

BOROUGH OF MILLTOWN

ORDINANCE 19-1469

**AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF MILLTOWN
AMENDING BOROUGH CODE CHAPTER 34 "COMPREHENSIVE DEVELOPMENT"**

BE IT ORDAINED, by the governing body of the Borough of Milltown, County of Middlesex, State of New Jersey, as follows?

Section 1. The Borough Code of the Borough of Milltown is hereby amended and supplemented so as to amend Chapter 34, entitled "Comprehensive Development" so as to amend Section 33.17 "Off-Tract Improvements; Performance Guarantees." which shall read in its entirety as follows:

34-33.17 Off-Tract Improvements; Performance Guarantees.

a. When Required. Before final approval of a subdivision or site plan, the Approving Authority may require, in accordance with the standards of this chapter and an adopted circulation plan, utility plan and Stormwater Management Plan, the installation, or as a condition of final approval, the furnishing of a performance guarantee or payment by cash or certified check in lieu thereof, of a developers, pro-rata share of the cost of the following off-tract improvements which are reasonable and necessary street improvements, water system, sewerage, drainage facilities and easements therefor located off-tract but necessitated or required by construction or improvements within such subdivision or development.

b. Procedure. The Approving Authority at the hearing for the site plan or subdivision approval shall consider evidence whether the impact of the development construction or improvements upon the existing off-tract street improvements, water system, sewerage, and drainage facilities requires that such facilities be either improved or upgraded and the cost of such improvements or upgrades. In so doing, the Approving Authority shall consider the circulation, utility plan and Stormwater Management Plan in the Borough of Milltown Master Plan.

c. The Approving Authority shall determine as to each required improvement whether it is to be paid for entirely by the municipality, entirely by the developer or by the developer and the municipality in accordance with the following standards to determine the proportionate or pro rata amount of the cost of such facilities that shall be borne by each developer or owner.

d. If it is determined by the Approving Authority that Off-Site Street Improvements, Water System Improvements, Sewerage and Drainage Facilities Improvements are not directly related to the Project but are necessary for the benefit of the Project and other users, the pro rata share paid for the Developer shall be determined as follows:

1. Sanitary Sewerage System

The need for Improvements to the Borough's Sanitary Sewerage System shall be determined by an Engineering Study of the impacts to the Borough's System. The study is to be performed by the Developer's Engineer or by the Municipal Engineer and paid for by the Developer.

A. Study Parameters

1. Trigger for Study — Average Daily Flow Rate over 900 GPD or where a sewer extension is required.
2. Flow Generation and Capacities per RSIS and NJDEP regulations.
3. Pump Stations shall be provided with two power sources, one as a back-up per N.J.A.0 7:14A-23.10
4. "Adequate conveyance capacity" means
 - a. In the downstream sewers, the peak dry weather flow does not exceed 80 percent of the depth of the pipe and the peak wet weather flow does not result in overflows or discharges from any unpermitted discharge locations; and
 - b. In downstream pumping stations with two pumps, peak dry weather flow shall be handled by one pump, and in pumping stations with more than two pumps, peak dry weather flow shall be handled with the largest pump out of service, and the peak wet weather flow does not result in any overflow or discharge from any unpermitted discharge location.

B. Developer's Pro Rata Contribution:

For Improvements to an Existing System or Facility:

Total Improvement Cost X Development EDU's / Total EDU's contributing flow

For Construction of a New System or Facility:

Total Improvement Cost X Development EDU's / Total EDU's contributing flow

C. Definitions:

Equivalent Dwelling Unit

(E.D.U.):

1) Residential

- a) Each single Family Dwelling or portion of a structure normally occupied by a single family.
- b) Each single family apartment dwelling in a multiple family structure or structures.

2) Each commercial, industrial, professional, institutional or public user whose estimated flow potentially does not exceed 300 gallons per day. Flows shall be based on the projected flow criteria in NJAC 7:14A-23-3.

3) Where commercial, industrial, professional, institutional or public user potentially exceed 300 gallons per day, then each 300 gallons or fraction thereof shall be considered one unit.

Notes:

- 1. Where the improvement is for the exclusive benefit of the Developer, his or her share shall be 100%
- 2. Low and moderate units included in a development shall not be included in the Pro Rata Calculation
- 3. The total EDU's for 2019 and future year developments are set forth on attached chart.

2. POTABLE WATER SYSTEM:

The need for Improvements to the Borough's Potable Water System shall be determined by an Engineering Study of the impacts to the Borough's System. The study is to be performed by the Developer's Engineer or by the Municipal Engineer and paid for by the Developer.

