



**TOWN OF MILLIKEN
TOWN BOARD
AGENDA MEMORANDUM**

To: Mayor Woodcock and Board of Trustees From: Caree Rinebarger, Building Technician Via: Kent Brown, Town Administrator	Meeting Date: Wednesday, May 25, 2016
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Agenda Item #	Action:	Discussion:	Information:
	X		
Agenda Title: Ordinance 729 Amending Chapter 18, Article 1 of the Milliken Municipal Code Regarding the Payment of Fees.			
Attachments: Ordinance 694 Ordinance 613			

PURPOSE

To amend the Municipal Code allowing for the deferral of certain building permit and cash-in lieu fees related to new construction.

BACKGROUND

The Town collects fees related to the issuance of building permits for new construction, in addition to providing for the payment of a Cash-in-Lieu Fee for raw water when water is not provided by the property owner or builder. In an effort to mitigate the cash burden on builders and property owners during construction, Town Staff requested the Town Board to consider deferring the Cash-in-Lieu Fee in a manner similar to the current practice of deferring water and sewer tap fees, as has been the practice since the adoption of Ordinance 613, in 2009. During Work Session discussions, the Town Board went further by suggesting that the Town also offer to defer impact fees, which do not theoretically take effect until the issuance of a Certificate of Occupancy (CO). Ordinance 694 was drafted and passed on April 23, 2014 to reflect this intent, while minimizing the risk to the Town with regards to (1) Building Permit Fees, which are collected to fund the cost of ongoing building inspections and are not deferred and, (2) further fluctuations in the price of C-BT water units, which will be borne by the builder/property owner requesting the deferral by setting the amount of Cash-in-Lieu fee to be paid as of the date of payment.

BUDGET IMPLICATIONS

This Ordinance does not, in itself, have any implications for the Town Budget. It does not reduce fees, but simply defers them. The Town currently has sufficient cash flow and reserves to absorb the effect of the deferral.

STAFF RECOMMENDATION

Staff recommends that the Board approve Ordinance 729 to demonstrate to the building community that the Town is sensitive to its needs and continues to encourage building activity in Milliken, while preserving the financial security of the funds entrusted to the Town by the taxpayers.

POSSIBLE MOTION

“I move to adopt Ordinance 729 Amending Chapter 18 of the Milliken Municipal Code by Amending Article 1 regarding the payment of fees.”

ORDINANCE NO. 729

AN ORDINANCE AMENDING CHAPTER 18, ARTICLE 1, OF THE MILLIKEN MUNICIPAL CODE BY AMENDING SECTION 18-1-30 REGARDING PAYMENT OF FEES AND DECLARING AN EMERGENCY.

WHEREAS, the Town of Milliken Municipal Code establishes rules and regulations for the payment of building, development, and cash-in-lieu of raw water fees for new development; and

WHEREAS, the Town Board of Trustees recognizes that building, development, and cash-in-lieu raw water fees are a significant component of the total cost of new construction; and

WHEREAS, the timing of the payment of building, development, and cash-in-lieu of raw water fees can have an effect on new construction activity; and

WHEREAS, Ordinance 613, dated October 14, 2009, previously established a provision for the deferral of water and sewer tap fees, and

WHEREAS, Ordinance 694, adopted on April 29, 2014, previously established a provision for the temporary deferral of certain development and impact fees associated with building permit until issuance of certificates of occupancy with an expiration date of April 23, 2016; and

WHEREAS, the Town Board of Trustees of the Town of Milliken desires to amend Ordinance 694, as codified in Section 18-1-30 of the Town Municipal Code, to remove the expiration date for deferral of certain fees and to make other modifications as set forth in this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, WELD COUNTY, COLORADO:

Section 1:

Section 18-1-30 of the Milliken Municipal Code, "Payment of Fees" is repealed in its entirety and reenacted to read as follows:

Section 18-1-30. Payment of Fees.

