

ORDINANCE NO. 2013- 5

***AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
BELGRADE, MONTANA AMENDING TITLE 1 CHAPTER 8B
PART 13 OF THE BELGRADE CITY CODE REGARDING
IMPACT FEES***

PREAMBLE

WHEREAS, the City Council has determined that it is appropriate to amend Title 1 Chapter 8B Part 13 of the Belgrade City Code regarding impact fees to promote the health, safety and welfare of the citizens of Belgrade.

IT IS HEREBY ORDAINED by the City Council of the City of Belgrade, Montana, that Title 1 Chapter 8B Part 13 of the Belgrade City Code is hereby amended as follows:

Portions of the ordinance that are deleted are indicated by strikeout and portions that are added are underlined.

1-8B-13: Miscellaneous Provisions.

A. Interest Earned: Interest earned on monies in any impact fee fund shall be considered part of such fund, and shall be subject to the same restrictions on use applicable to the impact fees deposited in such fund.

B. Use of Funds: No monies from any impact fee fund shall be spent for operations or maintenance of any facility or to cure deficiencies in public facilities existing on the effective date of this chapter.

C. Project Improvements: Nothing in this chapter shall restrict the city from requiring an applicant to construct reasonable project improvements required to serve the applicant's project, whether or not such improvements are of a type for which credit is available under Section 3.10.120.

D. Records: The city shall maintain accurate records of impact fees paid, including the name of the person paying such fees, the project for which the fees were paid, the date of payment of each fee, the amounts received in payment for each fee, and any other matters that the city deems appropriate or necessary to the accurate accounting of such fees, and such records shall be available for review by the public during city business hours.

E. Annual Proposed Capital Improvement Program: At least once during each fiscal year of the city, the city manager shall present to the city council a proposed capital improvements program for the major street system, the city fire protection system, the city water and wastewater systems, and the city park system, and such capital improvements program shall assign monies from each impact fee fund to specific projects and related expenses for improvements to the type of facilities or services for which the

fees in that fund were paid. Any monies, including any accrued interest, not assigned to specific projects within such capital improvements program and not expended shall be retained in the same impact fee fund until the next fiscal year. The impact fee capital improvements program shall be adopted by the city council as a supplemental document to the city budget. The impact fee capital improvements program shall anticipate project expenditures and fund revenues for a five year period. The individual fee funds shall maintain a positive fiscal balance. The program may be amended by a majority vote of the city council.

F. Mistakes Or Misrepresentations:

1. Overpayments: If an impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by an applicant shall be refunded by the city to the applicant within thirty (30) days after the city's acceptance of the recalculated amount, with interest at the rate of five percent per annum since the date of such overpayment.
2. Underpayments: Any amounts underpaid by the applicant shall be paid to the city within thirty days after the city's acceptance of the recalculated amount, with interest at the rate of five percent per annum since the date of such underpayment.
3. City Error: In the event the underpayment is caused by an error attributed solely to the city, the applicant shall pay the recalculated amount without interest.
4. Issuance Of Additional Permits Or Approvals: In the case of an underpayment to the city, the city shall not issue any additional permits or approvals for the project for which the development impact fee was previously paid until such underpayment is corrected, and if amounts owed to the city are not paid within such thirty day period, the city may also repeal any permits issued in reliance on the previous payment of such impact fee and refund such fee to the then current owner of the land.

G. Update: ~~The impact fees described in this chapter and the administrative procedures and manual of this chapter~~ service area report for each public facility for which an impact fee is imposed shall be updated at least once every ~~two~~ five fiscal years to ensure that

1. The demand and cost assumptions underlying such fees are still valid;
2. The resulting fees do not exceed the actual cost of constructing improvements that are of the type for which the fee was paid and that are required to serve new development;
3. The monies collected or to be collected in each impact fee fund have been and are expected to be spent for improvements of the type for which such fees were paid; and
4. Such improvements will benefit those developments for which the fees were paid.

H. Judicial Action Or Proceeding: Any judicial action or proceeding to attack, review, set aside or annul the reasonableness, legality or validity of any impact fee must be filed within ninety (90) days following the date of imposition of the fee or the final determination of the city council, whichever is the later.

Passed by the City Council of the City of Belgrade, Montana, at regular session thereof held on the 20th day of May, 2013.

Russell C. Nelson, Mayor

ATTEST:

Phyllis Wernikowski, Director of Finance

Passed, adopted and approved by the City of Belgrade, Montana, on second reading at a regular session held on the 17th day of June, 2013.

Russell C. Nelson, Mayor

ATTEST:

Phyllis Wernikowski, Director of Finance