A. Study Parameters

- 3. Trigger for Study — Needed Fire Flow (F.F.) above 500 GPM.
- 4. Needed Fire Flow — ISO Method per RSIS AWWA M-31 as amended

B. Developer's Pro Rata Contribution

For Improvements to an Existing System or Facility:

Total Improvement Cost X Development EDU's / Total Benefitting EDU's

For Construction of a New System or Facility:

Total Improvement Cost X Development EDU's / Total Benefitting EDU's

C. Definitions

Equivalent Dwelling Unit (E.D.U.):

1) Residential

- a) Each single Family Dwelling or portion of a structure normally occupied by a single family.
- b) Each single family apartment dwelling in a multiple family structure or structures.

2) Each commercial, industrial, professional, institutional or public user whose estimated water consumption potentially does not exceed 300 gallons per day shall be based on the projected flow criteria in NJAC 7:10-12.6.

Flows

3) Where commercial, industrial, professional, institutional or public user potentially exceed 300 gallons per day, then each 300 gallons or fraction thereof shall be considered one unit.

4) Each Fire Sprinkler Service Line.

Notes:

1. For Water Distribution Systems, Benefitting EDU's shall be those directly connected to the entire improved water system or facility.
2. For Water Storage Facilities and Pump Stations, Benefitting EDU's shall be the total EDU's within the Borough.
3. Where the improvement is for the exclusive benefit of the Developer, his or her share shall be 100%
4. Low and moderate units included in a development shall not be included in the Pro Rata Calculation
5. The total EDU's for 2019 and future year developments are set forth on attached chart.

BOROUGH OF MILLTOWN

Calculation of Equivalent Dwelling Units

USES	NUMBER OF UNITS	WATER DEMANDS (GAL./YEAR-'08)	EDU'S
Commercial			
Home Depot	N/A	697,100	7
Target	N/A	67,600	1
Applebee's	N/A	1,928,800	18
Acme	N/A	1,276,500	12
Temple Inland	N/A	360,200	4
Misc. Commercial Uses	N/A	17,750,000	162
Single Family Residential	2,253	N/A	2,253
Multi-Family Residential			
Two Families			
Three Families	74	N/A	148
Four Families	12	N/A	36
Five Families	7	N/A	28
Six Families	3	N/A	15
Seven Families	4	N/A	24
Eight Families	3	N/A	21
The Mill	1	N/A	8
	45	N/A	45
Municipal/Public Uses			
Parkview School			
Joyce Kilmer School	N/A	232,400	3
	N/A	275,000	3
		TOTAL	2,788

3. ROADWAYS/INTERSECTIONS:

The need for Improvements to the Borough's Roadway System shall be determined by an Engineering Study of the impacts to the Borough's System. The study is to be performed by the Developer's Engineer or by the Borough Engineer and paid for by the Developer.

A. Study Parameters

1. Trigger for Traffic Impact Study, 50 New Peak Hour site generated Trips or more as per the latest ITE Trip Generation Manual
2. Traffic counts shall be taken within 12 months of application date.
3. Transportation Research Board's Highway Capacity Manual (HCM) shall be the standard for level of services (LOS) analysis
4. For signalized and unsignalized study locations all movements shall operate at a LOS D or better in the full build condition with mitigation as necessary.
5. Single Lane Capacity shall be for estimating purposes 1300 Vehicles/Hour.
6. The latest Manual of Uniform Traffic Control Devices (MUTCD) in conjunction with Middlesex County and the NJDOT Design Manual shall be followed when developing mitigation alternatives

