

TOWNSHIP OF MILLBURN
ORDINANCE NO. 2654-23
ORDINANCE TO AMEND THE MILLBURN TOWNSHIP CODE TO PROVIDE FOR THE ASSESSMENT
OF FEES FOR THE CONNECTION OF SEWERAGE FACILITIES TO THE MUNICIPAL SANITARY
SEWERAGE SYSTEM OF THE TOWNSHIP OF MILLBURN

***STATEMENT OF PURPOSE:** the purpose of this Ordinance is to revise language in the Township's Connection Fee Ordinance to increase the fee for the basic connection charge from \$1,800 to \$2,100, in accordance with the formula set forth in the State Statute.*

WHEREAS, the Township of Millburn owns and operates a sanitary sewerage system for the collection of wastewater for transmission to sewerage treatment facilities of the Joint Meeting of Essex and Union Counties and for ultimate discharge to the Waters of the State; and

WHEREAS, the Township of Millburn has expended substantial public funds to construct, operate, maintain, renew, replace and improve the municipal sewerage system consisting of sewer lines, mains, pumping and ventilating stations, works, connections and other real and personal property and appurtenances for the collection and disposal in a sanitary manner of any wastewater, including residential and/or non-residential wastewater, originating within and without the Township; and

WHEREAS, the maintenance of the municipal sewerage system in proper functioning condition, and the repair and replacement of the same as needed, foster public health and safety in the Township and areas outside of the Township served by the municipal sewerage system; and

WHEREAS, the statutes and regulations of the State of New Jersey, including N.J.S.A. 40A:26A-11, as well as other applicable laws, provide for the mandatory connection of properties lying within the Township to the municipal sewerage system and the authority to assess a connection charge therefor calculated in accordance with the aforesaid statute, for the purpose of recovering from new connectors, and connectors that materially increase the level of use and impose a greater demand on the sewerage system, a fair payment towards the cost of the system heretofore paid for by the current and prior connectors; and

WHEREAS, the statutes and regulations of the State of New Jersey, including N.J.S.A. 40A:26A-11, require that the connection fee shall be recomputed at the end of each budget year, after a public hearing is held; and

WHEREAS, a study re-computing the Millburn Sewer Connection Fee has been undertaken by Kelly Engineering, entitled, *2023 Sewer Connection Fee*, October, 2023, which study supports the establishment of an "Equivalent Single Family Dwelling Unit" or ("ESFDU") as having a flow equivalency of 250 gallons per day and which has calculated a connection fee, based upon the cumulative capital expenditures, in the amount of \$2,100.00 per ESFDU; and

WHEREAS, due to changes in the law governing the assessment of connection fees at N.J.S.A. 40A:26A-11.1, N.J.S.A. 40A:26A-11.2 and N.J.S.A. 40A:26A-11.3, it has become necessary that the Township Committee revise and amend The Revised General Ordinances of the Township of Millburn, Chapter IX – "Building and Housing," Section 9-1.6 entitled "Connection Fees."

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Millburn in the County of Essex and State of New Jersey as follows:

Section 1. The Revised General Ordinances of the Township of Millburn, Chapter IX – “Building and Housing” Section 9-1.6(d) entitled “Connection Fees” is hereby amended to read as follows:

(d) Connection Fees

The connection fee shall be paid on or before the Connection Fee Payment Date for connection directly to (1) an existing sewer line within the Township presently operated and maintained by the Township, (2) any sewer line constructed by the Township as a capital project, or otherwise, or (3) any sewer line constructed by a developer as an on-site, on-tract, off-site or off-tract improvement in conjunction with the development of a subdivision or site plan (including those units constructed by a developer in conjunction with a subdivision or site plan where the developer is installing the sewer line at its cost), as follows:

- i. Each apartment unit, condominium unit, cooperative apartment unit, townhouse unit or single-family dwelling already in existence or to be newly constructed and not presently connected to the sewer system shall pay a connection fee as follows: Single-family dwelling, apartment unit, condominium unit, cooperative apartment unit, townhouse unit or any other multiple dwelling unit, per unit: \$2,100.00 (basic connection fee).
- ii. Schools, municipal facilities, churches and charitable institutions: Connection fees-Same as commercial and industrial connections.
- iii. Commercial and industrial connection (including condominium offices and cooperative offices): The connection fee shall be computed for each connection based on the charge for a single-family dwelling multiplied by the equivalent number of single-family units (service units) contributing the same flow rate to the system in accordance with the following standards:
 - a. The design flow rate for one single-family dwelling is 250 gallons per day.
 - b. The Design Flow rate for various types of establishments, as set forth in the applicable regulations of the New Jersey Department of Environmental Protection (“NJDEP”) as amended, currently cited in N.J.A.C. 7:14A-23.3, shall be used to determine the equivalency factor for type of establishments listed therein.
 - c. In any case where the Design Flow cannot be reasonably established, using N.J.A.C. 7:14A-23.3 as a guide, the Township shall determine the design flow by such means as are, in its opinion, fair and equitable, based upon the recommendation of the Township Engineer.

Example Calculation: (GPD means gallons per day)

$\frac{\text{GPD} \times \text{basic connection charge}}{250} = \text{connection fee (rounded to next highest \$100)}$

- iv. Hotels, nursing homes (and other types of similar lodging):

Connection fees – Same as commercial and industrial except that only one connection shall be required.

Section 2. The Revised General Ordinances of the Township of Millburn, Chapter IX – “Building and Housing” is hereby amended by the addition of a new Section 9-1.6(e) entitled “Additional Connection Fee for Material Increase” to read as follows:

- (e) Additional Connection Fee for Addition, Alteration or Change in Use

- i. For a property connected to the sewerage system for less than 20 years, the Township shall charge an additional connection fee for an addition, alteration, or change in use that materially increases the level of use and imposes a greater demand on the sewerage system, but does not involve a new physical connection of the property to the sewerage system.
- ii. The connection fee authorized by subsection (i) of this section shall be equal to the amount by which the increased use and demand on the sewerage system exceeds the use and demand that existed prior to such addition, alteration, or change in use.
- iii. Nothing in this section shall be construed to preclude the Township from charging a new or additional connection or tapping fee for any new or additional connection of a property to the sewerage system, or for any increase in the size of an existing connection or for any new construction of additional service units connected to the sewerage system that materially increases the level of use or demand on the sewerage system.
- iv. As used in this section, “materially increases” means any increase in the number of service units; or any other change which increases the level of use or demand on the sewerage system by 15 percent or more over the highest actual annual use and demand that existed during the prior 10-year period immediately preceding the addition, alteration, or change in use; provided, however, that, if the property has been connected to the sewerage system for less than 10 years, the average level of use and demand shall be calculated based on the actual period of connection.

Section 3. The Revised General Ordinances of the Township of Millburn, Chapter IX – “Building and Housing” is hereby amended by the addition of a new Section 9-1.6(f) entitled “Credits” to read as follows:

- (f) Credits

- i. The Township shall provide a credit applicable toward a connection fee to be charged for a reconnection of a disconnected property that was previously connected to the sewerage system, provided that:
 - (a) the property has been connected to the sewerage system for at least 20 years;
and
 - (b) service charges have been paid for the property in at least one of the last five years.
- ii. The credit required under subsection (i) of this section shall be calculated as follows:
 - (a) If the reconnection does not require any new physical connection or does not increase the nature or size of the service or the number of services units, or does not expand the use of the sewerage system, the credit shall be equal in amount to the new connection fee.
 - (b) If the reconnection requires a new physical connection, increases the nature or size of the service or the number of service units, or expands the use of the sewerage system, the credit shall be equal in amount to any connection fee previously paid for the property, and the Township shall charge the difference between the credit and the connection fee for the new use or class.
 - (c) If no connection fee was ever paid for the property, but all service charges due and owing on the property have been paid for at least 20 years, the credit shall be equal in amount to the new connection fee; provided, however, that any charges due and owing pursuant to paragraph (b) of this subsection shall be paid.
 - (d) If no connection fee was ever paid for a disconnected property that is to be reconnected and which was previously connected to the sewerage system for at least 20 years and all service charges due and owing on the property have not been paid for at least 20 years, the Township shall charge, in addition to any charges due and owing pursuant to sub-section (b), a connection fee equal to the lesser of:
 - (i) 20 percent of the service charges that would have been paid based upon the usage for the last full year that the property was connected to the sewerage system for the period from the date of the disconnection from the sewerage system to the date of the new connection; or
 - (ii) the new connection fee.
- iii. A credit shall not be allowed under this section for a property that has been disconnected from the sewerage system for more than five years.

- iv. As used in this section, “disconnected property” means a property that has been physically disconnected from the sewerage system or a property not physically disconnected but to which service has been discontinued without payments being made. A “disconnected property” shall not include a property that has been temporarily disconnected from the sewerage system or to which service has been discontinued without payments being made for less than 12 consecutive months and is being reconnected as it existed, prior to the temporary disconnection or discontinuance of service.

Section 4. The Revised General Ordinances of the Township of Millburn, Chapter IX – “Building and Housing” is hereby amended by the addition of a new Section 9-1.6(g) entitled “Affordable Housing Projects” to read as follows:

(g) Affordable Housing Projects

- i. With respect to the construction of affordable housing projects, including any affordable housing units in inclusionary projects, a 50% reduction in the connection fee shall be applied to new connections to the Township sewerage system. This reduction shall only apply to affordable housing units and shall not apply to market rate housing.
- ii. For units previously connected to the Township's system that were demolished or refurbished to allow for new affordable housing units and for which a connection fee was previously paid, a credit against the connection fee to be assessed for connection with the sewerage system shall be applicable to any affordable housing units, including affordable housing units in inclusionary projects. The credit shall be the connection fee previously assessed and paid for connection with the sewerage system for units previously connected to the Township's system.
- iii. The connection fee assessable against an affordable housing owner, for units previously connected to the Township's system that were demolished or refurbished to allow for new affordable housing units, including affordable housing units in inclusionary projects, shall be the lesser of the reduced rate provided for in subsection (i) of this section, or the current non-reduced rate applicable to other types of housing developments minus the credit provided under subsection (ii) of this section for units for which a connection fee or tapping fee was previously paid, provided that said affordable housing owner can establish the connection fee or tapping fee was previously assessed and paid for connection with the system. If the same cannot be established, the reduced rate provided for in subsection (i) of this section shall be assessed.

Section 5. Conflicts and Severability

- a. Conflicts. All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this ordinance apply.

- b. Severability. Notwithstanding that any provision of this Ordinance may be held invalid or unconstitutional by a court of competent jurisdiction; all remaining provisions of the Ordinance shall continue to be in full force and effect.

Section 6. All other provisions of The Revised General Ordinances of the Township of Millburn, Chapter IX – “Building and Housing” shall be unaffected and are hereby continued.

Section 7. This Ordinance shall take effect after final passage and publication as provided by law.

Ordinance 2654-23

ATTEST:

MILLBURN TOWNSHIP

Christine A. Gatti, RMC
Municipal Clerk

By: _____
Maggee Miggins, Mayor

Introduced: 10/17/2023
Published: 10/26/2023
Public Hearing/Adopted: 11/21/2023
Published: 11/30/2023

CERTIFICATION

I, Christine A. Gatti, Clerk of the Township of Millburn, in the County of Essex, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Township Committee at a regular meeting held on the 21st day of November, 2023.

Christine A. Gatti, RMC Municipal Clerk