

ORDINANCE NO. 21-27

AN ORDINANCE REPEALING SECTIONS 13.08.050, 13.22.280, 13.48.055, AND 15.22.110 OF THE MURRAY CITY MUNICIPAL CODE; AND AMENDING AND RENUMBERING CHAPTER 13.06 OF THE MURRAY CITY MUNICIPAL CODE TO CHAPTER 3.14, RELATED TO IMPACT FEES AND INCLUDING THE ENACTMENT OF A PARKS, TRAILS AND RECREATION IMPACT FEE.

Preamble

Murray City ("City") has the legal authority, in accordance with Title 11, Chapter 36a of the Utah Code ("Utah Impact Fee Act" or "Act") to impose impact fees as a condition of development activity approval, which impact fees are used to provide system improvements necessary to service and support new growth.

The City has historically assessed and imposed impact fees as a condition precedent to development activity approval in order to provide system improvements in an equitable and proportionate manner. The City currently assesses impact fees for water, wastewater, storm water, and electric power systems. The impact fees for these systems are in various ordinances in the City Code ("Code"). The City wants to combine all impact fee provisions into one centralized chapter in the Code. The different impact fee ordinances will be repealed and reinstated under new chapter 3.14.

The City has now completed a Parks, Trails and Recreation Impact Fee Facilities Plan and a Parks, Trails and Recreation Impact Fee Analysis, both being found to meet the requirements of the Act. The Act allows for the imposition of impact fees for parks, recreation and trails, and authorizes the City to revise and amend impact fees from time to time as determined necessary.

On July 13, 2021, the City provided notice of its intent to prepare an impact fee facilities plan and an impact fee analysis for its parks, trails and recreation, as required by the Act. The City has provided the required notice and held a public hearing on October 19, 2021 to receive public comment on this ordinance, including the parks, trails and recreation impact fee enactment.

NOW THEREFORE, BE IT ORDAINED BY THE MURRAY CITY MUNICIPAL COUNCIL:

*Section 1. Purpose.* The purpose of this Ordinance is to repeal sections 13.08.050, 13.32.280, 13.48.055, and 15.22.110 of the Murray City Municipal Code; and to amend and renumber chapter 13.06 of the Murray City Municipal Code to chapter 3.14, which includes the enactment of a parks, trails and recreation impact fee.

*Section 2. Repeal sections 13.08.050, 13.32.280, 13.48.055, and 15.22.110 of the Murray City Municipal Code. Sections 13.08.050, 13.32.280, 13.48.055, and 15.22.110 of the Murray City Municipal Code are hereby repealed as follows:*

**13.08.050: [REPEALED]**

**13.32.280: [REPEALED]**

**13.48.055: [REPEALED]**

**15.22.110: [REPEALED]**

*Section 3. Amend chapter 13.06 and renumber to chapter 3.14 of the Murray City Municipal Code, and enact a parks, trails and recreation impact fee. Chapter 13.06 of the Murray City Municipal Code shall be amended and renumbered, and a parks, trails and recreation impact fee shall be enacted as follows:*

## **CHAPTER 3.14 IMPACT FEES**

### **3.14.010: INTENT:**

This chapter is intended to meet the requirements of Title 11, Chapter 36a of the Utah Code, entitled the "Impact Fees Act". The intent of collecting impact fees is to impose a portion of the cost of system improvements for water, wastewater, stormwater, power, roadway, parks and recreation, and public safety upon those developments that create the need for, or increase the demands on, system improvements.

### **3.14.020: CONDITIONS OF ISSUANCE OF A BUILDING PERMIT:**

Impact fees are hereby imposed as a condition of the issuance of a building permit for the construction of any new structure for single family, multi-family, commercial, industrial or institutional use which creates additional demand upon and need for public facilities for culinary water, sanitary sewer, streets, storm drain, pressurized irrigation, and parks and trails facilities, as set forth in the Schedule of Impact Fees in Section 3.14.110. All previous resolutions and ordinances regarding impact fees remain applicable as to any existing, active, and pending applications for a building permit on file prior to the effective date of this ordinance.

