

ORDINANCE 483

AN ORDINANCE ESTABLISHING A MUNICIPAL SERVICES IMPACT FEE, AND WHEREAS THE MEXICO BEACH CITY COUNCIL HAS DETERMINED THAT IN ORDER TO MAINTAIN A CURRENT LEVEL OF MUNICIPAL AND PUBLIC SAFETY SERVICE STANDARDS FOR RECREATIONAL SERVICES, POLICE SERVICES AND FIRE/RESCUE SERVICES, THE CITY OF MEXICO BEACH MUST EXPAND ITS MUNICIPAL SERVICES SYSTEM SO THAT NEW DEVELOPMENT MAY BE ACCOMMODATED WITHOUT DECREASING CURRENT LEVELS OF SERVICE STANDARDS. EXPANSION OF THE MUNICIPAL SERVICES SYSTEM SHALL ACCOMMODATE NEW GROWTH, PROMOTE AND PROTECT PUBLIC HEALTH, AND PROVIDE FOR THE SAFETY AND GENERAL WELFARE OF THE RESIDENTS OF THE CITY OF MEXICO BEACH; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING PENALTIES FOR VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that it is in the best interest of the City that this Ordinance be enacted, therefore:

BE IT ORDAINED BY THE CITY COUNCIL OF MEXICO BEACH, FLORIDA:

SECTION 1. LEGISLATIVE FINDINGS

- (a) The State of Florida, through the enactment of Section 163.3202(3), Florida Statutes, encourages the City of Mexico Beach to enact impact fees to meet the capital facilities needs created by new development.
- (b) The imposition of impact fees is one of the preferred methods of ensuring that new development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. Allocation of a proportionate share of costs promotes and protects the public health, safety and general welfare of the residents of the City of Mexico Beach.
- (c) Each of the types of land uses described in the Schedule of Impact Fees hereof shall create demands for the acquisition of, or expansion of, municipal services facilities and the construction of municipal services capital improvements.
- (d) The report entitled "City of Mexico Beach, Municipal Services Impact Fee Study", dated February 22, 2005, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the need for and costs of additional municipal recreational, police and fire/rescue services capital facilities in the City of Mexico Beach.

SECTION 2. AUTHORITY

The City of Mexico Beach City Council is authorized to enact this Ordinance pursuant to Article VIII, Section 2(b) of the Florida Constitution and Section 166.021, Florida Statutes.

SECTION 3. APPLICABILITY

This Ordinance shall apply within the incorporated area of the City of Mexico Beach, including those areas that are to be or have been annexed into the City.

SECTION 4. INTENT AND PURPOSE

The purpose of this Ordinance is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide municipal services facilities and municipal services capital improvements within the City of Mexico Beach.

SECTION 5. DEFINITIONS

- (a) *Residential Structure* means each single-family dwelling unit and each dwelling unit of a condominium, duplex, triplex, mobile home, modular housing, manufactured home, apartment or multiple dwelling structure designated as a complete, separate housing unit for one or more persons, and utilized or designed or intended to be utilized for human habitation either temporarily or permanently.
- (b) *Non-Residential Structure* means any building which encloses space for the occupancy by persons or their activities (other than residential dwellings and buildings which are accessory to residential dwellings) including but not limited to professional buildings, commercial buildings, hotels, motels, rentals, industrial buildings, warehouse, public assembly buildings or institutional buildings except public schools and government buildings. A building accessory to a residential dwelling is a subordinate building, the use of which is incidental to that of a principal, residential structure.
- (c) *Bed and Breakfast Inn* means a family home structure, with more than 15 sleeping rooms, which has been modified to serve as a transient public lodging establishment, which provides the accommodation and meal services generally offered by a bed and breakfast inn, and which is recognized as a bed and breakfast inn in the community in which it is situated or by the industry.*

