

## Chapter 15. Development Impact Fees

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### 4-15-1 Definitions.

(1) Except as expressly provided in this Section, words and phrases used in this Chapter shall have the meaning given to them in U.C.A. 11-36a-102, as amended (the "Impact Fees Act").

(2) "Eligible affordable housing units" means

(a) Single-family and two-family dwellings that are:

(i) constructed, rented, and sold in partnership with the Tooele County Housing Authority (the "Authority"); and,

(ii) deed restricted, on a form approved by the City Attorney, in such a manner that:

(A) dwellings are available for purchase or rent-to-own only by those purchasers or tenants whose combined household annual gross income per dwelling is verified by an Authority to be 60% or less of the Tooele County area median income;

(B) dwellings are rent-restricted according to a formula established by an Authority based in part on numbers of dwelling unit bedrooms and on tenant incomes;

(C) dwellings are subject to a compliance period of at least 15 years as part of an extended use period of at least 50 years;

(D) dwellings are maintained in good condition;

(E) dwellings are fully insured for hazards and liability;

(F) requires compliance with the terms and covenants of the deed restriction; and,

(G) requires compliance with Section 42 of the Internal Revenue Code, as amended.

(b) Multi-family dwellings that:

(i) are constructed and rented in partnership with an Authority; and,

(ii) are deed restricted, on a form approved by the City Attorney, in such a manner that:

(A) dwellings are available for rent only by tenants whose combined household annual gross income per unit is verified by the Authority to be 60% or

less of the Tooele County area median income; and,

(B) dwellings comply with the requirements of subsection (2)(a)(ii)(B)-(G), above.

3. "Eligible public facility" means a structure that is owned or leased by the state of Utah, the Tooele County school district, a charter school, Tooele County, Tooele City, the Tooele City municipal building authority, the Tooele City redevelopment agency, or other similar entity conducting development activity with a broad public purpose.

(Ord. 2019-30, 11-20-2019) (Ord. 2012-02, 03-07-2012) (Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001) (Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

### 4-15-2 Assessment of Impact Fees.

(1) Assessment of Impact Fees.

(a) Culinary Water Impact Fee.

(i) The City shall collect a culinary water impact fee from any applicant seeking a building permit, in the amount of \$7,805 per Equivalent Residential Connection (ERC), as defined in the Drinking Water System Master Plan (2021).

(ii) The service area for purposes of the culinary water impact fee shall be the entire area within the corporate boundary of Tooele City Corporation.

(iii) Non-Standard Impact Fee. The City reserves the right under the Impact Fees Act to assess an adjusted impact fee that more closely matches the true impact that a building or land use will have upon the City's culinary water system. This adjustment may result in a higher than normal impact fee if the City determines that a particular user may create a greater impact than what is standard for its land use. The formula for determining a non-standard culinary water impact fee is contained in the combined Culinary Water Facilities Impact Fee Facilities Plan and Impact Fee Analysis (2022).

(b) Sanitary Sewer Impact Fee.

(i) The City shall collect a sanitary sewer impact fee from any applicant seeking a building permit, as follows: \$4,731 per Equivalent Residential Unit (ERU), as defined in the 2023 Wastewater Impact Fee Facilities Plan and Impact Fee Analysis.

(ii) The service area for purposes of the sanitary sewer impact fee shall be the entire area within the corporate boundary of Tooele City Corporation.

(iii) Non-Standard Impact Fee. The City reserves the right under the Impact Fees Act to assess an adjusted impact fee that more closely matches the true impact that a building or land use will have upon the City's waste water system. This adjustment may result in a higher than normal impact fee if the City determines that a particular user may create a greater impact than what is standard for its land use. The formula for determining a non-standard sanitary sewer impact fee is contained on

page 14 of the 2023 Wastewater Impact Fee Facilities Plan and Impact Fee Analysis.

(c) Parks and Recreation Impact Fee.

(i) The City shall collect a parks and recreation impact fee from any applicant seeking a building permit for a new dwelling unit, as follows:

(A) Single-Family Residential: \$3,194 per dwelling unit. For purposes of this Section, Single-Family Residential includes detached single-family units and attached single-family units, including townhouses, condominiums, and duplexes.

