

TITLE 9
CHAPTER 2
IMPACT FEES

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9-2-1: FINDINGS AND AUTHORITY

The city council finds and determines that growth and development activity in the city will create additional demand and need for sanitary sewer, publicly owned parks, open space and recreational facilities, roadways, and culinary water facilities in the city, and the city council finds that growth and development activity should pay a proportionate share of the cost of such planned facilities needed to serve the growth and development activity. The city council further finds that impact fees are necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the future, in comparison to the benefits already received and yet to be received. Therefore, pursuant to Utah Code Annotated title 11, chapter 36, the city council adopts this chapter to assess impact fees for planned facilities. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the city council in establishing the impact fee program. (Ord. 99-08, 8-10-1999)

9-2-2: DEFINITIONS

The following definitions shall apply for purposes of this chapter unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined by their usual and customary meaning.

ACT: The impact fee act, Utah Code Annotated section 11-36-101 et seq., as in existence on the effective date hereof, or as hereafter amended.

BUILDING PERMIT: An official document or certification which is issued by the county building inspector and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building

or structure. For purposes of this chapter, "building permit" also includes a mobile home/manufactured home permit.

CAPITAL FACILITIES:	The facilities or improvements included in a capital budget.
CAPITAL FACILITIES PLAN OR THE PLAN:	The capital facilities plan for River Heights City as set forth in the city general plan and supporting documents and as required by Utah Code Annotated section 11-36-201, as amended.
CITY:	River Heights City.
CITY ENGINEER:	The officially appointed and acting city engineer for the city.
COUNCIL:	The city council of River Heights City.
DEVELOPER:	An individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person undertaking development activity, and their successors and assigns.
DEVELOPMENT ACTIVITY:	Any construction or expansion of a building or structure; or any change in use of a building or structure or mobile home; or the subdivision of land; or the seeking of plat approval, PUD approval, site plan approval; boundary line adjustment or conditional use permit approval; or any other change in use of land that creates additional demand and need for sanitary sewer, publicly owned parks, open space and recreational facilities, culinary water facilities and roadways.
DEVELOPMENT APPROVAL:	Any written authorization from the city, other than a building permit, which authorizes the commencement of a development activity, including, but not limited to, plat approval, PUD approval, site plan approval, boundary line adjustment and a conditional use permit.
ENCUMBERED:	To reserve, set aside, or otherwise earmark the impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for planned facilities.
FEE PAYER:	A person, corporation, partnership, an incorporated association or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a development activity which creates the demand for planned facilities and which requires development approval and/or the issuance of a building permit. "Fee payer" includes an applicant for an impact fee credit.
IMPACT FEE:	A payment of money imposed by the city on development activity pursuant to this chapter as a condition of granting development approval and/or a building permit in order to pay for the planned

facilities needed to serve new growth and development activity. "Impact fee" does not include a tax, special assessment, hookup fee, fee for project improvements, reasonable permit or application fee, the administrative fee for collecting and handling impact fees, the cost of reviewing independent fee calculations or the administrative fee required for an appeal.

IMPACT FEE
ACCOUNT OR
ACCOUNT:

The account or accounts established for the planned facilities for which impact fees are collected.

IMPACT FEE
ANALYSIS:

The analysis performed by "public sector economics" and which is attached to ordinance 99-08, incorporated herein as appendix C, and on file in the city office.

INDEPENDENT
FEE
CALCULATION:

The impact calculation and/or economic documentation prepared by a fee payer, to support the assessment of an impact fee other than by the use of the schedules attached in the appendices to this chapter, or the calculations prepared by the mayor, city council or city engineer where none of the impact fees, categories or impact fee amounts in the appendices accurately describe or capture the impacts of the development activity on public streets and roads, publicly owned parks, open space and recreational facilities, roadways and culinary water facilities.

MAYOR:

The mayor of River Heights City.

OWNER:

The owner of record of real property, or a person with an unrestricted written option to purchase property; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

PARK IMPACT
FEES:

The impact fee designated to pay for publicly owned parks, open space and recreational facilities.

PLANNED
FACILITIES:

Sanitary sewer facilities, parks, open space, recreational facilities and trails, roadways and associated storm water control facilities, and culinary water rights, supply, treatment and distribution facilities included in the capital improvements plan of River Heights City.