- (d) *Building* means any structure, whether temporary or permanent, built for the support, shelter, or enclosure of persons, chattels, or property of any kind. This term shall include tents, trailers, mobile homes, or any vehicles serving in any way the function of a Building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintenance during the term of a building permit.
- (e) *Building Permit* means an official document or certificate issued by the authority having jurisdiction authorizing the commencement of construction of any Building or parts thereof; the term also includes construction plan approval for new mobile home development and new recreational vehicle spaces.
- (f) *Comprehensive Plan* means the Comprehensive Plan of the City of Mexico Beach adopted and amended pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act.
- (g) *Dwelling Unit* means a separate housing unit constituting or located within a Residential Structure.
- (h) *Encumbered*, in reference to funds for capital improvements, means funds committed in the capital improvements program for a specified improvement on a specified time schedule.
- (i) *Hotel* means any public lodging establishment containing sleeping room accommodations for 25 or more guests and providing the services generally provided by a hotel and recognized as a hotel in the community in which it is situated or by the industry.*
- (j) *Impact Fee Statement* means the document issued to an applicant prior to the issuance of a Building Permit containing the calculation of the Impact Fees imposed on construction under Section 8.
- (k) *Land* means the earth, water, and air above, below, or on the surface, and includes any improvements or structures customarily regarded as land.
- (l) *Motel* means any public lodging establishment which offers rental units with an exit to the outside of each rental unit, daily or weekly rates, off-street parking for each unit, a central office on the property with specified hours of operation, a bathroom or connecting bathroom for each rental unit, and at least six rental units, and which is recognized as a motel in the community in which it is situated or by the industry.*
- (m) *Public Facilities* means the Buildings, structures, equipment and facilities as may be necessary to meet the need for Recreation, Police, and Fire/Rescue

facilities, which are created by new development including those costs incidental to the above.

- (n) *Public Lodging Establishment* means a hotel, motel, resort condominium, roominghouse or bed and breakfast inn, each as defined in this Chapter.*
- (o) *Resort Condominium* means any unit or group of units in a condominium, cooperative, or timeshare plan which is rented more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented for periods of less than 30 days or 1 calendar month.*
- (p) *Rooming house* means any public lodging establishment that may not be classified as a hotel, motel, resort condominium, or bed and breakfast inn. A rooming house includes, but is not limited to a boardinghouse.*
- (q) *Schedule of Impact Fees* means the schedule of fees incorporated in Section 8 of this Ordinance.
- (r) *Square Footage* means the gross area measured in feet from the exterior faces of exterior walls or other exterior boundaries of the Building or structure.
- (s) *Unit* means a combination of one or more bedrooms and bathrooms held out to the public as a single habitable unit or recognized as a single habitable unit in the community in which it is situated.

* FS 509.242 (2004)

SECTION 6. PAYMENT OF MUNICIPAL SERVICES IMPACT FEES

- (a) Any persons who seeks to develop land within the City of Mexico Beach, by applying for a Building Permit is hereby required to pay a municipal services impact fee in the manner and amount set forth in the Schedule of Impact Fees. Including any previous or outstanding Building Permits that have been issued and have not received a CA/CO from the City of Mexico Beach. The municipal services impact fee shall be the sum of the applicable recreational services impact fee, the police services impact fee and the fire/rescue services impact fee.
- (b) No Building Permit requiring payment of a municipal services impact fee pursuant to this Ordinance shall be issued unless and until municipal services impact fee herein required has been paid either concurrently with or subsequent to the filing of a complete application for such.

- (c) No extension of a Building Permit issued prior to March 8, 2005, or the effective date of any applicable amendment to this Ordinance, for any activity requiring payment of an impact fee pursuant to the Schedule of Impact Fees shall be granted unless and until the municipal services impact fee herein required has been paid.
- (d) In the event a Building Permit is amended after issuance, the applicant shall pay the municipal services impact fee in effect at the time the amended Building Permit is issued with credit be given for the previous fees paid.

SECTION 7. DEDICATION OF LAND

The City of Mexico Beach City Council may permit a developer, in lieu of payment of municipal services impact fees, to convey land by warranty deed, or dedicated land on a recorded plat, of suitable size, dimension, topography and general character to serve as a municipal services capital facility, or a substantial portion thereof, which will meet municipal services needs created by the new development.

