

Pursuant to the provisions of 24 V.S.A., Chapter 131, the City of Montpelier hereby ordains the following IMPACT FEE ORDINANCE, to be effective as of midnight, July 15, 1988:

- WHEREAS, as provided in Section 39 of No. 200 of the Acts of the 1988 Session of the Vermont General Assembly, the City of Montpelier is authorized to impose impact fees (as defined in 24 V.S.A. §5201(2)); and,
- WHEREAS, the City of Montpelier has adopted permanent zoning by-laws (Code of Ordinances, Chapter 15) and a subdivision ordinance (Code of Ordinances, Chapter 14); and,
- WHEREAS, the City of Montpelier is engaged in a planning process of which have been approved under 24 V.S.A. §4350; and,
- WHEREAS, the City of Montpelier has undertaken and completed studies and analyses of the costs of acquiring, constructing, operating and maintaining capital projects necessary to maintain levels of municipal service deemed sufficient for public health, safety, welfare and convenience, namely, public parks and recreational facilities, highways and traffic improvements, and schools, affordable housing; and
- WHEREAS, the City of Montpelier has taken into consideration those factors set out in 24 V.S.A., §5203 in establishing and assessing impact fees imposed hereunder; and,
- WHEREAS, the City of Montpelier desires to establish and assess impact fees under an ordinance to be adopted in accordance with 24 V.S.A., §§1971-1976, and Title VII of the Montpelier City Charter (1987);

NOW, THEREFORE, BE IT RESOLVED that Chapter 18 of the Montpelier Code of Ordinances is hereby added to read as follows:

CHAPTER 18

IMPACT FEES

ARTICLE I. ESTABLISHMENT OF IMPACT FEE.

For any development, construction or subdivision located within the City of Montpelier for which either a zoning or subdivision permit or approval, occupancy certificate, building permit, or site plan approval is required, there is hereby imposed an impact fee which will be computed and assessed in accordance with the formula and methodology set out in Appendix A hereto. The impact fee herein established, and the formula by which said fee shall be calculated, are hereby found and determined to reflect the cost of maintaining an appropriate level of service, consistent with the City Plan, to be provided by capital projects and expenditures resulting from development, construction and subdivision, and capital projects previously constructed or acquired.

Sec. 18-2. IMPACT FEE; MITIGATION.

In lieu of the fee imposed by Sec. 18-1 hereof, the City of Montpelier, acting by and through its City Council, may, but is not obligated to, accept comparable and equal off-site mitigation in the form of interests in real estate, the value of which shall be discounted to reflect the diminution thereof as a result of said real estate being exempt from taxation or of limited development potential.

Sec. 18-3. SEGREGATION OF FEES.

(a) All impact fees imposed and collected under Sec. 18-1 hereof shall be maintained in a segregated account and shall be used only to fund capital projects identified as related to the development for which the impact fees are collected. The City of Montpelier shall produce annually an accounting identifying the source of each impact fee, the amount thereof, and the capital project attributable thereto.

(b) All impact fees imposed and collected under Sec. 18-1 hereof, and all interest accretions, shall be expended only to fund those capital projects attributable to the impact fees imposed thereto.

Sec. 18-4. REFUNDS.

All applications for refund of any unexpended impact fees shall be made in writing to the City Council within six months of the sixth anniversary of the date upon which such impact fee was paid. Thereafter, any claim for refund shall be barred and of no force and effect.

Sec. 18-5. RESERVATION OF POWERS.

Nothing herein shall be construed to impair the ability of the City of Montpelier, acting by and through its City Council convened as Water and Sewer Commissioners, to enter into independent contracts for the provision, extension or maintenance of municipal water and sewer services, systems, and improvements; provided, however, that a reasonable proportion of the cost thereof attributable to and paid by any person otherwise subject to the impact fee imposed by Sec. 18-1 hereof shall be deducted from such impact fee.

Sec. 18-6. PAYMENT OF IMPACT FEES.

No zoning or subdivision permit or approval or building permit shall be issued until full payment of the impact fee imposed by Sec. 18-1 hereof shall be received in full by the City Treasurer; provided, however, that, with the prior consent of the City Council.

(ii) said fee may be paid in installments with the interest accruing at the maximum annual rate of interest allowed by law, to be secured by a recorded lien in favor of the City upon all lands made subject to such fee; or

(ii) The payment of said fee may be deferred until a date certain, together with the interest accruing at the maximum annual rate of interest allowed by law, to be secured by an approved bond, securities or letter of credit unconditionally in favor of the City.

Sec. 18-7. EFFECTIVE DATE.

This ordinance shall be effective with respect to all building, zoning and subdivision applications duly filed with the City of Montpelier on and after July 15, 1989.

Sec. 18-8. INCONSISTENT PROVISIONS.

This ordinance shall not be construed to repeal, modify or amend any existing ordinances of the City of Montpelier.

Sec. 18-9. VIOLATIONS; PENALTIES.

Any person commencing or undertaking development in the City of Montpelier without first complying with the provisions of this ordinance, including the payment of any impact fee imposed hereunder, shall be subject to a penalty, not to exceed \$500.00 per day for each day a violation of this ordinance continues in existence, to be recovered in a civil action commenced by and prosecuted in the name of the City. The penalty imposed in this section shall be in addition to any other penalty imposed by general law or ordinance, and shall not be in lieu thereof. In addition to the penalties provided for herein, the City shall have the power to enjoin and abate any violations of this ordinance.

Enacted June 28, 1989.

Amendment enacted December 13, 1989 [Impact Fee Schedule amended to institute a Traffic Impact Fee]. Date of Publication: 12/21/89. Effective Date: 12/27/89.