### **3.14.030: DEFINITIONS:**

As used in this chapter, the following words and terms shall have the following meanings:

**BUILDING PERMIT:** The permit required for new construction and additions pursuant to title 15 of this Code.

**DEVELOPMENT ACTIVITY:** Any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

**IMPACT FEE:** A payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure. Impact fee does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

**IMPACT FEE ANALYSIS:** The written analysis of each impact fee required by Utah Code section 11-36a-303.

**PROJECT IMPROVEMENTS:** Site improvements and facilities that are: a) planned and designed to provide service for development resulting from a development activity; b) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and c) not identified or reimbursed as a system improvement.

**PUBLIC FACILITIES:** Only the following impact fee facilities that have a life expectancy of ten (10) or more years and are owned or operated by or on behalf of the City:

- A. Water rights and water supply, treatment, storage and distribution facilities;
- B. Wastewater collection and treatment facilities;
- C. Stormwater, drainage and flood control facilities;
- D. Municipal power facilities;
- E. Roadway facilities;
- F. Parks, recreation facilities, open space and trails;
- G. Public safety facilities;
- H. Environmental mitigation as provided in Utah Code section 11-36a-205.

**SERVICE AREA:** A geographically defined area of the City designated on the basis of sound planning or engineering principles in which a defined set of system facilities provide service within the area. Service area may include the entire Citywide area.

**SYSTEM IMPROVEMENTS:**

- A. Existing public facilities that are: 1) identified in the impact fee analysis; and 2) designed to provide services to service areas within the community at large; and
- B. Future public facilities identified in the impact fee analysis that are intended to provide services to service areas within the community at large. System improvements do not mean project improvements.

**3.14.040: IMPACT FEES ARE SEPARATE AND IN ADDITION TO OTHER FEES:**

Impact fees are separate from, in addition and supplemental to, and not in substitution of, any other requirements, applicable taxes, special assessments, charges or fees otherwise provided by law or imposed as a condition of development or the issuance of building permits.

**3.14.050: SERVICE AREAS:**

Service areas for which impact fees are calculated and imposed consist of:

- A. For water connection services, the entire area connected to the City's water system within the geographical boundaries of the City;
- B. For wastewater connection services, the entire area connected to the wastewater system within the geographical boundaries of the City;
- C. For stormwater services, the entire area connected to the City's stormwater system within the geographical boundaries of the City;
- D. For electric power services, the entire area connected to the City's municipal power system within the geographical boundaries of the City; and
- E. For parks and recreation services, all areas within the entire geographical boundary of the City.

**3.14.060: ADJUSTMENT OF IMPACT FEES:**

- A. The City Council may authorize an adjustment in the standard impact fee for one or more services at the time the fee is charged to:
  1. Respond to unusual circumstances in specific cases;
  2. Respond to a request for a prompt and individualized impact fee review for the development activity of the State, 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; and
  3. Ensure that impact fees are imposed fairly.
- B. The City Council may adjust the standard impact fee for one or more services at the time the fee is charged based, in whole or in part, upon studies and data submitted by the developer.

**3.14.070: IMPACT FEE CREDIT:**

- A. The City Council may approve an impact fee credit if an applicant:
  1. Dedicates land for a system improvement;
  2. Builds and dedicates some or all of a system improvement; or
  3. Dedicates a public facility that the City and the developer agree will reduce the need for a system improvement.

B. The City shall provide an impact fee credit for any dedication of land for, improvement to, or new construction of, any system improvements provided by the applicant if the facilities:

1. Are system improvements; or
2. Are dedicated to the public and offset the need for an identified system improvement.

**3.14.080: IMPACT FEE MANAGEMENT:**

The impact fees collected pursuant to this ordinance shall be deposited into separate interest-bearing ledger accounts and may only be used for system improvements identified in the impact fee facilities plan and for the specific public facility type for which the fee was collected. The accounting, expenditure and possible refund of all such impact fees collected shall be handled in accordance with the provisions of the Utah Impact Fees Act.

**3.14.090: IMPACT FEES BY AGREEMENT:**

To the extent allowed by law, the City Council may approve an agreement negotiated that imposes impact fees and other fees different from those outlined in this ordinance. Those impact fees and charges may include but not be limited to reductions or increases of impact fees, all or part of which may be reimbursed to the developer who installed improvements that service the land to be connected with the City's systems.

**3.14.100: FEES EFFECTIVE AT TIME OF PAYMENT:**

Unless the City is otherwise bound by a contractual requirement, the impact fee shall be determined from the fee schedule in effect at the time of payment in accordance with the Schedule of Impact Fees in Section 3.14.110.