SECTION 8. MUNICIPAL SERVICES IMPACT FEE SCHEDULE

(a) Schedule of Impact Fees

- (1) The municipal services impact fee shall be the sum of the recreational services impact fee, the police services impact fee and the fire/rescue services impact fee calculated using the following schedules:

RECREATIONAL SERVICES IMPACT FEE SCHEDULE

Residential Structure	\$900.00/Dwelling Unit
Public Lodging Establishments	\$816.00/Lodging Unit

POLICE SERVICES IMPACT FEE SCHEDULE

Residential Structure	\$103.00/Dwelling Unit
Non-residential Structure	\$0.30/Square Foot

FIRE/RESCUE IMPACT FEE SCHEDULE

Residential Structure	\$202.00/Dwelling Unit
Non-residential Structure	\$0.20/Square Foot

(2) Unspecified Uses

If the type of development activity that a Building Permit is applied for is not specified on the Schedule of Impact Fees, the City Administrator or designee shall determine the appropriate fee by considering demographic or other documentation, whichever is available.

(3) Change in Use or Density

In the case of change of use, redevelopment, or expansion or modification of an existing use on a site, which requires the issuance of a Building Permit, the municipal services impact fee shall be based upon the net increase in the municipal services impact fee for the new use as compared to the most intense previous use on or after March 8, 2005, or the effective date of any applicable amendments to this Ordinance.

(b) Alternative for Developer Fee Study

If a feepayer opts not to have the municipal services impact fee determined according to the Schedule of Impact Fees, then the feepayer shall prepare and submit to the City Administrator or designee, an independent fee calculation study for the land development activity for which a Building Permit is sought. The independent fee calculation study shall follow the methodologies and formats used in the "City of Mexico Beach, Municipal Services Impact Fee Study", dated February 22, 2005, prepared by Public Resources Management Group, Inc. The documentation submitted shall show the basis upon which the independent fee calculation was made. The City Administrator or designee shall consider the documentation submitted by the feepayer but is not required to accept such documentation if it is deemed to be inaccurate or not reliable. The City Administrator or designee may, in the alternative, require the feepayer to submit additional or different documentation for consideration. If an acceptable independent fee calculation study is not presented, the feepayer shall pay the municipal services impact fees based upon the Schedule of Impact Fees.

If an acceptable independent fee calculation study is presented, the City Administrator or designee may adjust the municipal services impact fee as appropriate to the particular development. Determinations made by the City Administrator or designee, pursuant to this paragraph may be appealed to the City Council by the feepayer providing a written request with the City Administrator or designee, within ten (10) days of the City Administrator's or designee's determination.

SECTION 9. MUNICIPAL SERVICES IMPACT TRUST FUNDS ESTABLISHED

- (a) There are hereby established three (3) nonlapsing trust funds, to wit: the Recreational Services Impact Fee Trust Fund, the Police Services Impact Trust Fund, and the Fire/Rescue Services Impact Trust Fund.
- (b) Municipal services impact fees collected pursuant to this Ordinance shall be segregated into either the Recreational Services Impact Fee Trust Fund, the Police Services Impact Fee Trust Fund or the Fire/Rescue Services Impact Fee Trust Fund, as applicable, and the three (3) trust funds shall not be commingled.
- (c) Funds withdrawn from either the Recreational Services Impact Fee Trust Fund, the Police Services Impact Fee Trust Fund or the Fire/Rescue Services Impact Fee Trust Fund shall be used in accordance with the provisions of this Ordinance.

