

ORDINANCE NO. 282

**AN ORDINANCE TO ENACT LOCAL DEVELOPMENT
WASTEWATER IMPACT FEES AND AMEND
GREENLAND MUNICIPAL CODE.**

WHEREAS, the City of Greenland, Arkansas, has contracted with the City of Fayetteville for Fayetteville to operate and maintain the Greenland wastewater system which includes collecting, transporting and treating wastewater from Greenland.

WHEREAS, the cost of increasing the capacity of the existing wastewater collection and transportation system in Greenland to accommodate anticipated growth in the City should be borne by those who make such increases necessary.

IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF GREENLAND,
ARKANSAS, That:

Section 1: That the Greenland Municipal Code is hereby amended by adding a Chapter to be numbered 10.06, which Chapter reads as hereinafter set forth.

**Chapter 10.06
Wastewater Impact Fees**

10.06.01 Impact Fee.

A local wastewater impact fee is hereby established for the City of Greenland wastewater system for in-town facilities/improvements that meet in-town demand, hereinafter referred to as the "System".

10.06.03 Short Title, Authority and Applicability.

- a) Short Title. This ordinance shall be known and may be cited as the "Greenland Wastewater Impact Fee Ordinance".
- b) Authority. This ordinance is enacted pursuant to the authority granted to the City by Arkansas Code Annotated §§14-56-103 and other relevant laws and judicial interpretations of the State.
- c) Applicability. The provisions of this ordinance shall apply to all of the territory within the City's wastewater service area, including the corporate limits of Greenland, any unincorporated area of Washington County served by the system and all future additions to said areas.

d) The following types of development shall be required to pay a local wastewater impact fee:

- i. New and existing development seeking a new connection to the City's wastewater system resulting in increased demand from wastewater facilities. This shall not apply to existing development that is connecting to the wastewater system in order to eliminate an individual sewage disposal system.
- ii. Nonresidential or residential redevelopment seeking a larger capacity or additional water meter.

10.06.05 Definitions.

For the purpose of this Ordinance, the following terms shall have the following meanings:

- a. City Council. The duly elected/appointed city council of the City of Greenland, Arkansas.
- b. Capital wastewater facilities. The City's wastewater collection system, any treatment facilities, lift lines, lift stations, interceptors, buildings, improvements to land, land and related equipment used to provide City wastewater services as defined in the study. The costs of capital wastewater facilities also include the costs of related planning and design for these facilities.
- c. Certificate of occupancy. A certificate issued by the City permitting the occupancy of a structure connected to the City's wastewater system. Said certificate may be limited to the structure's wastewater system for those structures located outside the corporate limits of Greenland.
- d. City. The City of Greenland, Arkansas, including, but not limited to, its municipal utilities department.
- e. Developer. Any person, firm or corporation commencing a development who is obligated to pay an Impact Fee in accordance with the terms of this ordinance, or who would be obligated to pay such a fee except for an exemption, refund, or credit provided for in this ordinance.
- f. Development. Any residential, multifamily, commercial, or industrial improvement to lands within the system service area.

- g. Impact fee study (the study). A study that sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the City's capital wastewater facilities, and that determines the cost of the facilities necessary to meet the demands created by new development.
- h. Impact fees. The local wastewater impact fees established by this ordinance pursuant to Ark. Code Ann. §§14-56-103 for in-town utilities/improvements that meet in-town demand.
- i. Impact fee trust fund. The trust fund established by this ordinance. The impact fee trust fund is also called the wastewater impact fee trust fund.
- j. Improvements. The results of planning, engineering, design, construction inspection, on-site construction, off-site construction, land, the purchase of related equipment, and financing associated with new or expanded capital wastewater facilities, buildings, and equipment that expand the capacity of capital wastewater facilities, but not including maintenance, operations, or improvements that do not expand capacity.
- k. Independent fee calculation study. A study prepared by Duncan/Associates in association with Rosenthal Associates, Inc. (including but not limited to all plans and studies referenced therein), calculating the cost of expansions or improvements to the capital wastewater facilities required to serve the developer's proposed development, that is based on the established level of service standard, performed on an average cost (not marginal cost) methodology, that uses the service units and unit construction costs stated in the study, and is performed in compliance with any criteria for such studies established by this ordinance or by the City.
- l. Person. Person means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other entity.
- m. State. The State of Arkansas.
- n. Successor in interest. A person, as defined by this ordinance, who gains a fee simple interest in land for which an impact fee is paid or a credit is approved pursuant to the terms of this ordinance.
- o. System. The City of Greenland municipal wastewater system including capital wastewater facilities.