**3.14.110: SCHEDULE OF IMPACT FEES:**

As a condition of the issuance of a building permit for the construction of any new structure for single-family, multi-family, commercial, industrial or institutional use, the developer, owner or builder shall pay an impact fee in the amounts as follows:

**A. Water Impact Fee:**

1. The water impact fee shall be based on the water meter size serving the property as follows:

Meter Size	Impact Fee
1.0"	\$ 3,027.20
1 1/2"	6,053.27
2.0"	9,685.46
3.0"	21,187.01
4.0"	36,321.88

6.0"	75,669.84
8.0"	108,964.52
10.0"	175,553.89
12.0"	231,515.30

2. Non-standard users impact fee formula: After identifying the estimated average annual demand gallon consumption of a proposed development, multiply the average annual demand by impact fee of two cents (\$0.02) per gallon.
3. For purposes of the water impact fee, new development shall include remodeling, building enlargement, or any other construction or improvement which will place an increased burden on the City water system.

**B. Wastewater Impact Fee and Tapping Charges:**

1. Wastewater system impact fees are computed on an equivalent dwelling unit (EDU) calculation assigned to each applicable land use or type of service, and shall be imposed on all sewer connections made on or after the effective date hereof, as follows:

User Type	Percent	Impact Fee per EDU Unit
Single-Family Dwelling	100%	\$1,372.00
Multiple-Family Dwelling	75%	\$1,029.00 per single unit or unit
Hotel/motel	50%	\$686.00 per room

2. The wastewater system impact fee for all other uses is the greater of:
  - a. The following fee based on the water meter size serving the property to be served by the wastewater system:

Water Meter Size	Impact Fee
1.0 inch	\$ 1,372.00
1.5 inch	2,744.00
2.0 inch	4,390.00
3.0 inch	8,232.00
4.0 inch	13,720.00
6.0 inch	27,440.00
8.0 inch	43,904.00
10.0 inch	92,000.00

- b. A fee of one thousand three hundred seventy-two dollars (\$1,372.00) per EDU, where one EDU is equal to fifteen (15) plumbing fixture traps, as defined in the adopted Plumbing Codes and as determined by the City building official. A person aggrieved by the calculation of the number of plumbing traps may appeal to a Hearing Officer appointed by the Mayor.
- 3. **Tapping Charges:** The abutting property owner or developer shall run a lateral service line, at the owner's or developer's expense, to within one foot (1') of the wastewater system. The City shall then tap or open the wastewater system to allow the owner or developer to connect the lateral service line to the wastewater system. The property owner or developer shall pay the City a tapping charge, in an amount to be determined by the Mayor in a written policy, to tap either a four inch (4") or six inch (6") main line. The tapping charge shall be paid when the impact fee imposed by this section is paid.

#### **C. Storm Water Impact Fee**

- 1. For the purposes of this subsection, equivalent residential unit (ERU) means the amount of impervious surface, expressed in square feet, on developed single-family residential parcels in the City. One ERU equals three thousand four hundred (3,400) square feet of impervious surface.
- 2. For purposes of this subsection, new development shall include remodeling, building enlargement, or any other construction or improvement which will place an increased burden on the City storm water system.
- 3. The storm water impact fee for new development shall be one hundred eighty-three dollars (\$183.00) for each ERU.

#### **D. Power Impact Fee**

- 1. For the purposes of this subsection, new development shall include remodeling, building enlargement, or any other construction or improvement which will place an increased burden on the City's power system.
- 2. Power impact fees are computed as capacity-based fees derived from unit costs for facility capacity, without assuming the location or type of development to be served. Using this approach, power impact fees are calculated in terms of cost per unit of capacity, rather than cost per unit of development, which fees shall be imposed on all developments made on or after the effective date hereof, as follows:

Connection Type		Connection Size	Load (kW)	Power Impact Fee (\$/kW) <b>\$118.47</b>	
Residential	Single-phase	120/240 volt		3.0	\$ 355.40
Commercial	Single-phase	120/240 volt	50 amp	3.0	355.40
	Single-phase	120/240 volt	100 amp	6.0	710.81
	Single-phase	120/240 volt	200 amp	12.0	1,421.62
	Single-phase	120/240 volt	320 amp	19.2	2,274.59
	3-phase	120/208 and 120/240 volt	200 amp	18.0	2,132.42
	3-phase	120/208 and 120/240 volt	400 amp	36.1	4,276.70
	3-phase	120/208 and 120/240 volt	600 amp	54.1	6,409.12
	3-phase	120/208 and 120/240 volt	800 amp	72.1	8,541.55
	3-phase	120/208 and 120/240 volt	1,000 amp	90.1	10,673.97
	3-phase	120/208 and 120/240 volt	1,200 amp	108.1	12,806.40
	3-phase	120/208 and 120/240 volt	1,400 amp	126.1	14,938.82
	3-phase	120/208 and 120/240 volt	1,600 amp	144.1	17,071.25
	3-phase	120/208 and 120/240 volt	1,800 amp	162.1	19,203.67
	3-phase	120/208 and 120/240 volt	2,000 amp	180.2	21,347.94
	3-phase	120/208 and 120/240 volt	2,200 amp	198.0	23,456.67
	3-phase	120/208 and 120/240 volt	2,400 amp	216.0	25,589.10
	3-phase	120/208 and 120/240 volt	2,600 amp	234.0	27,721.52
	3-phase	120/208 and 120/240 volt	2,800 amp	252.0	29,853.95
	3-phase	120/208 and 120/240 volt	3,000 amp	270.0	31,986.37
Commercial	3-phase	277/480 volt	200 amp	41.6	4,928.27
	3-phase	277/480 volt	400 amp	83.2	9,856.54
	3-phase	277/480 volt	600 amp	124.7	14,772.97
	3-phase	277/480 volt	800 amp	166.3	19,701.24
	3-phase	277/480 volt	1,000 amp	207.9	24,629.51
	3-phase	277/480 volt	1,200 amp	249.4	29,545.93
	3-phase	277/480 volt	1,400 amp	291.0	34,474.20

3-phase	277/480 volt	1,600 amp	332.6	39,402.47
3-phase	277/480 volt	1,800 amp	374.1	44,318.90
3-phase	277/480 volt	2,000 amp	415.7	49,247.17
3-phase	277/480 volt	2,200 amp	457.3	54,175.44
3-phase	277/480 volt	2,400 amp	498.9	59,103.71
3-phase	277/480 volt	2,600 amp	540.4	64,020.13
3-phase	277/480 volt	2,800 amp	582.0	66,579.04
3-phase	277/480 volt	3,000 amp	623.6	73,876.68
Power impact fees for primary metered customers shall be negotiated on a case by case basis.				

#### E. Parks, Trails and Recreation Impact Fee

The parks, trails and recreation impact fee for new development shall be:

- a. \$5,396.23 per single-family residential unit; and
- b. \$4,965.35 per multi-family residential unit.

#### **3.14.120: IMPACT FEE REFUNDS:**

The City shall refund any impact fees paid by a developer, plus interest earned, when:

- A. The developer does not proceed with the development activity and has filed a written request for a refund;
- B. The fees have not been spent or encumbered; and
- C. No impact has resulted. (Ord. 16-12)

#### **3.14.130: PETITION FOR IMPACT FEE REFUNDS:**

A petition for a refund of an impact fee must be submitted to the appropriate City department on a form provided by the City for such purpose. Petitions shall be submitted to the designee of: a) the Public Works Department for water and sewer impact fees; b) the City Engineer for storm sewer impact fees; c) the Power Department for electric power impact fees; or d) the Parks and Recreation Department for parks, trails and recreation impact fees. Within thirty (30) days of the date of receipt of a petition for refund, the respective City designee must provide the petitioner, in writing, with a decision on the refund request, including the reasons for the decision. If a full or partial refund is due petitioner, the City designee shall notify the City Treasurer and request that a full or a partial refund payment be made to the petitioner within thirty (30) days of the date of the written decision. Petitioner may appeal the determination of the respective City designee to the Mayor. (Ord. 18-06)

#### **3.14.140: IMPOSITION OF ADDITIONAL FEE OR REFUND AFTER DEVELOPMENT:**

Should any developer undertake development activities such that the ultimate density or other impact of the development activity is not revealed to the City, whether through

inadherence, neglect, a change in plans, or any other cause whatsoever, and/or any impact fee is not initially charged against all units, the total density within the development or other measurement included in the calculation of impact fees, the City shall be entitled to recover the total impact fee from the developer or other appropriate person covering the measurement for which an impact fee was not previously paid.