SECTION 10. USE OF MUNICIPAL SERVICE IMPACT FEE FUNDS

- (a) Funds collected for the recreational services impact fees, or lands dedicated pursuant to Section 7 for that purpose, shall be used solely for the purpose of acquiring or expanding recreational services capital facilities under the jurisdiction of the City. In the event that bonds or similar debt instruments are issued for advance provision of recreational services capital facilities for which municipal services impact fees may be expended, recreational services impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the proceeds of the bonds (and a pro rata share of the cost of issuance) are expended upon recreational services capital facilities.
- (b) Funds collected for the police services impact fees, or lands dedicated pursuant to Section 7 for that purpose, shall be used solely for the purpose of acquiring or expanding police services capital facilities under the jurisdiction of the City. In the event that bonds or similar debt instruments are issued for advance provision of police services capital facilities for which municipal services impact fees may be expended, police services impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the proceeds of the bonds (and a pro rata share of the cost of issuance) are expended upon police services capital facilities.
- (c) Funds collected for the fire/rescue services impact fees, or lands dedicated pursuant to Section 7 for that purpose, shall be used solely for the purpose of acquiring or expanding fire/rescue services capital facilities under the jurisdiction of the City. In the event that bonds or similar debt instruments are

issued for advance provision of fire/rescue services capital facilities for which municipal services impact fees may be expended, fire/rescue services impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the proceeds of the bonds (and a pro rata share of the cost of issuance) are expended upon fire/rescue services capital facilities.

- (d) At least once each fiscal year, the City Administrator shall present to the City Council a proposed capital improvement program for recreational services, police services, and fire/rescue services facilities, assigning funds, including any accrued interest, from the applicable Impact Fee Trust Fund to specific recreational services, police services, or fire/rescue services improvements projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal year shall be retained in the same Impact Fee Trust Fund until, the next fiscal year.
- (e) Funds may be used to provide refunds in the manner set forth in Section 11.
- (f) All administrative costs associated with providing municipal services capital improvements shall be eligible for the appropriation of impact fees collected by the City; however, administrative costs shall not exceed five percent (5%) of the total amount expended or encumbered by the City.

SECTION 11. REFUND OF FEES PAID

(a) Expired Building Permit

If a Building Permit expires or is canceled without construction commencing, then the feepayer shall be entitled to a refund, without interest, of the impact fee paid except that the City shall retain five percent (5%) of the fee to offset a portion of the costs of collection and refund. The feepayer shall submit an application for such a refund to the City Administrator or designee within thirty (30) days of the expiration of the order or permit, or thereafter waive any right to a refund.

(b) Funds Not Expended

Any funds not expended or encumbered by the end of the calendar quarter immediately following seven (7) years from the date the municipal impact fees were paid shall, upon application of the then current landowner, be returned to such landowner, without interest, provided that the landowner submits an application for a refund to the City Administrator or designee within one hundred eighty (180) days of the expiration of the seven (7) year period.

SECTION 12. EXEMPTIONS AND CREDITS

(a) Exemptions

- (1) The following shall be exempted from payment of the impact fees:
 - (I) Alterations of an existing Building where no additional residential density is created and where the use is not changed;
 - (II) The construction of an accessory Building or structure not increasing the demand for services of the parent parcel;
 - (III) The replacement of a destroyed or partially destroyed Building or structure on the same site with a new Building or structure of the same size and use;
 - (IV) Installation of a replacement mobile home on the same site, where a mobile home legally existed on such site on or prior to March 8, 2005.
- (2) Any claim of exemption must be made no later than the time of the application for a Building Permit. Any claim not so made shall be deemed waived.

(b) Credits

- (1) A developer may obtain credit against all or a portion of municipal service impact fees otherwise due or to become due by offering to dedicate needed land or construct needed capital improvements, or both. The offer of the developer shall specifically accompany a request for a municipal services impact fee credit. If the City Administrator, or a designee, accepts such an offer the credit shall be determined and provided in the following manner:
 - (I) Credit for Dedication of Land. Credit for the dedication of land shall be based upon the following as determined by the City:
 - (II) The most recent assessed value of the land by the Bay County Property Appraiser, or;
 - (III) By better evidence of value, such as a contract for sale or recorded deed, or
 - (IV) By fair market value established by private appraisers acceptable to the City.