B. Developer Fair Share Portion and Cost of Mitigation

1. Fair Share Portion

- Lot or Site Traffic (peak hour vehicle trips) = LOS Violation Component (peak hour vehicle trips) + Acceptable Component (peak hour vehicle trips)
 - Lot or Site Traffic is the number of new vehicle trips generated by the site during the peak hour.
 - Acceptable Component is the number of new vehicle trips generated by the site during the peak hour that can be accommodated by the roadway network without introducing a Level of Service Violation.
 - LOS Violation Component is the number of new vehicle trips generated by the site during the peak hour that exceed the current capacity of the roadway network and introduce a Level of Service Violation.
- Capacity increase (vehicles/hour) = Capacity after mitigation (vehicles/hour) —Capacity before mitigation (vehicles/hour)
 - Capacity before mitigation is the number of vehicles per hour that can be accommodated by the roadway network at an acceptable Level of Service.
 - Capacity after mitigation is the number of vehicles per hour that can be accommodated by the roadway network after improvements are implemented.
 - Capacity increase is the additional number of vehicles per hour that can be accommodated by the roadway network as a direct result of the improvements.
- Fair Share Proportion = LOS Violation Component/Capacity Increase
- For Example:
 - A proposed development introduces 100 new peak hour vehicle trips at an adjacent unsignalized intersection
 - The adjacent unsignalized study intersection is currently operating at a failing level of service
 - The Acceptable Component of the new peak hour trips that this adjacent intersection could accommodate without a level of service violation would be zero (0) peak hour vehicle trips.
 - The LOS Violation Component of the new peak hour trips at this adjacent intersection would be 100 peak hour vehicle trips
 - The Capacity before mitigation at this unsignalized intersection is calculated to be 2,500 vehicles per hour at an acceptable level of service during the peak hour.
 - A new traffic signal is determined to be warranted at this location as the required mitigation.
 - The Capacity after mitigation when the new traffic signal is installed and operational is calculated to be 3,000 vehicles per hour operating at an acceptable level of service during the peak hour.

- The Capacity increase would be equal to 500 vehicles per hour which is the Capacity after mitigation (3,000 vehicles per hour) minus the Capacity before mitigation (2,500 vehicles per hour)
 - The Fair Share Portion would then be calculated to be 20 % by dividing the LOS Violation Component of the new peak hour trips at this adjacent intersection (100 peak hour vehicle trips) by the Capacity increase (500 vehicles per hour)
2. Cost of mitigation shall be estimated to the build year for the development and shall include but not be limited to the following:
- Design of Mitigation
 - ROW appraisal and acquisition
 - Utility relocations
 - Construction of mitigations
 - Construction Management
 - Environmental cleanup, permits & mitigation
3. Fair Share Obligation = Fair Share Proportion x Mitigation Cost

Notes:

- A. Where the improvement is for the exclusive benefit of the Developer, his or her share shall be 100%
- B. Fair Share Proportion, Cost of Mitigation and Fair Share Obligation per N.J.A.C. 16:47, Appendix F

4. STORMWATER MANAGEMENT AND CONVEYANCE SYSTEM:

The need for Improvements to the Borough's Storm Water Management and Conveyance System shall be determined by an Engineering Study of the impacts to the Borough's System. The study is to be performed by the Developer's Engineer or by the Borough Engineer and paid for by the Developer.

- A. Study Parameters for Stormwater Management:
 - 1. Trigger for Study, any increase in impervious coverage.
 - 2. Storm Water Management improvements shall be provided for on-site by the Developer at his or her sole cost. If granted a variance or exemption from the Storm Water Management Design and Performance Standards, the Developer may be permitted to perform a mitigation improvement in accordance the provisions of the Borough's Municipal Storm Water Management Plan.
 - 3. Storm Water Regulations per RSIS and the Borough's Storm Water Management Ordinance.
- B. Developer's Cost =

For Improvements to an Existing System or Facility:

Total Improvement Cost X Development Flow / Total Capacity less Current Flow

For Construction of a New System or Facility:

Total improvement Cost X Development Flow / Total Capacity

Note: Where the improvement is for the exclusive benefit of the Developer, his or her share shall be 100%

e. The Developer's Pro Rata Contribution shall be determined by the Planning Board based on the evidence including engineer studies presented at the preliminary site plan or subdivision hearing. The Off-Tract contribution shall be set forth in a Developer's Agreement between the Developer and the Borough.

f. The financing and construction of the improvements shall be arranged in one (1) of the following manners:

- 1. If constructed by the municipality and all or a portion of the improvements are the financial responsibility of the developer, the developer's share shall be paid to the municipality in cash or certified check within ten (10) days after the final site plan or subdivision approval.

2. If constructed by the developer and all or a portion of the improvements are the financial responsibility of the municipality, the developer shall be paid the municipal share in accordance with the terms of the Developer Agreement and the completion of the work shall be guaranteed in an amount and under the terms set forth in Guarantees and Inspections.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading by the Borough Council of the Borough of Milltown on January 14, 2019 and further be considered for final passage and adoption at the Milltown Borough Municipal Building, 39 Washington Ave., Milltown, New Jersey on January 28, 2019, or as soon thereafter as the matter can be reached on the agenda, at which time and place all persons interested therein shall be given an opportunity to be heard and during the week prior to and up to and including the date of such meeting copies of said Ordinance will be made available at the Clerk's Office in the Borough of Milltown, Borough Hall, to members of the general public who shall request the same.

Gabriella Siboni
Municipal Clerk