

CHAPTER 3
IMPACT FEES

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9-3-1: **FINDINGS AND PURPOSE:** The city council hereby finds and determines the following:

- A. There is a need for public facilities for new development which have not been constructed and are required to be consistent with the city general plan and to protect the public health, safety and welfare.
- B. The rapid and continuing growth of the city necessitates the imposition and collection of impact fees pursuant to law that require development to pay its fair share of the cost of providing public facilities occasioned by the demands and needs of the development project at service levels necessary to promote and preserve the public health, safety and welfare.
- C. The city council hereby adopts the report of Jones & Associates entitled "Public Utilities Master Plans And Impact Fee Studies", including the related supporting data which establish the costs for providing public facilities occasioned by development projects with the city.
- D. The impact fees established by this chapter are based upon the costs which are generated through the need for new facilities and other capital acquisition costs required, incrementally, by new development within the city.

- E. The impact fees established by this chapter do not exceed the reasonable cost of providing public facilities occasioned by development projects within the city. (Ord., 7-8-1997)

9-3-2: **DEFINITIONS:** The following words and phrases used in this chapter shall have the following meaning unless a different meaning clearly appears from the context:

CAPITAL FACILITIES PLAN: As defined in the act, is not required of the city by virtue of the population exception contained in Utah Code Annotated section 11-36-201(2)(e) of the act.

CITY: Fruit Heights City, a Utah municipal corporation.

DEVELOPMENT ACTIVITY: Any construction or expansion of a building, structure or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

DEVELOPMENT APPROVAL: Any written authorization from the city that authorized the commencement of development activity.

IMPACT FEES: A payment of money imposed upon development activity as a condition of development approval. (Ord., 7-8-1997)

9-3-3: **IMPACT FEES LEVIED:** All impact fees are contained in the impact fee table attached to ordinance dated July 8, 1997 and by this reference made a part thereof. (Ord., 7-8-1997)

9-3-4: **TIME OF COLLECTION:** Unless otherwise provided by the city council, impact fees shall be payable prior to the issuance of a building permit by the city. (Ord., 7-8-1997)

9-3-5: **USE OF FEES:** The fees shall be used solely to:

- A. Pay for the described public facilities to be constructed by the city;

- B. Reimburse the city for the development's share of those capital improvements already constructed by the city; or
- C. Reimburse the developers who have constructed public facilities where those facilities were beyond that needed to mitigate the impacts of the developer's projects. (Ord., 7-8-1997)

9-3-6: **ADJUSTMENTS:** The city may, upon a proper showing, adjust the standard impact fee at the time the fee is charged to:

- A. Respond to unusual circumstances in specific cases; and
- B. Ensure that the impact fees are imposed fairly; and
- C. Adjust the amount of the fee based upon studies and data submitted by the developer which are approved by the city after review of the same; and
- D. Allow credits as approved by the city for dedication of land for improvement to, or new construction of, public facilities providing services to the community at large, provided such facilities are identified in the capital facilities plan and are required by the city as a condition of approving the development activity. No credit shall be given for project improvements as defined in the act. (Ord., 7-8-1997)

9-3-7: **ACCOUNTING, EXPENDITURE AND REFUND:** The city shall account for, expend and refund impact fees in accordance with the provisions of the act. (Ord., 7-8-1997)

9-3-8: **CHALLENGES AND APPEALS:**

- A. **Declaratory Judgment Action:** Any person or entity residing in or owning property within the city, and any organization, association or corporation representing the interests of persons or entities owning property within the city, may file a declaratory judgment action challenging the validity of the fee.
- B. **Request For Information:** Any person or entity required to pay an impact fee imposed by the city who believes the fee does not meet

the requirements of law may file a written request for information with the city as provided by law.

- C. **Written Analysis:** Within two (2) weeks of the receipt of the request for information, the city shall provide the person or entity with the written analysis required by the act and with any other relevant information relating to the impact fee.
- D. **Challenge:** Within thirty (30) days after paying an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall comply with the following:
1. File a written appeal with the city council by delivering a copy of such appeal to the city manager setting forth in detail all grounds for the appeal and all facts relied upon by the appealing party with respect to the fees appealed. Upon receipt of the appeal, the city council shall thereafter schedule a public hearing on the appeal, at which time all interested persons will be given an opportunity to be heard. The city council shall schedule the appeal hearing and thereafter render its decision on the appeal no later than thirty (30) days after the challenge to the impact fee is filed. Any person or entity who has failed to comply with the administrative appeal remedies established by this section may not file or join an action challenging the validity of any impact fee.
 2. Within ninety (90) days of a decision upholding an impact fee by the city or within one hundred twenty (120) days after the date the challenge to the impact fee was filed, whichever is earlier, any party to the appeal that is adversely affected by the city council's decision may petition the second judicial district court in and for Davis County for review of the decision.
 3. In the event of a petition to the second judicial district court, the city shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.
 4. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for purposes of subsection D3 of this section.
 5. If there is a record:
 - a. The district court's review is limited to the record provided by the city; and

b. The district court may not accept or consider any evidence outside the city's record unless that evidence was offered to the city and the court determines that it was improperly excluded by the city.

6. If there is an inadequate record, the district court may call witnesses and take evidence.

7. The district court shall affirm the decision of the city if the decision is supported by substantial evidence in the record.

8. The judge may award reasonable attorney fees and costs to the prevailing party in any action brought under this section. (Ord., 7-8-1997)