(B) Multi-Family Residential: \$2,252 per dwelling unit. For purposes of this Section, Multi-Family Residential means apartment buildings with three or more units per building.

(ii) The service area for purposes of the park and special purpose recreation facilities impact fee shall be the entire area within the corporate boundary of Tooele City Corporation.

(d) Public Safety Impact Fee: Fire.

(i) The City shall collect a public safety-fire impact fee from any applicant seeking a building permit for a new building, as follows:

(A) Residential, single-family: \$255.90 per dwelling unit.

(B) Residential, multi-family: \$188.80 per dwelling unit.

(C) Commercial: \$187.40 per 1,000 square-feet of building.

(D) Industrial: \$111.40 per 1,000 square-feet of building.

(ii) The service area for purposes of the public safety-fire impact fee shall be the entire area within the corporate boundary of Tooele City Corporation.

(iii) Non-Standard Impact Fee. The City reserves the right under the Impact Fees Act to assess an adjusted impact fee that more closely matches the true impact that a building or land use will have upon the City's public safety fire facilities. This adjustment may result in a higher than normal impact fee if the City determines that a particular user may create a greater impact than what is standard for its land use. The formula for determining a non-standard public safety-fire impact fee is contained in the Public Safety Impact Fee Facilities Plan and Impact Fee Analysis (February 2012).

(e) Public Safety Impact Fee: Police.

(i) The City shall collect a public safety-police impact fee from any applicant seeking a building permit for a new building, as follows:

(A) Residential, single-family: \$216.90 per dwelling unit.

(B) Residential, multi-family: \$221.00 per dwelling unit.

(C) Commercial: \$164.70 per 1,000 square-feet of building.

(D) Industrial: \$17.40 per 1,000 square-foot of building.

(ii) The service area for purposes of the public safety-police impact fee shall be the entire area within the corporate boundary of Tooele City Corporation.

(iii) Non-Standard Impact Fee. The City reserves the right under the Impact Fees Act to assess an adjusted impact fee that more closely matches the true impact that a building or land use will have upon the City's public safety police facilities. This adjustment may result in a higher than normal impact fee if the City determines that a particular user may create a greater impact than what is standard for its land use. The formula for determining a non-standard public safety-police impact fee is contained in the Public Safety Impact Fee Facilities Plan and Impact Fee Analysis (February 2012).

(2) Collection. Impact fees shall be collected from the applicant prior to issuing the building permit, using the impact fee in effect on the date of filing a complete application for the building permit.

(3) Adjustment of impact fees. Impact fees may be adjusted at the time the fees are charged, as follows:

(a) to ensure that the impact fees are imposed fairly;

(b) to respond to

(i) unusual circumstances in specific cases;

or,

(ii) a request for a prompt and individualized impact fee review for the development activity of the state or a school district or charter school; and,

(c) if the Building Official determines that a user would create a greater than normal impact on any system improvement.

(4) Existing Buildings.

(a) Where a building alteration or change of use requires a new building permit or a new occupancy permit, and the building alteration or change of use is anticipated to result in increased impacts to City systems and facilities, the applicant shall pay, as a condition of permit approval, additional impact fees corresponding to the increased impacts.

(b) Where a building or use of a building incorporates technologies or processes designed to decrease impacts to City systems and facilities, and those technologies or processes fail or cease to be used, for any reason or to any degree, the City may assess additional impact fees corresponding to the increased impacts resulting from such failure or cessation of use. Such fees shall be invoiced to the building water account through the regular monthly city water bill.

(c) Should any developer undertake development activities such that the ultimate density, intensity, or other impact of the development activity is

not revealed to the City, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the impact fee is not initially charged against all units or the total density or intensity within the development, the City shall be entitled to assess an additional impact fee to the development or other appropriate person covering the density or intensity for which an impact fee was not previously paid. Such fees shall be invoiced to the development water account through the regular monthly city water bill.

(d) The Building Official shall determine the extent to which the payment of additional impact fees is required.