- (a) The fees required in Sections 13-2-330 (cash in lieu of raw water units), 18-1-10 (capital improvement fees for residential development), and 18-1-20 (capital improvement fee for commercial and industrial development) of the Milliken Municipal Code shall be paid at the time a building permit is issued, unless deferred at the option of the property owner or property owner's authorized agent subject to the following conditions:

1. All Building Permit Fees, Administration Fees, Taxes, Construction Meter, and School Fees shall be paid at the time the building permit is issued.
2. An administrative deferral fee of \$125.00 shall be paid at the time the building permit is issued to cover the cost of the Town's administration of the payment deferral.
3. The property owner or the property owner's authorized agent shall pay any associated fees as required by the Town, and the Town, at its sole discretion, may file a lien against the property for the amount of any and all fees deferred. Such lien shall be against the parcel or lot for which fees were deferred and shall have priority over all liens except general taxes and prior special assessments.
4. All fees deferred shall be payable prior to and as a condition precedent to issuance of a Certificate of Occupancy, or no later than twelve (12) months from the date the building permit is issued, whichever comes first. All deferred fees shall be paid at the then-adopted rates currently in effect at the time the fees are paid. No property or lot shall be conveyed or transferred for which deferred fees have not been paid in full.
5. If the deferred fees are not paid in full at the end of the deferral period as specified in subparagraph 4 above, no Certificate of Occupancy shall be issued, nor shall the building be occupied or used, and a penalty assessment shall be charged at the rate of fifteen percent (15%) per annum on the unpaid balance retroactive to the date the deferral was granted. Further, the Town may collect the unpaid fees by foreclosing the lien filed pursuant to subparagraph 3 above, and the lien may be certified by the Finance Director to the Weld County Treasurer to be placed upon the tax list for the current year, to be collected in the same manner as other taxes are collected, with a 10 percent (10%) penalty to defray the cost of collection, as provided by state law. (C.R.S. § 31-20-105)
6. If the property owner or property owner's authorized agent has previously not timely paid the deferred fees for any property as required by subparagraph 5 above, or allowed a building on any property to be used or occupied prior to the issuance of a Certificate of Occupancy and without paying all deferred fees, such property owner shall be forever barred from deferring fees on any future building permit for any property, regardless of a change of business name or ownership of the property owner or agent. In addition, the Town may withhold building permits to any property owner currently in default under this Section, notwithstanding any lien the Town has filed on a particular property or lot.
7. Subject to the provisions of subparagraph 6 above, the property owner may authorize, in writing, an agent for the property owner regarding authorization to enter into the deferral of fees permitted by this Section. Any authorized agent of the property owner is subject to all the terms and conditions of this Section. Any

authorized agent of the property owner shall only be accepted upon the property owner's written authorization on forms provided by the Town. In any and all events, the property owner remains fully liable to the Town for the payment of all fees and taxes deferred, including, but not limited to penalties and interest, and shall pay the required fee in order to obtain a Certificate of Occupancy and/or to remove the lien from the property.

- (b) The fee deferral program set forth in subsection (a)(1)-(7) above applies to residential property only.

Section 2: Codification.

The Town Clerk is hereby directed to work with the Town's Municipal Code codifier to ensure that the provisions of this Ordinance are included in the next codification of the Milliken Municipal Code.

Section 3: Emergency.

The Board of Trustees finds that this Ordinance is necessary to the immediate preservation of the public health and safety because it will encourage new development to continue with the ability to defer impact and development fees until issuance of certificate of occupancy. It is in the best interest of the Town to foster new development while maintaining its philosophy of development paying its own way.

Section 4: Severability.

If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

Section 5: Repeal.

Existing or parts of ordinances covering the same matters as embraced in this Ordinance of the Milliken Municipal Code are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 6: Effective Date.

As an emergency measure, this Ordinance shall become effective immediately upon

adoption as provided in C.R.S. § 31-16-105.

Introduced, read, **adopted as an emergency by an affirmative vote of three-fourths of the members of the Board of Trustees**, signed and ordered published in full by the Board of Trustees of the Town of Milliken this ___ day of _____, 2016.

TOWN OF MILLIKEN:

ATTEST:

Mayor, Beau Woodcock

Town Clerk, Cheryl Powell

Approved as to form:

Published:

Linda Michow, Town Attorney

_____, 2016