PLANNED UNIT
DEVELOPMENT:

Shall have the same meaning as set forth in the River Heights City municipal zoning ordinance.

QUALIFYING
IMPROVEMENTS:

An improvement, which is part of the planned facility for which an impact fee is required.

RESIDENTIAL
UNIT:

Any building or portion thereof which contains living facilities including provisions for sleeping, cooking, eating and sanitation,

as required by city, for not more than one family and including site built buildings, manufactured homes and modular homes.

ROADWAYS IMPACT FEE: The impact fee designated to pay for public roads and streets, public rights of way acquisition and associated improvements.

SEWER IMPACT FEE: The impact fee designated to pay for sanitary sewer collection, treatment, storage, collection lines and other associated improvements.

STANDARD OF SERVICE: The quantity and quality of service, which the city council has determined to be appropriate and desirable for the city. A measure of the standard of service may include, but is in no way limited to, maximum levels of the sanitary sewer system, maximum commute times, maximum wait at stops, minimum water pressure and volume, minimum fire suppression capabilities, minimum park space per capita for a variety of types of parks, minimum distance from residences to parks, and any other factor the city council may deem appropriate.

STATE: The state of Utah.

WATER IMPACT FEE: The impact fee designated to pay for water rights, supply, treatment, storage and distribution facilities, distribution lines and other associated improvements.

ZONING ADMINISTRATOR: The official or officials designated by the mayor and city council to administer this chapter. (Ord. 99-08, 8-10-1999; amd. 2005 Code)

9-2-3: APPLICABILITY

- A. Specified: The collection of impact fees shall apply to all new development in the city unless otherwise provided herein. Until any impact fee required by this chapter has been paid in full, no building permit, electrical permit, certificate of compliance, certificate of occupancy, or other permit subsequent to development plan approval for any development shall be issued. A stop work order shall be issued on any development for which the applicable impact fee has not been paid in full.
 - 1. Park: Park impact fees shall apply only to new residential development.
 - 2. Roadways: Roadway impact fees shall apply to new residential, commercial or any other land use which creates additional runoff through the placement of any hard surface.
 - 3. Sewer: Sewer impact fees shall apply to any connection to the sanitary sewer system, placing additional demand for collection lines, storage and treatment facilities and all associated improvements.

4. Water: Water impact fees shall apply to any connection to the culinary water system, placing additional demand for storage facilities and distribution lines.
 5. Movement of Structures: The movement of a structure onto a lot shall be considered development and shall be subject to the impact fee provisions, unless otherwise provided herein.
- B. Exceptions: The impact fee provisions shall not apply to the following activities:
1. Placing on a lot in the city a temporary construction trailer or office, but only for the life of the building permit issued for the construction served by the trailer or office; and
 2. Any development, including, but not limited to, the mere subdivision of land, installation of utilities, or the use of land for limited recreational, agricultural, filling or degrading purpose, which will not result in a net increase in demand of the city parks, roadways, sewer facilities and water facilities. (Ord. 99-08, 8-10-1999; amd. 2005 Code)

9-2-4: SERVICE AREAS

- A. Impact fees shall be assessed only on new development located within the respective service area.
- B. Impact fees collected within the service area shall be spent within the respective service area.
- C. The appropriateness of the designation and boundaries of the respective service areas shall be reviewed periodically by the city as part of the impact fee revision process. Following such review and a public hearing, the service areas may be amended. (Ord. 99-08, 8-10-1999; amd. 2005 Code)

9-2-5: IMPACT FEES SCHEDULE

Impact fees shall be calculated as per single-family unit/connection as indicated on the impact fees schedule as incorporated herein. (Ord. 99-08, 8-10-1999; amd. 2005 Code)

9-2-6: EXEMPTIONS

- A. All Fees: The following shall be exempted from the payment of all impact fees:
 1. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within twelve (12) months of the demolition or destruction of the prior structure.
 2. Alteration, expansion, enlargement, remodeling, rehabilitation or conversion of an existing unit where no additional units are created and the use is not changed.