(Ord. 2023-18, 05-03-2023) (Ord. 2022-12, 04-06-2022)  
(Ord. 2020-31, 07-15-2020) (Ord. 2012-02, 03-07-2012)  
(Ord. 2010-04, 02-17-2010) (Ord. 2007-10, 03-21-2007)  
(Ord. 2001-36, 01-23-2001) (Ord. 2001-35, 01-23-2001)  
(Ord. 1999-36, 12-16-1999) (Ord. 1999-10, 4-21-1999)  
(Ord. 1996-16, 11-20-1996) (Ord. 1996-15, 06-05-1996)

#### **4-15-3 Exemptions from Impact Fees.**

(1) The following development activities shall be exempt from the payment of all or a portion of the impact fees:

(a) Replacement of a primary structure with a new primary structure of the same use at the same site or lot when such replacement:

(i) does not result in the construction of an additional dwelling unit or a change in use; and,

(ii) does not increase the demand for municipal services or the impact upon system improvements.

(b) Alterations to, or expansion, enlargement, remodeling, rehabilitation, or conversion of, an existing primary structure that does not increase the demand for municipal services or the impact upon system improvements.

(2) The Building Official shall determine whether a particular structure falls within an exemption identified in this Section or any other section. The Building Official shall issue a written determination, stating the basis for the exemption, and which shall be subject to the appeals procedures set forth herein.

(Ord. 2015-16, June 3, 2015) (Ord. 2012-02, 03-07-2012)  
(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001)  
(Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

#### **4-15-4 Credits.**

(1) A developer may be allowed a credit against impact fees for any dedication of or improvement to land or new construction of system improvements provided by the developer, provided that they are (i) identified in the applicable capital facilities plan, (ii) offset the need for a system improvement, and (iii) required by the City as a condition of approving the development activity. Otherwise, no credit may be given.

(2) For each request for a credit, unless otherwise

agreed by the City, the fee payer shall retain an appraiser approved by the Building Official to determine the value of the land or construction dedicated.

(3) The fee payer shall pay the cost of the appraisal.

(4) After receiving the appraisal, the Building Official shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, where applicable, the legal description of the land donated, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating the applicant's agreement to the terms of the letter or certificate, and return such signed document to the Building Official before the impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 30 days shall nullify the credit.

(5) Any claim for a credit must be made not later than the time of application for building permit. Any claim not so made shall be deemed waived.

(6) Determinations made by the Building Official pursuant to this section shall be subject to the appeals procedure set forth herein.

(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001)  
(Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

#### **4-15-5 Waiver.**

(1) The City Council may, but is not required to, waive the imposition of impact fees for:

(a) Construction of eligible affordable housing units (up to \$10,000 per dwelling unit); or,

(b) Construction of an eligible public facility.

(2) Upon allowing a full or partial waiver under this Section for an eligible public facility, the City Council shall establish one or more sources of funds other than impact fees to pay the amount of impact fees waived for that facility.

(Ord. 2019-30, 11-20-2019) (Ord. 2010-04, 02-17-2010)  
(Ord. 2001-36, 01-23-2001) (Ord. 2001-35, 01-23-2001)  
(Ord. 96-15, 06-05-96)

#### **4-15-6 Appeals.**

(1) A fee payer may appeal the impact fees imposed or other determinations which the Building Official is authorized to make pursuant to this Chapter. However, no appeal shall be permitted unless and until the impact fees at issue have been paid.

(2) Appeals shall be taken within the time constraints identified in U.C.A. Section 11-36a-702, as amended. Appellants shall specify the grounds for the appeal, and deposit the necessary appeal fee, which is set forth in the Tooele City Fee Schedule for appeals of land use decisions.

(3) Appeals shall be filed with the City Recorder. The City Recorder shall fix a time for the hearing of the appeal and give notice to the parties in interest. At the

hearing, any party may appear in person or by agent or attorney.

(4) The City Council, or such other body as the City Council shall designate, shall make a decision within 30 days after the appeal is filed. The City Council shall make findings of fact regarding the applicability of the impact fees to a given development activity. The decision of the City Council shall be final, and may be appealed to the Third Judicial District Court for Tooele County.

(5) Certain impact fee payers may request mediation or arbitration under the state Impact Fees Act, U.C.A. 11-36-101 *et. seq.*, as amended.

(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001) (Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

#### **4-15-7 Establishment of Impact Fees Accounts.**

(1) The City will establish a separate interest-bearing ledger account for the Impact Fees collected pursuant to this Ordinance and will conform to the accounting requirements provided in the Impact Fees Act. All interest earned on the collection of Impact Fees shall accrue to the benefit of the segregated account. Impact Fees collected prior to the effective date of this Ordinance need not meet the requirements of this Section.