### **3.14.150: IMPACT FEE CHALLENGES AND APPEALS:**

A. Any person or entity required to pay an impact fee, who believes the fee does not meet the requirements of title 11, chapter 36a of the Utah Code may file a written request for information with the City. Within two (2) weeks of the receipt of the request for information, the City shall provide the person or entity with the written impact fee analysis, the impact fee facilities plan and with any other relevant information relating to the impact fee.

B. A person or entity may appeal the decision of the respective City designee regarding impact fee refunds to the Mayor within thirty (30) days of the decision. The person or entity shall file a written notice of appeal with the Mayor. The Mayor shall review the decision and reasoning of the respective designee and any additional information provided by petitioner. The Mayor shall enter a written decision on the appeal no later than thirty (30) days after the date the written notice of appeal was filed with the Mayor. The Mayor may uphold, modify or reject the decision from which the appeal was taken. The person or entity affected by any decision of the Mayor may petition the District Court for a review of the Mayor's decision or take any other action in accordance with Utah Code section 11-36a-701 et seq.

C. After paying an impact fee, the person or entity who has paid the impact fee and wants to challenge the notice requirements, other procedural requirements, or the impact fee shall file a written notice of challenge with the Mayor within the following time limits:

1. For a challenge of the notice requirements, the challenge shall be filed no later than thirty (30) days after the day on which the impact fee was paid;
2. For a challenge of other procedural requirements, the challenge shall be filed no later than one hundred eighty (180) days after the day on which the impact fee was paid; and
3. For a challenge to the impact fee, the challenge shall be filed no later than one year after the day on which the impact fee was paid.

D. The Mayor shall determine the manner in which the challenge under subsection C of this section shall be conducted. The Mayor shall enter a written decision on the challenge no later than thirty (30) days after the date of the challenge to the impact fee is filed. The sole remedy for a challenge relating to notice or other procedural requirements is that the City shall be required to correct the defective notice and repeat the process. The sole remedy for a challenge to the impact fee is a refund of the difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated. The person or entity affected by any decision of the Mayor may petition the District Court for a review of the decision or take any other action authorized by Utah Code section 11-36a-701 et seq.

E. A challenge to any provision under the Impact Fee Act may be initiated and pursued in any manner authorized under Utah Code section 11-36a-701 et seq.

F. The State, a school district or a charter school may, in addition to any other method allowed by law, challenge an impact fee by requesting the City to participate in mediation. Upon a written request for mediation, which shall be given no later than thirty (30) days after the day on which an impact fee is paid, the City shall cooperate with the specified public agency to select a mediator and participate in the mediation process. (Ord. 16-12)

**3.14.160: EFFECT ON ZONING AND SUBDIVISION REGULATIONS:**

This chapter shall not affect, in any manner, the permissible use of property, density of development, design, and improvement standards and requirements, or any other aspect of the development of land or provision of system improvements subject to the zoning and subdivision regulations or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all such development. (Ord. 16-12)

**3.14.170: LIBERAL CONSTRUCTION:**

The provisions of this chapter are found and declared to be in furtherance of the public health, safety, and welfare, and convenience, and it shall be liberally construed to effectively carry out its purpose. (Ord. 16-12)

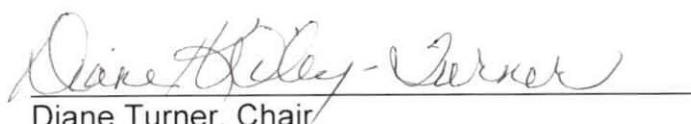
**3.14.180: SEVERABILITY:**

If any section or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

*Section 4. Effective date.* This Ordinance shall take effect ninety (90) days after the day on which the Ordinance is approved, as required by state law.

PASSED, APPROVED AND ADOPTED by the Murray City Municipal Council on this 19<sup>th</sup> day of October, 2021

MURRAY CITY MUNICIPAL COUNCIL

  
Diane Turner, Chair

ATTEST:

  
Brooke Smith, City Recorder

Transmitted to the Office of the Mayor of Murray City on this 21<sup>st</sup> day of  
October, 2021.

MAYOR'S ACTION: Approved

DATED this 21<sup>st</sup> day of October, 2021.



D. Blair Camp

ATTEST:

A handwritten signature in blue ink.

Brooke Smith, City Recorder

#### CERTIFICATE OF PUBLICATION

I hereby certify that this Ordinance or a summary hereof was published according to law on the 21<sup>st</sup> day of October, 2021.

A handwritten signature in blue ink.

Brooke Smith, City Recorder