3. The construction of accessory structures that will not create significant impacts on the planned facilities.
 4. Miscellaneous accessory improvements to use, including, but not limited to, fences, walls, swimming pools and signs.
 5. Demolition or moving of a structure.
- B. Park Fees: The following shall be exempted from the payment of the park impact fees:
1. The construction of public school facilities.
 2. The construction of private school facilities; provided, that comparable open space or recreational facilities are made available to the public at such facility. (Ord. 99-08, 8-10-1999; amd. 2005 Code)

9-2-7: COLLECTION OF IMPACT FEES

The collection of impact fees shall be as follows:

- A. Except as set forth in subsection B of this section, the impact fees for all new development shall be calculated and collected in conjunction with the application for the Zoning Clearance Permit, or other permit subsequent to development plan approval for such development, whichever occurs first in time. (1-2015, 6-23-15)
- B. For other uses not requiring a Zoning Clearance Permit, the fee shall be calculated and collected at the time of approval of the development plan. (Ord. 99-08, 8-10-1999) (1-2015, 6-23-15)

9-2-8: FUND ACCOUNTING FOR IMPACT FEES

- A. Fund Established: The city shall establish a separate interest bearing accounting fund in which the impact fees collected for a particular type of public facility within all service areas shall be credited. Such fees shall be invested by the city and the yield on such fees, at the actual rate of return to the city, shall be credited to such accounting fund periodically in accordance with the accounting policies of the city. Such funds need not be segregated from other city monies for banking purposes.
- B. Yields: Any yield on such accounting fund into which the fees are deposited shall accrue to that fund and shall be used for the purposes specified for such fund.
- C. Records: The city shall maintain and keep financial records for such accounting fund showing the source and amount of all monies collected, earned and received by the fund and the disbursements from such fund, in accordance with normal city accounting practices. The records of such funds shall be open to public inspection in the same manner as other financial records of the city.
- D. Expenditures Or Encumbrances; Time Limit: Impact fees shall be expended or encumbered within six (6) years of receipt, unless the city council identifies in

written findings extraordinary and compelling_ reason or reasons to hold the impact fees beyond the six (6) year period. Under such circumstances, the city council shall establish an absolute date by which the impact fees shall be expended or encumbered. (Ord. 99-08, 8-10-1999)

9-2-9: USE OF FUNDS

- A. Pursuant to this chapter:
 - 1. Impact fees collected for sewer and water facilities, impact fees for publicly owned parks, open space, recreational facilities and trails, and impact fees for roadways, shall be used solely for those respective purposes and only those that will reasonably benefit the development activity.
 - 2. Impact fees shall not be imposed to make up for deficiencies in existing facilities serving existing developments.
 - 3. Impact fees shall not be used for maintenance or operation.
- B. Impact fees may be spent for planned facilities, including, but not limited to, planning, land acquisition, construction, engineering, architectural, permitting, financing, and administrative expense, applicable impact fees or mitigation costs, capital equipment pertaining to planned facilities, and any other similar expenses which can be capitalized.
- C. Impact fees may also be used to recoup city improvement costs previously incurred by the city to the extent that new growth and development activity will be served by the previously constructed improvements or incurred costs.
- D. Impact fees may be used to recoup the cost of studying, analyzing and preparing the impact fees.
- E. In the event that bonds or similar debt instruments have been issued for the advanced provision of city improvements for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with the requirements of this section and are used to serve the development activity. (Ord. 99-08, 8-10-1999)

9-2-10: IMPACT FEE AS SUPPLEMENTAL REGULATION TO OTHER FINANCIAL METHODS

Except as herein otherwise provided, impact fees are in addition to any other requirements, taxes, fees or assessments imposed by the city on development or the issuance of building permits or certificates of occupancy which are imposed on and due against property within the jurisdiction of the city. Impact fees are intended to be consistent with the city general plan, capital improvements plan, zoning ordinances and other city policies, ordinances and resolutions by which the city seeks to ensure the provision of capital facilities in conjunction with development. In addition to the use of impact fees, the city may finance qualifying capital improvements through the issuance of bonds, the

formation of assessment districts or any other authorized mechanism, in such manner and subject to such limitations as may be provided by law. (Ord. 99-08, 8-10-1999)

9-2-11: REVIEW

- A. Authorized: The city may adjust the impact fees or service areas periodically, for an impact fee, after a study and proper notice as provided in Utah Code Annotated title 11, chapter 36, as amended.
- B. Reasons: The city may adjust the standard impact fee in the schedule of impact fees to:
 - 1. Respond to unusual circumstances in specific areas.
 - 2. Ensure the impact fees are imposed fairly. (Ord. 99-08, 8-10-1999)