(2) At the end of each fiscal year, the City shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned, and received by the fund or account and each expenditure from the fund or account.

(3) The City may expend Impact Fees only for system improvements that are (i) public facilities identified in the City's capital facilities plans, and (ii) of the specific public facility type for which the fee was collected. Impact fees will be expended on a first-in first-out basis.

(4) Impact Fees collected pursuant to the requirements of this Ordinance are to be expended, dedicated, or encumbered for a permissible use within six (6) years of the receipt of those funds by the City, except as provided in Subsection (5).

(5) The City may hold previously dedicated or unencumbered fees for longer than six (6) years if it identifies in writing (i) an extraordinary and compelling reason why the fees should be held longer than six years, and (ii) an absolute date by which the fees will be expended.

(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001) (Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

#### **4-15-8 Refunds.**

(1) If the City fails to disburse, expend, or encumber the impact fees within 6 years of when the fees were paid, or such other time periods as justified by an extraordinary or compelling reason, the person who paid the impact fees may request a refund of such fees. In determining whether impact fees have been disbursed, expended, or encumbered, such fees shall be considered disbursed,

expended, or encumbered on a first-in, first-out basis.

(2) Persons seeking a refund of impact fees must submit a written request for a refund of the fees to the Building Official within 120 days of the date that the right to claim the refund arises.

(3) Any impact fees for which no application for a refund has been made within this 120 day period shall be retained by the City and expended on the type of public facilities for which they were collected.

(4) Refunds of impact fees under this section shall include any interest earned on the impact fees.

(5) When the City seeks to terminate any or all components of an impact fee program, any funds not disbursed, expended, or encumbered from any terminated component or components, including interest earned shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination, and the availability of refunds, in a newspaper of general circulation at least 2 times. All funds available for refund shall be retained for a period of 120 days. At the end of the 120 day period, any remaining funds shall be retained by the City, but must be expended on the type of public facilities for which they were collected.

(6) The City shall refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees attributable to the particular development activity, within 1 year of the date that a right to claim the refund arises, if (i) the development activity for which the impact fees were imposed did not occur, (ii) no impact resulted, (iii) the impact fees have not been spent or encumbered, and (iv) the owner makes written request for a refund within 120 days of the expiration or abandonment of the permit for development activity.

(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001) (Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

#### **4-15-9 Use of Funds.**

(1) Pursuant to this Chapter, impact fees:

(a) shall be used for public facilities that reasonably benefit the new development;

(b) shall not be imposed to make up for deficiencies in public facilities serving existing developments; and,

(c) shall not be used for maintenance or operation of public facilities.

(2) Impact fees may be used to recoup costs of designing, constructing, and acquiring public facilities in anticipation of new growth and development to the extent that the development activity will be served by the previously-constructed improvements or the previously-incurred costs. Impact fees may be used for environmental mitigation.

(3) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public facilities 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. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001)  
(Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)

#### **4-15-10 Independent Fee Calculations.**

(1) If a fee payer believes that a fee should be charged, different than the impact fees determined according to this Chapter, then the fee payer may prepare and submit to the Building Official an independent fee calculation for the impact fees associated with the development activity for which a Building Permit is sought. The documentation submitted shall contain studies and data showing the basis upon which the independent fee calculation was made. The Building Official is not required to accept any documentation which the Building Official reasonably deems to be inaccurate, unsubstantiated, or unreliable and may require the fee payer to submit additional or different documentation prior to the Building Official's consideration of an independent fee calculation.

(2) Any fee payer submitting an independent fee calculation shall pay an administrative processing fee, per calculation, of \$100.

(3) Based on the information within the Building Official's possession, the Building Official may recommend, and the Mayor is authorized to adjust, the impact fee to the specific characteristics of the development activity, and according to principles of fairness. Such adjustment shall be preceded by written findings justifying the fee.

(4) Determinations made by the Building Official pursuant to this section may be appealed subject to the procedures set forth herein.

(Ord. 2010-04, 02-17-2010) (Ord. 2001-36, 01-23-2001)  
(Ord. 2001-35, 01-23-2001) (Ord. 1996-15, 06-05-1996)