10.06.07 Legislative findings.

The City Council of Greenland, Arkansas, finds, determines and declares that:

a) System expansion required. The protection of the health, safety, and general welfare of the citizens of the City requires that the City's capital sewer facilities be expanded and improved to accommodate growth and development within the City.

b) System demand. New residential and nonresidential development imposes increased and excessive demands upon the existing system facilities and often overburdens the existing system facilities. Provided, further, new development is expected to continue, and will place ever-increasing demands on the system to provide these facilities to serve new development.

c) System revenues. System revenues generated from new development often does not generate sufficient funds to provide the necessary capital sewer facilities to accommodate new development; therefore, the creation of an equitable local wastewater impact fee system would enable the City to impose a proportionate share of the costs of the needed improvements to system capital facilities to accommodate new development.

d) Study conducted. In order to implement an equitable impact fee system, the City in cooperation with the Cities of Fayetteville, Farmington and Elkin's caused to be prepared a Water and Wastewater Capital Plan and Impact Fee Analysis, hereinafter termed "study". Said study is incorporated herein by reference, and sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the City's system capital facilities, and for determining the cost of acquiring the improvements necessary to meet the demands for such services created by new development.

e) Standards established. The City hereby establishes as City standards the assumptions and level of service (LOS) standards referenced in the study as part of its current plans for future expansions to the City's local wastewater capital facilities.

f) Impact fee use limited. The impact fees described in this ordinance are based on the study, and do not exceed the costs of improvements to serve new development that will pay the impact fees nor shall such fees to be used to correct existing deficiencies for these capital facilities, or to replace or rehabilitate existing improvements. This is intended to be a local improvement impact fee (for in-town facilities/improvements that meet in-town demands).

g) Benefit. Those in-town capital wastewater facilities/improvements listed in the study will benefit all new development that depends on City services, and it is therefore appropriate to treat the entire system as a single service area for purposes of calculating, collecting, and spending the local improvement impact fees.

h) Impact fee relationship. There is both a rational nexus and a rough proportionality between the development impacts created by each type of development covered by this ordinance and the impact fees that such development will be required to pay.

i) Impact fee purpose. This ordinance creates a system by which wastewater impact fees paid by new development will be used to finance, defray or reimburse all or a portion of the costs incurred by the City to construct improvements for system's capital wastewater facilities in ways that benefit the development that paid each fee within a reasonable period of time after the fee is paid.

10.06.09 Intent.

a) Capital improvement plan. This ordinance is adopted to assist in the implementation of the City's capital improvement plan (CIP) for wastewater system projects adopted by Resolution 02-09-2009A. To that end, the intent of this ordinance is to ensure that new development bears a proportionate share of the cost of improvements to capital wastewater facilities; to ensure that such proportionate share does not exceed the cost of improvements for capital wastewater facilities required to accommodate new development; and to ensure that funds collected from new development are actually used for improvements for capital wastewater facilities that benefit such new development.

b) Impact fee purpose. It is the further intent of this ordinance that new development pay for its fair share of the cost of local improvements for capital wastewater facilities required to accommodate new development through the imposition of an impact fee that will be used to finance, defray, or reimburse all or a portion of the costs incurred by the City to construct improvements to the City capital wastewater facilities that serve or benefit such new development. It is not the intent of this ordinance to collect any money from any new development in excess of the actual amount necessary to offset new demands for capital wastewater facilities.

c) Funds restricted. It is not the intent of this ordinance that any monies collected from any impact fee deposited in the wastewater impact fee trust fund ever be commingled with monies from any other city trust fund or account, or ever be used for a type of facility or equipment different from that for which the fees are paid, or are ever used to replace or rehabilitate existing improvements.

