

PUBLIC NOTICE

Notice is Hereby Given that the Tooele City Council of Tooele City, Utah, will hold a Public Hearing to Consider Adopting, Enacting, and/or Modifying Written Impact Fee Facilities Plans, Impact Fee Analysis, and an Impact Fee Enactment by Ordinance for Wastewater Services. The Hearing will be held on Wednesday, May 3, 2023 at the hour of 7:00 p.m. The Meeting will be held in the Tooele City Hall Council Chambers located at 90 North Main Street, Tooele, Utah.

Tooele City has Prepared a Wastewater Impact Fee Facilities Plan, Impact Fee Analysis, including a Summary of the Impact Fee Analysis Designed to be Understood by a Lay Person, and a Proposed Impact Fee Enactment Ordinance. Copies of all Foregoing Have been Placed in Tooele City Hall located at 90 North Main Street, Tooele, Utah, the Tooele City Library located at 128 West Vine Street, Tooele, Utah, the Tooele City Police Department located at 50 North Garden Street, Tooele, Utah, and on the City's website at <https://tooelecity.org>.

The purposes of the public hearing are to hear public comment about the proposed Impact Fee Facilities Plan, Impact Fee Analysis, and the proposed impact fee ordinance, and to consider approval and adoption of the foregoing by the City. All interested persons are invited to attend the hearing and make comments. If you would like to submit a comment for this public hearing item, please email cmpubliccomment@tooelecity.org anytime up until the start of the meeting. Emails will only be read at the designated points in the meeting.

Contact Information:
Michelle Pitt, Recorder
435-843-2111

TOOELE CITY CORPORATION

ORDINANCE 2023-18

AN ORDINANCE OF TOOELE CITY ADOPTING A WASTEWATER IMPACT FEE FACILITIES PLAN AND A WASTEWATER IMPACT FEE ANALYSIS, AND AMENDING TOOELE CITY CODE CHAPTER 4-15.

WHEREAS, Tooele City (the “City”) is a political subdivision of the State of Utah, authorized and organized under the provisions of Utah law; and,

WHEREAS, the City has legal authority, pursuant to Title 11, Chapter 36 Utah Code, Annotated, as amended (“Impact Fees Act” or “Act”), and pursuant to Tooele City Code Chapter 4-15, to impose development Impact Fees as a condition of development approval, which Impact Fees are used to defray capital infrastructure costs attributable to growth activity; and,

WHEREAS, the City has historically assessed Impact Fees as a condition to development approval in order to assign capital infrastructure costs to development in an equitable and proportionate manner; and,

WHEREAS, on February 17, 2010, the City Council approved Ordinance 2010-04, adopting an Impact Fee Facilities Plan (“Plan”) and Impact Fee Analysis (“Analysis”), and enacted an amended impact fee, for expansion of the City’s wastewater treatment facility (aka water reclamation facility) (“Facility”) due to growth; and,

WHEREAS, on January 3, 2018, the City Council approved Ordinance 2018-02, making certain corrections to the wastewater impact fee analysis and computation; and,

WHEREAS, on March 20, 2019, the City Council approved Resolution 2019-23, announcing its intention to retain the firm of Lewis Young Robertson & Burningham (LYRB) to prepare the updated wastewater Plan and Analysis (among others), consistent with and in compliance with the Impact Fees Act (U.C.A. 11-36-101, *et seq.*); and,

WHEREAS, among other things, the Plan and Analysis establish that a change to Tooele City’s sanitary sewer impact fee from \$2,290 to \$4,731 is necessary to achieve an equitable allocation of 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, and the change needs to be reflected in an amendment to TCC Section 4-15-2; and,

WHEREAS, LYRB has provided the certifications required by U.C.A. §11-36a-306 (certifications included in Exhibit A); and,

WHEREAS, the Plan and Analysis, together with this Ordinance, were made available to the public and placed at the Tooele City Public Library as required by U.C.A. §11-36a-502, -504; and,

WHEREAS, a summary of the Plan and Analysis was made available to the public and placed at the Tooele City Public Library as required by U.C.A. §11-36a-502; and,

WHEREAS, the City Council convened a public hearing on May 3, 2023, in accordance with the provisions of U.C.A. §§11-36a-504, 10-9a-205, and 10-9a-502:

NOW THEREFORE, BE IT ORDAINED BY THE TOOEELE CITY COUNCIL that

1. The 2023 Wastewater Impact Fee Facilities Plan is hereby adopted (see Exhibit A); and,
2. The 2023 Wastewater Impact Fee Analysis is hereby adopted (see Exhibit A); and,
3. Tooele City Code Chapter 4-15 is hereby amended to enact a sanitary sewer impact fee of \$4,731, as shown in the attached Exhibit B; and,
4. The adoption of the Impact Fee Facilities Plan and Impact Fee Analysis, together with the revisions to Chapter 4-15, are hereby found to be in the public interest; and,
5. The adoption of Exhibit A is hereby made effective immediately, subject to U.C.A. §11-36a-401; and,
6. The amendment to Tooele City Code Section 4-15-2 is hereby made effective immediately, subject to U.C.A. §11-36a-401; and,
7. The revised sanitary sewer impact fee of \$4,731 per ERU shall take effect on August 1, 2023.

