Improvements: (Wastewater New Development Fee) Capacity - enhancing improvements to the facilities to the transmission, treatment, reclamation and disposal of wastewater.

Section 2: Effective Date. THEREFORE, An emergency does hereby exists due to the demand for wastewater treatment and this Ordinance shall be in full force and effect as soon as it is passed by the City Council and signed by the Mayor.

PASSED AND APPROVED this 16th day of December 2003.

APPROVED: _____



Mayor

ATTEST: _____



Recorder/Treasurer