

Chapter 255

PARK IMPACT FEE

Section 255.010. Legislative Findings. [Ord. No. 1193 §1, 2-2-2004]

- A. The Governing Body of Mulvane, Kansas, finds, determines and declares that:
1. Mulvane must expand its park system in order to maintain current level of service and park standards if development is to be accommodated without decreasing current standards. This must be done in order to promote and protect the public health, safety and welfare.
 2. The Kansas legislature through the enactment of K.S.A. 12-749 (b) provides the authority for Mulvane to enact impact fees.
 3. The imposition of impact fees is one (1) of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to development and maintain current levels of service. This must be done in order to promote and protect the public health, safety and welfare.
 4. That land development will continue to create the demand for the acquisition or expansion of parks and the construction of park improvements.
 5. The fees established are derived from, based upon and do not exceed the costs of providing additional park and park improvements necessitated by the new land developments for which the fees are levied.
 6. Other revenue sources, such as, but not limited to, stated revenue sharing, permit fees, grants, donations and City general funds, will be used in conjunction with impact fees, to finance park improvements.

Section 255.020. Short Title, Authority and Application. [Ord. No. 1193 §2, 2-2-2004]

- A. This Chapter will be known and may be cited as the Mulvane Park Impact Fee Ordinance.
- B. The City of Mulvane has the authority to adopt this Chapter pursuant to Article K.S.A. 12-749 (b) of the Kansas Statutes.
- C. This Chapter shall apply to the incorporated areas of Mulvane to the extent permitted by Article 12, Section 5 of the Constitution of the State of Kansas.

Section 255.030. Intents and Purposes. [Ord. No. 1193 §3, 2-2-2004]

- A. This Chapter is intended to assist in the implementation of the Comprehensive Development Plan for the Mulvane area, Kansas and the Mulvane Park System and Open

Space Plan, an element of the Comprehensive Plan.

- B. The purpose of this Chapter is to regulate the use and development of land to assure that development bears a proportionate share of the cost of capital expenditures necessary to provide parks and park improvements in Mulvane.

Section 255.040. Definitions. [Ord. No. 1193 §4, 2-2-2004]

As used in this Chapter, the following terms shall have these prescribed meanings:

CAPITAL IMPROVEMENT — Includes parks planning, land acquisition, site improvements, buildings, and equipment but excludes maintenance and operation.

FEE PAYER — A person applying for issuance of a building permit or permit for manufactured/mobile home installation.

PERSON — Includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

PRIVATE RECREATIONAL FACILITY — Any recreational facility which is not owned by or dedicated to any governmental entity.

Section 255.050. (Reserved) ¹

Section 255.060. Computation of the Amount of Park Impact Fee. [Ord. No. 1193 §6, 2-2-2004]

Upon receipt of an application for a residential building permit for development subject to this Chapter, the City's Zoning Administrator shall determine the amount of the applicable impact fee. For residential development, the fee shall be based upon the number of dwelling units. The actual amount of the fee per dwelling unit shall be set by official resolution of the City adopted by the City Council initially upon the adoption of the ordinance, which shall be reviewed not less than annually thereafter. Revisions to the amount of the impact fee shall be made by subsequent resolution.

Section 255.070. Payment of Fee. [Ord. No. 1193 §7, 2-2-2004]

- A. The fee payer shall pay the park impact fee required by this Chapter to the City Zoning Administrator prior to the issuance of a residential building permit or a permit for residential manufactured/mobile home installation.
- B. Upon receipt of park impact fees, the Zoning Administrator shall transfer such funds to the City Treasurer who shall be responsible for the placement of such funds in a segregated interest-bearing fund designated as the Parks Impact Fee Fund. All monies placed in said fund and all interest earned thereafter shall be used solely and exclusively for the purpose as stated in Section 255.090 of this Chapter.

Section 255.080. Park Impact Fee Fund Established. [Ord. No. 1193 §8, 2-2-2004]

1. Editor's Note: Former Section 255.050, Imposition of Park Impact Fee, which derived from Ord. No. 1193 § 5, 2-2-2004, was repealed 11-21-2016 by § 1 of Ord. No. 1480.

- A. There is hereby established a Park Impact Fee Fund.
- B. Funds withdrawn from this account must be used in accordance with the provisions of this Chapter.

