

**Chapter
1187**



Section 1187-1**Declarations**

- (a) The City Council of the City of Hilliard has determined that:
- (1) The City has a legitimate governmental interest in providing additional public facilities to meet projected public facilities demand generated by new development;
 - (2) Additional public facilities are necessary to provide for demand generated by new development;
 - (3) Additional public facilities will provide a benefit to new development by maintaining or increasing the existing level of service standard currently provided to City residents, employees and businesses;
 - (4) The respective public facilities development impact fees are necessary to offset the costs associated with providing future public facilities and services demand pursuant to development and growth projections;
- (b) The purposes and intent of this chapter are as follows:
- (1) To provide for the public facilities that will be needed to meet the demands created by new growth and new development taking place within the City of Hilliard, and to provide for a fair and equitable method to share the costs of such public facilities.
 - (2) To ensure that new development pays its proportionate and fair share of the cost of system improvements needed to serve the projected new development.
(Ord. 03-59. Passed 12-8-03.)
 - (3) To incorporate as one of the public facilities described herein, the Norwich Township Fire Department and the services it provides, in certain enumerated circumstances.
- (c) The City recognizes that the services of the Norwich Township Fire Department may be impacted by development of real property intended to be used for residential development when such real property is granted tax increment financing status by the City, or granted such other real property tax status resulting in the exemption or abatement of real property taxes, and therefore authorizes the City to allocate a portion of development impact fees collected on those types of new development, pursuant to the terms and conditions of this Chapter [1187](#), to the Norwich Township Fire Department, in such amounts and at such times as the City Council determines by resolution.
(Ord. 07-46. Passed 9-24-07.)

Section 1187-2**Payment of Impact Fees**

- (a) Amount of Impact Fee. The minimum impact fee charged under this chapter shall be five hundred dollars (\$500.00) for each building permit issued. Beginning April 1, 2006, the minimum impact fee charged under this chapter shall be one thousand five hundred dollars (\$1,500) for each building permit that is issued on and after April 1, 2006. For residential development, the impact fee is charged and payable for each residential housing unit multiplied by the number of residential housing units to be developed.
(Ord. 05-76. Passed 12-12-05.)
- (b) Payment of Impact Fee. Impact fees shall be paid by the applicant prior to the issuance of a building permit.
- (c) Failure to Pay Fee. The City may withhold the requested development approval or

development permit, including but not limited to a certificate of occupancy, or a building permit if no certificate of occupancy is required, until the development impact fee is paid in full. The City may withhold utility services to the applicable development project until the development impact fee is paid in full. The City may impose a lien for failure of the developer to make timely payment of a development impact fee.

(Ord. 03-59. Passed 12-8-03.)

- (d) Development Subject to Impact Fees. Only residential development is subject to the imposition of the development impact fee.

(Ord. 05-76. Passed 12-12-05.)

- (e) Development Not Subject to Impact Fees. The following structures and activities are exempt from the imposition of development impact fees:

- (1) Previously-issued building permits. No impact fee shall be imposed on land development for which a building permit has been issued prior to the effective date of this section. In the event that a building permit has been issued prior to the effective date of this section, but construction has not commenced within six months from the date of issuance of the permit, then the impact fee shall be imposed and paid prior to the issuance of an occupancy permit.
- (2) No net increase in dwelling units. No impact fee shall be imposed on any new residential development which does not add a new dwelling unit.
- (3) Other uses. No impact fee shall be imposed on a use, development, project, structure, building, fence, sign or other activity, whether or not a building permit is required, which does not result in an increase in the demand for capital improvements.

(Ord. 03-59. Passed 12-8-03; Ord. 05-76. Passed 12-12-05.)