10.06.11 Local Impact fee imposed.

a) Local Impact fee obligation. After the effective date of this ordinance, any person, firm or corporation who commences any development, except those exempted hereinafter, shall be obligated to pay local wastewater impact fees upon commencement of such activity. The amount of the fees shall be determined in accordance with this ordinance, and shall be paid to the City as provided hereinafter. All monies paid by a developer pursuant to this

ordinance shall be identified as local wastewater impact fees and shall be promptly deposited into the wastewater impact fee trust fund described hereinafter.

b) Local impact fee collection. The local wastewater impact fee imposed by this ordinance shall be collected in connection with and as a condition to the installation of a water meter serving the development or of the connection to the wastewater system, whichever comes first. Development projects which have obtained building permits prior to the effective date of this ordinance shall not have to pay local wastewater impact fees if the building is completed with water and sewer hookups installed and certificate of occupancy issued no later than December 31, 2009.

c) Local impact fee calculation. Local impact fees shall be based on water meter size. The impact fees established hereinafter may be revised from time to time by the City Council. The City Council has elected to implement the local wastewater impact fee in stages. Stage I are the local wastewater impact fees which apply from the 1st day of January, 2010, through the 31st day of December, 2010; Stage II are the local wastewater impact fees which will apply from the 1st day of January, 2011, through the 31st day of December, 2011; Stage III are the local wastewater impact fees will apply from the 1st day of January, 2012 and thereafter.

d) Fee determination.

Stage I: Schedule of Fees. From the 1st day of January, 2010, through the 31st day of December, 2010. The Impact Fee Administrator shall determine the amount of the wastewater local impact fees for residential uses based on the type or size of the water meter and for nonresidential uses based on the size of the water meter using the following schedule:

| Property Type/Land Use | Unit of Measure | Service Unit Generation Rate (EDU) | Greenland |
|---------------------------------|-----------------|------------------------------------|-------------|
| Net Cost per Service Unit (EDU) | | | \$588.00 |
| Single-Family | dwelling unit | 1.00 | \$588.00 |
| Multi-Family | dwelling unit | 0.71 | \$417.48 |
| Mobile Home | dwelling unit | 1.00 | \$588.00 |
| Nonresidential | | | |
| 5/8" x 3/4" meter | water meter | 1.00 | \$588.00 |
| 1" meter | water meter | 2.50 | \$1,470.00 |
| 1 1/2" meter | water meter | 5.00 | \$2,940.00 |
| 2" meter | water meter | 8.00 | \$4,704.00 |
| 3" meter | water meter | 16.00 | \$9,408.00 |
| 4" meter | water meter | 25.00 | \$14,700.00 |
| 6" meter | water meter | 50.00 | \$29,400.00 |

| | | | |
|-----------|-------------|--------|-------------|
| 8" meter | water meter | 80.00 | \$47,040.00 |
| 10" meter | water meter | 116.00 | \$68,208.00 |