- (2) Credit for the dedication of municipal services or land shall be provided when the property has been conveyed by warranty deed or dedicated on a recorded plat, at no charge to, and accepted by the City in a manner satisfactory to the City Council.
- (3) Credit for Construction of Capital Improvements. Applicants for credit for construction of municipal services capital improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the City Administrator, or a designee. The City Administrator, or a designee, shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the City Administrator, or a designee, determines that such estimates submitted by the applicant are either unreliable or inaccurate.
- (4) Credit Due Upon Completion of Construction. Except as provided in subparagraph (5), credit against impact fees otherwise due shall not be provided until the construction is completed and accepted by the City; and a suitable maintenance and warranty bond is received and approved by the City.
- (5) Bonding Future Improvements. Credit may be provided before completion of specified municipal services capital improvements if adequate assurances are given by the applicant that the provisions of paragraph (b)(3) shall be met and the feepayer posts security, as provided below, for the costs of such construction. Security for the costs of construction in the form of a performance bond, irrevocable letter of credit or escrow agreement shall be posted with the City and approved by the City Attorney. If the municipal service construction project shall not be constructed within one (1) year of the acceptance of the offer to construct by the City Administrator or designee, the amount of the security shall be increased for each year of the life of the security. In the event the municipal services construction is not completed so as to provide the required facilities at the time of the impact of the development occurs, the City shall draw on the security and provide for the required improvements.
- (6) Claim for Credit. Any claim for credit shall be made no later than the time of application for a Building Permit. Any claim not so made shall be deemed waived.
- (7) Credits Not Transferable. Credits shall not be transferable from one project or development to another.

- (8) Appeal of Credit Determinations. Determinations made by the City Administrator, or a designee, pursuant to this Section may be appealed to the City Council by filing a written request with the City Administrator, or a designee, within ten (10) days of the City Administrator's determination.

SECTION 13. LIABILITY AND SEVERABILITY

(a) Personal Liability

Any person securing a Building Permit, and any person performing activities for which a Building Permit is required, and all owners of the land upon which such activities are performed, shall be jointly and severally liable for the municipal services impact fee imposed by this Ordinance. In addition to any other remedy provided by law, the City may proceed in a court of competent jurisdiction to collect such fee from any or all of such persons as provided by law. The term "person" means any natural person, corporation, limited liability company, partnership, firm or other business organization.

(b) Lien Against Property

Failure to dedicate land to pay an impact fee when determined by the City as required to satisfy the impact of development shall result in the amount due becoming a lien against the property, as provided herein. The City shall provide a written notice of the impact fee due by (1) personal service, (2) certified United States mail, or (3) Federal Express or other equivalent overnight letter delivery company. Upon failure to pay the impact within thirty (30) days of the date of the notice, a Notice of Lien shall be served by (1) personal service, (2) certified United States mail, or (3) Federal Express or other equivalent overnight letter delivery company, advising the property owner that the City shall file a Claim of Lien against the property in question. Once recorded, the Claim of Lien may be foreclosed as provided for in Chapter 170, Florida Statutes, Chapter 173, Florida Statutes, or any other applicable law. The lien for unpaid impact fees shall be coequal with a lien for state, county, special district and municipal taxes and superior in right to all other liens and encumbrances, including mortgages and judgment liens.

SECTION 14. SAVING CLAUSE

If any section, sentence, clause or phrase of the Ordinance, as amended, is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 15. EFFECTIVE DATE

This Ordinance shall become effective immediately upon passage.

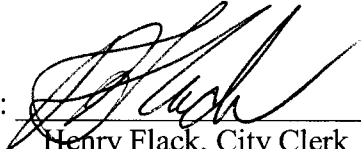
INTRODUCED at a Regular Meeting of the City Council on the 8th day of February, 2005, and ADOPTED by the City Council on the 8th day of March, 2005.

THE CITY OF MEXICO BEACH, FLORIDA

BY:


Kathy Kingsland, Mayor

Attest:


Henry Flack, City Clerk