Section 1187-3

Refunds

- (a) Expiration or Revocation of Building Permit. An applicant who has paid an impact fee for a land development for which the necessary building permit has expired or for which the building permit has been revoked prior to construction shall be eligible to apply for a refund of impact fees paid on a form provided by the City for such purposes.
- (b) Abandonment of Development After Initiation of Construction. An applicant who has paid an impact fee for a new land development for which a building permit has been issued and pursuant to which construction has been initiated, but which construction is abandoned prior to completion and issuance of a certificate of occupancy, shall not be eligible for a refund unless the uncompleted building is completely demolished.
- (c) Administrative Fee. A fee of ten percent of the amount to be refunded, which shall not exceed Fifty Dollars, shall be deducted from the amount of any refund granted and shall be retained by the City in the appropriate impact fee account to defray the administrative expenses associated with the processing of a refund application.
- (d) Time Period For Filing Applications For Refund. Applications for refunds under divisions (a) or (b) of this Section shall be filed within sixty (60) days following expiration or revocation of the building permit or demolition of the structure. Failure to apply for a refund within sixty (60) days following expiration or revocation of the building permit or demolition of the structure shall constitute a waiver of entitlement to a refund. No interest shall be paid by the City in calculating the amount of the refunds.

(Ord. 03-59. Passed 12-8-03.)

Section 1187-4 Appeals

- (a) Appeals. An appeal from any decision of a City official pursuant to this Chapter shall be taken to the City Board of Zoning Appeals by filing a written appeal pursuant to the appropriate City form with the City Clerk within thirty (30) days following the decision which is being appealed. The burden of proof shall be on the appellant to demonstrate that the decision of the City is erroneous. All appeals shall detail the specific grounds therefor and all other relevant information and shall be filed on a form provided by the City for such purposes.
- (b) Letter of Credit. If the notice of appeal is accompanied by an irrevocable letter of credit in a form satisfactory to the Law Department and the Finance Director in an amount equal to the impact fee calculated to be due, a building permit may be issued for the new land development. The filing of an appeal shall not stay the imposition or the collection of the impact fee as calculated by the City, unless a bond or other sufficient surety has been provided.

(Ord. 03-59. Passed 12-8-03.)

Section 1187-5 Waivers

- (a) Filing of Application. An application for a waiver of the provisions of this Chapter or waivers from specific impact fees shall be filed with City Council on forms provided by the City.
- (b) Effect of Grant of Waiver. If the City Council grants a waiver in whole or in part of impact fees otherwise due, the amount of the impact fees exempted or waived shall be provided by the City from non-impact fee funds, as may be provided in the particular impact fee ordinances establishing such fees for particular capital improvements, and such funds shall be deposited to the appropriate impact fee account within a reasonable period of time consistent with the applicable City capital improvements program.

(Ord. 03-59. Passed 12-8-03.)

Section 1187-6 Requirements for Open Space Preservation and Land Dedication For Recreation Facilities

- (a) *Open Green Space Requirement for Single-family and Multi-Family Residential Sites*. This Section applies to all residential developments in the City unless provided otherwise in this code.
- (1) Upon the submission of a preliminary plat or development plan for a proposed residential subdivision/development, the applicant shall reserve on said preliminary plat and/or development plan, areas reserved as open green space for use and enjoyment by residents of the development or new dwelling units. The applicant shall reserve a minimum of ten percent (10%) of the gross land to be developed to meet the City's open space requirement, which shall be located and designed in a manner ensuring accessibility to all residents within the residential development. Developments within a Planned Unit Development shall be governed by Chapter 1117.04(C) for open space requirements.
- (2) Said reservation shall be exclusive of existing streets, parking areas, land to be dedicated as right-of-way on the site, private and public roads, highways, sidewalks and private yards within subdivided lots. While the City encourages the construction of bike paths in new residential

developments, the land used for such purpose cannot be counted toward meeting the open green space reservation requirement.

- (3) The reserved land can include areas that are incorporated into the developer's overall plan for aesthetic purposes, woodlands, natural and preserved lakes or ponds, tree stands or areas reserved as green space in the plat or plan submitted, unless excluded in (a)(2) above.
- (4) Land reserved for open green space hereunder shall not be dedicated nor conveyed to the City of Hilliard and shall not be deemed public parks. The owner/developer of said land(s) shall at all times own said property and shall be responsible for maintaining the open green space in compliance with all city codes. Legal instruments setting forth the ownership and perpetual maintenance of the required reserved open space by the developer, homeowner's association or similar entity shall be submitted to the Law Director for review and approval.