Stage II: Schedule of Fees. From the 1st day of January, 2011, through the 31st day of December, 2011. The Impact Fee Administrator shall determine the amount of the wastewater local impact fees for residential uses based on the type or size of the water meter and for nonresidential uses based on the size of the water meter using the following schedule:

| Property Type/Land Use | Unit of Measure | Service Unit Generation Rate (EDU) | Greenland |
|---------------------------------|-----------------|------------------------------------|--------------|
| Net Cost per Service Unit (EDU) | | | \$1,175.00 |
| Single-Family | dwelling unit | 1.00 | \$1,175.00 |
| Multi-Family | dwelling unit | 0.71 | \$834.25 |
| Mobile Home | dwelling unit | 1.00 | \$1,175.00 |
| Nonresidential | | | |
| 5/8" x 3/4" meter | water meter | 1.00 | \$1,175.00 |
| 1" meter | water meter | 2.50 | \$2,937.00 |
| 1 1/2" | water meter | 5.00 | \$5,875.00 |
| 2" meter | water meter | 8.00 | \$9,400.00 |
| 3" meter | water meter | 16.00 | \$18,800.00 |
| 4" meter | water meter | 25.00 | \$29,375.00 |
| 6" meter | water meter | 50.00 | \$58,750.00 |
| 8" meter | water meter | 80.00 | \$94,000.00 |
| 10" meter | water meter | 116.00 | \$136,300.00 |

Stage III: Schedule of Fees. From the 1st day of January, 2012, and thereafter. The Impact Fee Administrator shall determine the amount of the wastewater local impact fees for residential uses based on the type or size of the water meter and for nonresidential uses based on the size of the water meter using the following schedule:

| Property Type/Land Use | Unit of Measure | Service Unit Generation Rate (EDU) | Greenland |
|---------------------------------|-----------------|------------------------------------|--------------|
| Net Cost per Service Unit (EDU) | | | \$1,765.00 |
| Single-Family | dwelling unit | 1.00 | \$1,765.00 |
| Multi-Family | dwelling unit | 0.71 | \$1,253.15 |
| Mobile Home | dwelling unit | 1.00 | \$1,765.00 |
| Nonresidential | | | |
| 5/8" x 3/4" meter | water meter | 1.00 | \$1,765.00 |
| 1" meter | water meter | 2.50 | \$4,412.50 |
| 1 1/2" | water meter | 5.00 | \$8,825.00 |
| 2" meter | water meter | 8.00 | \$14,120.00 |
| 3" meter | water meter | 16.00 | \$28,240.00 |
| 4" meter | water meter | 25.00 | \$44,125.00 |
| 6" meter | water meter | 50.00 | \$88,250.00 |
| 8" meter | water meter | 80.00 | \$141,200.00 |
| 10" meter | water meter | 116.00 | \$204,740.00 |

- 2) **Redevelopment, Reconstruction, Change of Use.** In the event of a redevelopment, reconstruction or change of use from an existing development or use, the fee shall be the difference between what the fee would be for the entire redevelopment or reconstruction project and what the fee would have been for the existing development or use. Existing development must be connected to the wastewater system at the time of redevelopment in order to apply this credit.

- 3) **Mixed Use.** If the proposed development includes a mix of the residential land uses and/or nonresidential meter sizes that are listed in the impact fee schedule, the fee shall be determined by adding up the wastewater local impact fees that would be applicable for each residential land use type and/or nonresidential meter size as if it was a freestanding land use type.

- 4) **Fire Suppression/Low Pressure.** It is the intent of this ordinance to base wastewater local impact fees on the typical usage in a new building or other facility. Extinguishing of fires is not a part of typical usage; to allow adequate fire flow to sprinklers and internal hydrants at some large and at-risk properties, it may be necessary for fire protection purposes to install a larger water meter than would be necessary to meet day-to-day needs of that facility. In addition, a larger meter may be required in areas of low water pressure than in areas of normal water pressure for the same type of use. In those cases, it is the policy of the City that the impact fee for wastewater should be based on the meter size needed by

that facility for its typical usage, without regard to fire-flow or unusual pressure conditions.