Section 255.090. Use of Funds. [Ord. No. 1193 §9, 2-2-2004]

- A. Funds collected from park impact fees shall be used solely for the purpose of acquiring and/or making capital improvements to parks under jurisdiction of the City of Mulvane and shall not be used for maintenance or operations.
- B. In the event bonds or similar debt instruments are issued for advance provisions of capital facilities for which park impact fees may be expended, impact fees may be used to pay debt service in such bonds or similar debt instrument.

Section 255.100. Exemptions. [Ord. No. 1193 §10, 2-2-2004]

- A. The following shall be exempted from payment of the impact fee:
 - 1. Alterations or expansions of an existing building where no additional residential units are created and where the use is not changed.
 - 2. The construction of accessory buildings or structures.
 - 3. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use.
 - 4. The installation of a replacement manufactured/mobile home on a lot or other such site when a park impact fee for such manufactured/mobile home site has previously been paid pursuant to this Chapter or where a manufactured/mobile home legally existed on such site on or prior to the effective date of this Chapter.
 - 5. The construction of any non-residential building or structure or the installation of a non-residential manufactured/mobile home.

Any claim of exemption must be made no later than the time of application for a building permit or permit for manufactured/mobile home installation. Any claim not so made shall be deemed waived.

- B. *Credits.*
 - 1. The fee payer's total or partial payment of the required impact fee may offer park land and/or park capital improvements. The offer must specifically request or provide for park impact fee credit. The Planning Commission shall review such offer and advise the Governing Body as to the offer's compliance with the goals of the Comprehensive Plan and the park and open space plan. If the Governing Body accepts such offer, whether the acceptance is before or after the effective date of this Chapter, the credit shall be determined and provided in the following manner:
 - a. Credit for the dedication of land shall be valued at one hundred fifteen percent (115%) of the most recent assessed value by the County Appraisers, by such

other appropriate method as the Governing Body may have accepted prior to the effective date of this ordinance for particular park improvements, or by fair market value established by private appraisers acceptable to the City. Credit for dedication of park land shall be provided when the property has been conveyed at no charge to, and accepted by, the City in the manner satisfactory to the Governing Body.

- b. Applicants for credit for park improvements shall submit acceptable architectural, landscape architectural and/or engineering drawings, specifications and construction cost estimates to the City Administrator. The City Administrator shall determine credit for construction based upon either these cost estimates or upon alternative criteria and construction cost estimates. If the City Administrator determines that such estimates submitted by the applicant are either irregular or inaccurate, the City Administrator shall provide the applicant a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the City Clerk before credit will be given. The failure of the applicant to sign, date and return such document within sixty (60) days shall nullify the credit.
 - c. Except as proved in subparagraph (d) below credit against impact fees otherwise due will not be provided until:
 - (1) The construction is complete and accepted by the City.
 - (2) A suitable maintenance and warranty bond is received and approved by the City Clerk when applicable.
 - d. Credit may be provided before completion of specified park improvements if adequate assurances are given by the applicant that the standards set out in the subparagraph (c) above will be met and if the fee payer posts security as provided below for costs of such construction. Security in the form of a performance bond, irrevocable letter of credit or escrow agreement, accompanied by an executed developer's agreement, shall be posted with and approved by the City Clerk in an amount determined by the City Administrator. If the park construction project will not be constructed within one (1) year of the acceptance of the offer by the City Governing Body, the amount of the security shall increase by ten percent (10%) compounded for each year of the life of the security. The security shall be reviewed and approved by the City Clerk before acceptance of the security by the City. If the park construction project is not completed within five (5) years of the date of the fee payer's offer, the Governing Body must approve the park construction project and its scheduled completion date prior to the acceptance of the offer by the Governing Body.
2. Any claim for credit must be made no later than the time of application for a building permit or permit for manufactured/mobile home installation. Any claim not so made

shall be deemed waived.

3. Credits shall not be transferable from one project or development to another without the approval of Governing Body.

Section 255.110. Variances, Exceptions, Appeals. [Ord. No. 1193 §11, 2-2-2004]

Petitions for variances and exceptions of this Chapter shall be made to the City Clerk or his/her agent. Any person aggrieved by such determination may appeal the same within thirty (30) days, provided however, that the imposition and collection of such fee shall not be stayed unless a bond or other sufficient surety in an amount equal to the fee has been filed simultaneously with the filing of an appeal. The appeal shall be to the Governing Body which will consider the appeal within thirty (30) days thereafter and the Governing Body may take into account any inequities to the property owner or any benefits to the City associated with the proposed development.