(b) *Land Dedication for Recreational Facilities.* The provisions of this subsection (b) apply to all residential development, including those for which new dwelling units are developed. The requirements set forth herein are exclusive of and in addition to the open green space requirements defined in subsection (a) above. This Section applies to all residential developments in the City unless provided otherwise in this code.

- (1) The City's goal is to provide ten (10) acres of developed and usable parkland or recreational areas for every one thousand (1,000) residents and to create an appropriate mix of recreational facilities in order to meet the needs of the City's citizens. The formulas below were developed to assist the City in meeting this goal and planning appropriately for the parks and recreational needs of new residential developments.
- (2) The parkland dedication requirement of this section (b)(2) shall be computed as follows for all single-family and for multi-family residential developments, including those in which new dwelling units are developed:
 - A. Determine the number of proposed residential dwelling units as shown on the preliminary plat and/or the development plan submitted by the owner/developer.
 - B. Multiply the number of proposed units times 3.5 for single family housing. For multi-family units, use a figure of one (1) occupant per bedroom in the residential unit. For age restricted units targeted towards residents aged 55 and over, use a figure of 1.5 occupants per residential unit.
 - C. Divide the figure determined in subsection (2)(B) above by one thousand (1,000).
 - D. Multiply the figure determined in subsection (2)(C) above by ten (10). This figure represents the amount of acreage that must be reserved on the plat/development plan at the time of submission to the City in order to satisfy the Recreational Facilities Land Dedication requirement of this section for single-family and multi-family residential developments.
- (3) Land to be dedicated under this subsection (b) shall not include any street, road, highway, sidewalk, storm water management facilities, or storm water retention or detention areas.
- (4) In determining whether the land proposed by the developer is suitable to meet the parkland and recreation requirements herein, the characteristics stated in (c)(3)(A)-(G) below shall be

considered by the approving entity.

(c) *Payment in Lieu of Dedication.* Every owner/developer who files with the Planning Commission, or other entity as permitted by the Code, any application for residential development of land, or for the development of new dwelling units, within the City shall dedicate a portion of such land (as set forth above in section (b) above) for parkland and recreational purposes. However, the City may authorize the developer to pay a fee-in-lieu of land dedication, as set forth in this section (c), for the purpose of providing park and recreation facilities to serve primarily future residents of the proposed subdivision/dwelling(s).

- (1) the City's Planning Department and the Planning and Zoning Commission shall forward a recommendation to City Council regarding whether the owner/developer shall dedicate land (on and/or off-site), pay a fee-in-lieu of dedication, provide for off-site recreational amenities to the City, or provide a combination of any of these options that result in a value to the City of not more than the total amount of the fee-in-lieu of payment that would be required to be made by the Developer to the City.
- (2) Planning and Zoning Commission's recommendation shall be made during review of the initial development plan for the property. Insofar as practicable, the determination of the Planning and Zoning Commission shall be compatible with the City's most recent Recreation and Parks Master Plan, if that Plan is not more than ten (10) years old, or compatible with the City's current five-year Capital Improvement Plan for the Department of Recreation and Parks. .
- (3) In making the determination required in (c)(1) above, City staff, the Planning and Zoning Commission and the City Council, shall consider the following criteria:
 - A. Suitability of soils and geology for the proposed use;
 - B. Suitability of topography and drainage for the proposed use, with no more than forty percent (40%) of the dedicated land comprised of environmentally sensitive areas and no more than fifty percent (50%) of the dry ground exceeding three percent (3%) grade or the remaining dry ground exceeding five percent (5%) grade, unless it is determined that such areas would be of unique natural or environmental value for future subdivision residents;
 - C. Adequacy of the configuration of each proposed area, with preference given to one contiguous parcel sufficiently geometric to be usable for active and/or passive recreational pursuits, or, if the proposed dedication is located so that it could create a contiguous recreation area when combined with a neighboring parcel at the time of conveyance or in the near future;
 - D. Adequacy of the location of the dedicated land within the subdivision relative to its centrality, proximity to all residents, and pedestrian accessibility;
 - E. Extent of natural vegetation and tree cover, with priority given to the preservation of wooded areas and other natural features of scenic beauty which will add attractiveness and value to the dedicated land;
 - F. The degree and quality of vehicular and non-vehicular access provided to the public to use the land, and for land maintenance purposes.
 - G. The availability of existing recreation and parkland areas within one mile of the proposed development.
- (4) Should City Council deem that the proposed dedication, or a portion thereof, does not significantly contribute to meeting the Recreational and Parks Planning goals of the City or finds the land unsuitable to use as parkland or for recreational facilities for reasons stated in (c)(3)(A) through (G) above, the City shall require the developer of the residential development or new dwelling units to pay to the City, prior to issuance of a building permit, an amount equal to the appraised per acre value of Developer's land to be developed, as established by an