IN WITNESS WHEREOF, this Ordinance is passed by the Tooele City Council
this ____ day of _____, 2023.

TOOELE CITY COUNCIL

(For)

(Against)

ABSTAINING: _____

MAYOR OF TOOELE CITY

(Approved)

(Disapproved)

ATTEST:

Michelle Y. Pitt, City Recorder

S E A L

Approved as to Form: _____
Roger Evans Baker, City Attorney

EXHIBIT A

**2023 WASTEWATER IMPACT FEE FACILITIES PLAN
AND
2023 WASTEWATER IMPACT FEE ANALYSIS**

**IMPACT FEE FACILITIES PLAN (IFFP)
AND IMPACT FEE ANALYSIS (IFA)**
PURSUANT TO 11-36A, UTAH CODE

WASTEWATER FACILITIES

MARCH 2023

TOOELE CITY, UTAH





TABLE OF CONTENTS

IMPACT FEE FACILITIES PLAN & ANALYSIS CERTIFICATION.....	2
DEFINITIONS.....	3
SECTION 1: EXECUTIVE SUMMARY.....	4
SECTION 2: GENERAL IMPACT FEE METHODOLOGY	6
SECTION 3: OVERVIEW OF SERVICE AREA, DEMAND, AND LOS.....	8
SECTION 4: EXISTING FACILITIES & EXCESS CAPACITY	10
SECTION 5: CAPITAL FACILITY ANALYSIS.....	11
SECTION 6: WASTEWATER IMPACT FEE CALCULATION	14



IMPACT FEE FACILITIES PLAN & ANALYSIS CERTIFICATION

IFFP CERTIFICATION

LYRB certifies that the attached impact fee facilities plan:

1. includes only the costs of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
 - a. costs of operation and maintenance of public facilities;
 - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
 - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and,
3. complies in each and every relevant respect with the Impact Fees Act.

IFA CERTIFICATION

LYRB certifies that the attached impact fee analysis:

1. includes only the costs of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
 - a. costs of operation and maintenance of public facilities;
 - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
 - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
3. offsets costs with grants or other alternate sources of payment; and,
4. complies in each and every relevant respect with the Impact Fees Act.

LYRB makes this certification with the following caveats:

1. All of the recommendations for implementations of the IFFP made in the IFFP documents or in the IFA documents are followed by City Staff and elected officials.
2. If all or a portion of the IFFP or IFA are modified or amended, this certification is no longer valid.
3. All information provided to LYRB is assumed to be correct, complete, and accurate. This includes information provided by the City as well as outside sources.

LEWIS YOUNG ROBERTSON & BURNINGHAM, INC.



DEFINITIONS

The following acronyms or abbreviations may be used in this document:

- AAGR:** Average Annual Growth Rate
- AF:** Acre Foot
- ERU:** Equivalent Residential Units
- GAL:** Gallons
- GPM:** Gallons per Minute
- GPD:** Gallons per Day
- IFA:** Impact Fee Analysis
- IFFP:** Impact Fee Facilities Plan
- LOS:** Level of Service
- LYRB:** Lewis Young Robertson and Burningham, Inc.
- MG:** Million Gallons

SECTION 1: EXECUTIVE SUMMARY

The purpose of the Wastewater Impact Fee Facilities Plan (“IFFP”) and Analysis (“IFA”) is to fulfill the requirements established in Utah Code Title 11 Chapter 36a, the “Impact Fees Act”, and assist Tooele City (the “City”) in financing and constructing necessary capital improvements for future growth. This document will address the future wastewater infrastructure needed to serve the service area through the next ten years, as well as the appropriate impact fees the City may charge to new growth to maintain the existing level of service (“LOS”). This analysis was supported by the following documents:

- ☞ April 2009 Water Reclamation Facility Plan
- ☞ September 2022 Wastewater Collection System Master Plan
- ☞ November 2022 Memo updating the cost from the 2009 Water Reclamation Facility Plan
- ☞ November 2022 Memo Future Project List - Impact Fee Eligibilities

From these reports, along with information provided by the City, the impact fee facilities plan and analysis identified the following key elements:

- ☞ **Impact Fee Service Area:** The service area for wastewater impact fees includes all areas within the City.
- ☞ **Demand Analysis:** The demand units utilized in this analysis are based on typical usage patterns measured in peak and average gallons per day (“gpd”) and equivalent residential units (“ERUs”) generated from land-use types. As residential and commercial growth occurs within the City, additional ERUs will be generated. The wastewater capital improvements identified in this study are based on maintaining the existing LOS.
- ☞ **Level of Service:** The proposed LOS is based on the various system requirements for treatment and collection. **SECTION 3** of this report further explains the LOS.
- ☞ **Excess Capacity:** A buy-in component for treatment and collections is included in this analysis.
- ☞ **Capital Facilities Analysis:** Approximately \$12.3M in new treatment and collection system improvement costs are included in the calculation of the impact fee. All these costs are considered system improvements necessary to maintain the proposed LOS and meet the anticipated development activity over that same period.
- ☞ **Funding of Future Facilities:** This analysis assumes future growth-related facilities will be funded on a pay-as-you-go basis, utilizing impact fee and utility fee revenues.

