

**TOQUERVILLE CITY
ORDINANCE.2017.05**



AN ORDINANCE TO AMENDING AND AUGMENTING TITLE 8, CHAPTER 5, TO CREATE AN IMPACT FEE ADJUSTMENT OR WAIVER FOR PROPERTY OWNERS WHO ARE SERVICE CONNECTED DISABLED VETERANS OF THE UNITED STATES.

RECITALS

WHEREAS, Toquerville City, as municipal corporation and political subdivision of the State of Utah (“City”), has authority pursuant to its constitutionally granted police powers, to protect the health, safety and general welfare of the residents of the City; and

WHEREAS, the Toquerville City Council (“City Council”) is the governing body of the City.

WHEREAS, the City, by and through its City Council has adopted Impact Fees pursuant to the Utah Impact Fee Act (Utah Code Ann. Title 11, Chapter 36a) to be assessed to new development to help construct and pay for additional public infrastructure, the need of which, is caused by said new development, including impact fees for culinary water, streets & drainage facilities, parks and trails (“Toquerville Impact Fees”).

WHEREAS, the Toquerville Impact Fees and all associated regulations thereof are codified in Title 8, Chapter 5 of the Toquerville City Code (“Toquerville Code”).

WHEREAS, notwithstanding the need to finance and construction additional public infrastructure, to keep pace with new development, the City would also like to be sensitive to, and thank, those individual property owners within the City who are disabled on account of their service to our Country in the military.

WHEREAS, as a show of gratitude for those who have physically as well as emotionally given part of themselves to protect our freedoms the City Council has determined that it is in the best interest of the health, safety and general welfare of the City and its residents to create a framework under which said individuals can have their Toquerville Impact Fees either reduced or waived.

ORDINANCE

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of Toquerville City, State of Utah, as follows:

1. AMENDMENT. Title 8, Chapter 5, Section 7 of the Toquerville Code is hereby amended, expanded and restated in its entirety as follows:



8-5-7: FEE EXCEPTIONS AND ADJUSTMENTS

- A. **Waiver For Public Purpose:** The City Council may, on a project by project basis, authorize exceptions or adjustments to the impact fees due from development for those projects the City Council determines to be of such benefit to the community as a whole to justify the exception or adjustment. Such projects may include facilities being funded by the state, school districts, charter schools, low-income housing projects, or facilities of a temporary nature. The city council may elect to waive or adjust impact fees in consideration of economic benefits to be received from the development activity.
- B. **Waiver for Disabled Veterans.** Upon application by a service-connected disabled veteran, and upon proof of such disability to the satisfaction of the City, the City may reduce or waive all applicable impact fees by the same percentage as the permanent disability suffered by the applicant, as that percentage is determined by the US Department of Veterans Affairs.
- C. **Procedures:** Applications for exceptions or adjustments are to be filed in writing with the City at the time the applicant first requests the extension of service to the applicant's development or property. The application shall include whatever information and documentation the applicant deems necessary for the City to determine that the basis for the exception or adjustment exists and is warranted. Once the application and all supporting documentation has been submitted the City Council will consider the request at its next regularly scheduled meeting where action on other agenda items will be officially taken by the City Council.
- D. **Non-Retroactive Application.** The exceptions or adjustments prescribed in Subsections 8-5-7(A) and (B) above may not be applied for retroactively if a property owner has already paid impact fees for the development of their property.

2. **REPEALER.** This Ordinance shall repeal and supersede all prior ordinances and resolutions governing the same.

3. **SAVINGS CLAUSE:** If any provision or clause in this Ordinance or the application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications hereof which can be implemented without the invalid provision, clause, or application hereof, and to this end the provisions and clauses of this Ordinance are declared to be severable.

4. **EFFECTIVE DATE.** This Ordinance shall take effect immediately upon approved by the City Council.



VOTE TALLY

Keen Ellsworth	Aye <u>X</u>	Nay _____
Brad Langston	Aye <u>X</u>	Nay _____
Ty Bringhurst	Aye _____	Nay <u>Absent</u>
Paul Heideman	Aye <u>X</u>	Nay _____
Mark Fahrenkamp	Aye <u>X</u>	Nay _____

TOQUERVILLE CITY
a Utah municipal corporation

Date:



M. Darrin LeFevre, Mayor

June 8th, 2017

Attest:



Dana M. McKim, City Recorder

