

EXHIBIT A

§ 155.03 WATER AND WASTEWATER IMPACT FEES.

The provisions of this section shall apply to all of the territory within the jurisdiction of the City of Tontitown and areas outside of the City's jurisdiction where the City provides water and wastewater service.

(A) Definitions

When used in this section, the terms listed below shall have the following meanings unless the context requires otherwise. Singular terms shall include their plural.

“City” means the City of Tontitown, Arkansas or its authorized representative.

“City Council” means the governing body of the incorporated City of Tontitown.

“Eligible Improvements” means improvements that enhance the capacity of the water or wastewater system, including planning, engineering, acquisition, construction, and interest on debt incurred to finance capital improvements, but does not include the operation, maintenance, replacement, or repair of existing improvements. Eligible improvements do not include water distribution lines of less than 12 inches in diameter, wastewater gravity lines of less than 8 inches in diameter, or wastewater force mains of less than 6 inches in diameter. A replacement of an existing improvement or facility with a new improvement or facility of greater capacity shall be partially eligible based on the increase in capacity.

“Technical Report” means the “City of Tontitown Water and Wastewater Impact Fee Study” prepared by Duncan Associates in March 2023, or a subsequent similar study, which serves as the basis for the calculation of the water and wastewater impact fees and is hereby adopted and incorporated by reference.

“Wastewater System” means the set of eligible wastewater collection facilities owned and operated by the City and the City’s share of the regional wastewater conveyance and treatment facilities owned and operated by the Northwest Arkansas Conservation Authority.

“Water System” means the set of eligible water distribution facilities owned and operated by the City and the City’s share of the regional water supply, treatment, and transmission facilities owned and operated by the Benton Washington Regional Public Water Authority.

(B) Fee Assessment and Collection

(1) No water meter shall be installed or wastewater connection made until the applicable water and wastewater impact fees have been paid based on the size of the water meter according to the following schedule. These represent 15 percent of the maximum

fees calculated in the Technical Report. The fees will be adjusted annually to account for cost inflation, as provided in subsection (B)(2).

<u>Meter Size</u>	<u>Water</u>	<u>Wastewater</u>
5/8" x 3/4"	\$989	\$1,052
1"	\$2,967	\$3,155
2"	\$9,891	\$10,517

(2) To account for cost inflation, effective July 1 of each year following the year of adoption, the impact fees shall be multiplied by the ratio of the *Engineering News-Record's* Construction Cost Index for the most recent month for which it is available to the index for the same month from the previous year. If the cited index is no longer available, an equivalent index shall be used. The calculation and assessment of the inflation-adjusted fees shall be done administratively, and shall not require approval by the City Council.

(3) In the event of the replacement of an existing water meter with a larger one, the applicable impact fee shall be the difference between the fees for the two meter sizes.

(4) In the event that the proposed water meter size is not shown in the schedule set forth in subsection (B)(1) above, the City shall calculate the appropriate impact fee using the same methodology used in the Technical Report.

(5) No wastewater impact fee shall be assessed for meters that are dedicated exclusively for irrigation purposes.

(6) The amount of the fees due will be net of the value of available credits pursuant to subsection (E) requested at time of payment.

(C) Accounting and Expenditure of Funds

(1) For both water and wastewater, a special interest-bearing impact fee account that is distinct from the general fund of the City is created, and the impact fees received shall be deposited in the special account, along with accrued interest. No other revenues or funds shall be deposited in the impact fee account.

(2) The funds in the water and wastewater impact fee accounts shall be used only for the following purposes:

(a) to acquire or construct Eligible Improvements;

(b) to pay debt service on the portion of any current or future general obligation bond or revenue bond used to finance Eligible Improvements and attributable to excess capacity available to serve new water or wastewater customers;

(c) to pay fees to an independent qualified professional, who is not an employee of the City, for the preparation or updating of the Technical Report; or

(d) to make refunds pursuant to subsection (D).

(3) The City shall maintain accurate records of each impact fee paid, including the name of the person paying the fee, the tax parcel number and address for which the fee was paid, the date of payment, and the amount received in payment.

(D) Refunds

(1) Fees not spent within seven (7) years after the date on which the fee was paid shall be eligible for refund according to the following provisions. Money in each impact fee account shall be considered to be spent in the order collected on a first-in/first-out basis.

(2) A refund shall be paid to the present owner of the property that was the subject of new development and against which the fee was assessed and collected.