- 5) Irrigation. Any separate water meter installed for irrigation purposes only shall not be included in the calculation of the wastewater local impact fee.
- 6) Affordable Housing Exemption.
 - a) Single family and non-profit multifamily supportive housing. Construction of single family and non-profit multi-family supportive housing funded wholly or primarily by federal Community Development Block Grants, non-profit service organizations such as Habitat for Humanity, Housing and Urban Development housing loans and similar programs designed to provide affordable, owner-occupied, single family residences to low income individuals and non-profit multi-family supportive housing may be exempted from payment of local wastewater impact fees pursuant to this ordinance by the City Council.
- 7) Master Meters. In the event that a water master meter is utilized for any development including multi-family or mixed use, the wastewater local impact fee shall be based on the Master Meter size.
- 8) Impact fee correction. If a local wastewater impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by a developer shall be refunded by the City within thirty (30) days after the City's acceptance of the recalculated amount, with accrued interest since the date of such overpayment. Any amounts underpaid by the developer shall be paid to the City within thirty (30) days after the City's acceptance of the recalculated amount, with accrued interest since the date of such underpayment. In the case of an underpayment to the City, the City shall not issue any additional permits or approvals for the development for which the local wastewater impact fee was previously paid until such underpayment is corrected, and if amounts owed to the City are not paid within such thirty (30) day period, the City may also, rescind any permits issued in reliance on the previous payment of such local wastewater impact fee and refund such fee to the then current owner of the land.

10.06.13 Impact fee exceptions.

The following types of development shall be exempted from payment of the local wastewater impact fees. Any claim for exemption shall be made no later than the time when the applicant applies for the first wastewater connection permit for the proposed development that creates the obligation to pay the local wastewater impact fees. Any claim for exemption not made at or before that time shall have been waived. The City Council or a designee shall determine the validity of any claim for exemption pursuant to the standards set forth below.

- a) Reconstruction, expansion, or replacement of a previously existing residential unit that does not create any additional residential units or installation of a larger water meter.
- b) The replacement of a destroyed or partially destroyed non-residential building or structure with a new non-residential building or structure of the same use as the original structure and with no more than a five percent (5%) increase in floor area from the original structure and no increase in the size or number of water meters.
- c) Construction of unoccupied accessory structures related to a residential unit.
- d) Developments for which a local wastewater impact fee for each type of facility covered by this Ordinance has previously been paid in an amount that equals or exceeds the local wastewater impact fee that would be required by this ordinance.
- e) Developments built by the federal government and the State.
- f) Public schools.
- g) Construction within a duly established redevelopment district or improvement district for which the local wastewater impact fees have specifically been waived by resolution of the City Council prior to commencement of the improvements.
- h) Such other economic or community development projects for which the local wastewater impact fees have specifically been waived by resolution of the City Council prior to commencement of the development.

10.06.15 Use of impact fee funds.

a) Trust fund. A local wastewater impact fee trust fund (hereinafter “trust fund”) is hereby established for the purpose of ensuring that the local wastewater impact fees collected pursuant to this ordinance are designated for the accommodation of impacts reasonably attributable to new development that paid the local impact fees.

b) Trust fund management. All local wastewater impact fees collected by the City pursuant to this ordinance shall be promptly deposited into the trust fund. The local wastewater impact fee trust fund shall be maintained in an interest bearing account. Monies in the trust fund shall be considered to be spent in the order collected, on a first-in/first-out basis. This fund shall contain only those local wastewater impact fees collected pursuant to this ordinance plus any interest which may accrue from time to time on such funds.

c) Trust fund limitations. The following limitations shall apply to the use and expenditure of local impact fees collected and deposited in the local wastewater impact fee trust fund:

- 1) The local wastewater impact fee imposed pursuant to this ordinance may be assessed, collected and expended only for the planning, design and construction of new wastewater facilities or of capital improvements to existing wastewater facilities that expand the system's capacity or for the recoupment of prior capital improvements to wastewater facilities that created capacity available to serve new development.
- 2) The local wastewater impact fee may be pledged to the payment of bonds issued by the City to finance wastewater capital improvements or wastewater facilities for which the local wastewater impact fee may be imposed.
- 3) No local wastewater impact fee shall be assessed for or expended upon the operation or maintenance of any wastewater facility or for the construction or improvement of wastewater facilities that do not create additional capacity.
- 4) No monies from the local wastewater impact fee trust fund shall be spent for periodic or routine maintenance, rehabilitation, or replacement of any facility of any type or to cure deficiencies in capital wastewater facilities existing on the effective date of this ordinance.
- 5) As described in Section 10.06.17 Refunds.