MAI certified appraiser, who is acceptable to the City and whose services are paid for by the Developer. If the land is being rezoned as part of its application to the Planning and Zoning Commission, the land shall be appraised using a post-rezoning per acre value.

- (5) If the City disagrees with the per acre appraised value provided by the appraiser, the City shall have the right to engage one or more additional MAI appraisers, at its cost, to provide one or more additional appraisals. Should the developer disagree with the value placed on such parcel by the appraiser, the Developer shall have the right to engage additional MAI appraisers at its cost to provide additional appraisals. The City may at its option accept as payment the average per acre value of appraisals obtained by the City and the Developer.
 - (6) The per acre amount to be paid by the Developer as a fee-in-lieu of parkland dedication shall be documented in the zoning ordinance or resolution for the Development, or in a Developer's Agreement entered into with the City.
 - (7) Any such fee in lieu of payments to the City must be made prior to the issuance of a building permit, in cash or surety bond assuring future performance, and shall be deposited in the City's Park Capital Improvement Account. The City shall plan to expend all or part of the funds, no later than issuance of the occupancy permit for the last residential unit developed, for the acquisition, development and improvement of park and recreational facilities within approximately one (1) mile of the exterior boundary of the subdivision or development that the funds are meant to benefit, or within a further distance if such parkland and/or recreational facility will benefit the development and is planned for use by, and is likely to be used by, the residents thereof, as determined by the Director of Recreation and Parks.
- (d) *Construction of Recreational Asset/Amenity/Facility.* City Council may, should it deem necessary and/or appropriate, permit a developer to construct a recreational asset, amenity and/or facility as long as the actual cost does not exceed the total value of the land that would be donated or the payment in lieu amount, or combination thereof, that would be paid under this Chapter. Once constructed to the City's specifications, the developer shall convey to the City, by sufficient deed, good and marketable title to the real estate described in such deed, free and clear of all liens and encumbrances, and all title to the recreational asset, amenity or facility constructed, if constructed or installed on land other than the Developer's property being developed. The City shall maintain such recreational asset, amenity or facility once purchased, constructed, installed or conveyed to the City. In addition, Council may determine whether the owner/developer shall dedicate land (on and/or off-site of the development), pay a fee-in-lieu of dedication, provide for on or off-site recreational amenities to the City, or provide a combination of any of these options, that result in amounts paid or costs incurred by the Developer of not more than the total amount of the fee-in-lieu of payment that would be required to be made by the Developer to the City.
- (e) *Hardship Cases.* In the event that the owner/developer can demonstrate by a preponderance of evidence that the application of the provisions discussed in subsections (b), (c), or (d) above would prevent the owner/developer from undertaking and completing the proposed development project, then such owner/developer may request a waiver or modification from City Council of the imposition of some or all of subsections (b), (c), and (d) above. In any approval thereof, Council shall make findings consistent with its determination that such hardship exists and warrants a deviation or waiver from this code requirement.