(3) Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the present owners of the property no later than thirty (30) days after the date on which the refund becomes due.

(4) The sending by regular mail of the notices to all present owners of record shall be sufficient to satisfy the requirement of notice.

(5) The refund shall be made on a pro rata basis.

(6) The refund shall be paid in full not later than ninety (90) days after the date certain upon which the refund becomes due.

(E) Credits

(1) An applicant may obtain credit for up to 100 percent of impact fees otherwise due or to become due by offering to dedicate land and/or construct Eligible Improvements. To receive a credit, applicants must file an impact fee credit application and provide required information and documentation as required by this section or as determined necessary by the City. Any claim to utilize credits must be made no later than the time of payment of the impact fee. Credits shall expire if not used within seven (7) years of the date of creation. Credits shall only be available for use against fees otherwise due for the development project for which the dedication or improvement is made, and shall not be transferrable to another development project, unless otherwise provided in the credit agreement.

(2) An offer to make capital improvements or dedicate land in lieu of paying impact fees shall be made in an application filed with the City identifying the capital improvements and/or land dedications for which credits are requested. The applicant shall specify the dollar amount of the credit requested. The credit claimed by the applicant as the basis for the credit requested shall be no more than fair market value as determined by the City. It

is the obligation of the applicant to submit documentation to the satisfaction of the City that supports the amount of the credit requested and indicates the basis on which the amount requested was calculated.

(3) If the City accepts such an offer, the credit shall be determined and provided in the following manner.

(a) The City shall determine credits for the dedication of land on the following values: 115 percent of the most recent assessed value for purposes of property taxation; or at the option of the applicant, by fair market value determined by the City, based on an appraisal accepted by the City.

(b) The City shall determine credits for the construction of a capital improvement from the engineering criteria and construction cost estimates as provided by the applicant and accepted by the City.

(4) Once the City has made a credit determination, a credit agreement shall be provided to the applicant. The applicant shall sign and date the agreement and return the document to the City, which shall be binding on the applicant as to the terms and conditions of the credit.

(5) Once the amount and terms of the credit are determined, credits for land dedication will be provided following delivery of a fully executed deed or other appropriate conveyance document, and acceptance of the dedication by the City Council. Credits for construction will be made upon completion in compliance with all applicable local state and federal design specifications, laws and regulations and acceptance by the City Council.

(6) Any person who offers land and/or improvements in exchange for credits may withdraw the offer of dedication at any time prior to the transfer of legal title to the land or improvements in question and pay the full impact fees required by this section.

~~(G) — Exceptions~~

~~The following types of development shall be exempted from payment of water and wastewater impact fees. Any claim for exemption shall be made not later than the time when the applicant applies for the first water or wastewater connection permit for the proposed development that creates the obligation to pay the local impact fees. Any claim for exemption not made at or before that time shall have been waived. The City Council or designee shall determine a validity of any claim for exemption pursuant to the standards set forth below:~~

~~(1) — Reconstruction, expansion, or replacement of a previously existing residential unit that does not create any additional residential units or installation of a larger wastewater meter.~~

~~(2) — The replacement of a destroyed or partially destroyed non-residential building or structure with a new non-residential or structure of the same use as the original structure and with no more than a five percent (5%) increase in floor area from the original structure and no increase in the size or number of waste meters.~~

~~(3) — Construction of unoccupied accessory structures related to a residential unit.~~

~~(4) — Developments built by the federal government and the State.~~

~~(5) — Public Schools.~~

~~(6) — Construction within a duly established redevelopment district or improvement district for which the local impact fees have specifically been waived by resolution of the City Council prior to commencement of the improvements.~~

~~(7) — Such other economic or community development projects for which the local impact fees have specially been waived by resolution of the City Council prior to commencement of the development.~~

(GH) Appeals

Any determination made by an official of the City charged with the administration of any part of this ordinance may be appealed to the City Council by filing with the Clerk within fifteen (15) days of the date of the determination being appealed: (1) a written notice of appeal on a form provided by the City, (2) a written explanation of why the appellant feels that a determination was in error, and (3) an appeal fee established by the City, if any. The City Council shall promptly fix a time and place for hearing the appeal, and the City Clerk or designee shall mail notice of the hearing to the appellant at the address given in the notice of appeal by first-class mail postage prepaid. The hearing shall be conducted at the time and place stated in such notice given by the City Council. The determination of the City Council shall be the final administrative determination of the City.

(H) Effective Date

The provisions of this section shall be effective on and after August 16, 2023.