10.06.17 Refund of impact fees paid.

a) When refund due. The City shall refund the portion of collected development local wastewater impact fees, including the accrued interest, that has not been expended seven (7) years from the date the fees were paid. The refund shall be made on a pro rata basis and shall be paid in full not later than ninety (90) days after the date certain upon which the refund becomes due.

b) Refund notice. When due, 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. 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 on 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 requirement of notice.

c) Refund payment. The refund shall be made on a pro rata basis, and shall be paid in full no later than ninety (90) days after the date certain upon which the refund becomes due.

d) Notice of refund rights. At the time of payment of the local wastewater impact fee under this ordinance, the Impact 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.

10.06.19 Appeals.

Any determination made by an official of the City charged with the administration of any part of this ordinance may be appealed to the City Council by filing with the Recorder-Treasurer within ten (10) days of the date of the determination being appealed: (1) a written notice of appeal on a form provided by the City, (2) a written explanation of why the appellant feels that a determination was in error, and (3) an appeal fee established by the City, if any. The City Council shall promptly fix a time and place for hearing the appeal, and the Recorder/Treasurer shall mail notice of the hearing to the appellant at the address given in the notice of appeal. The hearing shall be conducted at the time and place stated in such notice given by the City Council. The determination of the City Council shall be final.

10.06.21 Capital plan and level of service standards.

a) Plan Adoption. The capital wastewater facilities to be financed by the local wastewater impact fees shall be those facilities identified in the capital plan and level of service standards as presented in the study prepared by duncan associates in association with Rosenthal Associates, Inc., dated November 15, 2007, as adopted by Resolution 02-09-2009 B, and the Wastewater Master Plan Impact Fee Study prepared by McClelland Consulting Engineers, Inc., dated December 2006 as adopted by Resolution 02-09-2009 A. In this regard, the applicable sections of said studies are hereby adopted as the official capital plan and level of service for the City of Greenland, Arkansas, wastewater system.

b) Plan Revisions. Provided, further that said plan and standards may be revised from time to time by resolution of the City Council. To this end, periodically, the Mayor or engineers hired by the City may present to the City Council a proposed capital improvements program for the City capital wastewater facilities, and such capital improvements program shall assign monies from the trust fund to specific projects and related expenses for capital wastewater facilities. Any monies, including any accrued interest not assigned to specific projects within such capital improvements program and not expended, shall be retained in the local wastewater impact fee trust fund subject to the refund provisions above.

10.06.23 Penalty.

The penalty for violation of this ordinance shall, upon conviction in the West Fork District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Greenland Municipal Code as may now or hereafter be enacted by the City Council.

10.06.25 Administration.

a) Impact Fee Administrator. The City Council shall assign to a city employee the responsibilities of the Impact Fee Administrator hereinabove set forth. Failure of the Council to make such assignment or in case of a lapse in such responsibility after assignment by the Council the responsibility shall be on the Recorder-Treasurer to fulfill such responsibilities.

b) All monies collected as local wastewater impact fees, all funds held as local wastewater impact fees in the above-mentioned trust funds, all accounts created to hold the local wastewater impact fees and all refunds of unexpended local wastewater impact fees (including interest thereon) shall be by the duly elected/appointed City Recorder-Treasurer.

PASSED AND APPROVED this 8th day of June, 2009.



JOHN GRAY, Mayor

ATTEST:



DONNA CHEEVERS, Recorder-Treasurer