PROPOSED WASTEWATER IMPACT FEE

The IFFP must meet the legislative requirements found in the Impact Fee Act if it is to serve as a working document in the calculation of impact fees. The calculation of impact fees relies upon the information contained in this analysis. Impact fees are then calculated based on many variables centered on proportionality share and LOS. The table below illustrates the appropriate buy-in fee, the fee associated with projects occurring in the next ten years, and other costs related to the wastewater impact fee. The proportionate share analysis determines the proportionate cost assignable to new development based on the proposed capital projects and the estimated ERU demand served by the proposed projects.

TABLE 1.1: IMPACT FEE PER ERU

	TOTAL COST	% TO GROWTH	COST TO GROWTH	% TO IFFP GROWTH	COST TO IFFP GROWTH	DEMAND SERVED	COST PER ERU	% OF TOTAL
Buy-In								
Treatment	\$27,009,507	22%	\$5,905,629	94%	\$5,559,907	4,117	\$1,350	28.53%
Collection	\$11,158,121	41%	\$4,596,665	41%	\$1,875,939	4,117	\$456	9.64%
Subtotal: Buy-In	\$38,167,628				\$7,435,846		\$1,806	38.17%
Future Facilities								
Treatment	\$52,235,000	95.78%	\$50,032,552	16%	\$7,789,940	4,117	\$1,892	39.99%
Collection	\$10,211,620	44.00%	\$4,492,959	100%	\$4,492,959	4,117	\$1,091	23.06%
Impact Fee Interest Credit	(\$250,000)	100.00%	(\$250,000)	100%	(\$250,000)	4,117	(\$61)	-1.29%
Professional Expense	\$11,626	100.00%	\$11,626	100%	\$11,626	4,117	\$3	0.06%
Subtotal: Future Facilities	\$62,208,246				\$12,044,525		\$2,925	61.83%
Total	\$100,375,874				\$19,480,371		\$4,731	100.00%
						Treatment Total	\$3,203	67.70%
						Collection Total	\$1,528	32.30%



NON-STANDARD WASTEWATER IMPACT FEES

The City reserves the right under the Impact Fees Act¹ to assess an adjusted fee that more closely matches the true impact that the land use will have upon the City's wastewater system. The adjustment for non-standard wastewater impact fees could result in a different impact fee if evidence suggests a particular user will create a different impact than what is standard for its category. A developer may submit studies and data for a particular development and request an adjustment. The impact fee for non-standard development would be determined based on LOS variables presented in this report, calculated on a case-by-case basis.

FORMULA FOR NON-STANDARD WASTEWATER IMPACT FEES:

Treatment: (Total Average Daily Demand (GPD) / 170 (GPD)) * Treatment Impact Fee/ERU (\$3,203) = Treatment Fee

Collection: (Total Peak Daily Demand (GPD) / 230 (GPD)) * Collection Impact Fee/ERU (\$1,528) = Collection Fee

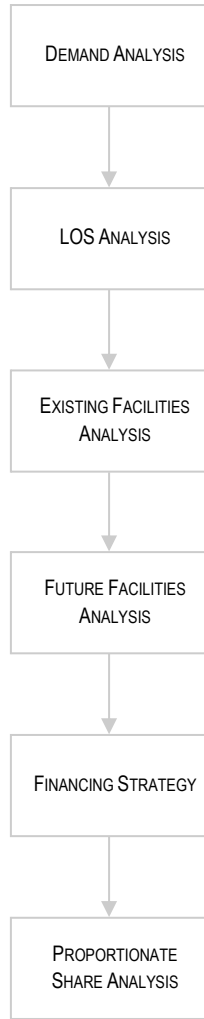
Treatment Fee + Collection Fee = Total Impact Fee

For purposes of impact fees, an ERU is defined as 170 GPD average demand for treatment and 230 GPD peak demand for collection.

¹ UC 11-36a-402(1)(c)

SECTION 2: GENERAL IMPACT FEE METHODOLOGY

FIGURE 2.1: IMPACT FEE METHODOLOGY



The purpose of this study is to fulfill the requirements of the Impact Fees Act regarding the establishment of an IFA². The sections of this report identify the demands placed upon the City's existing facilities by future development and evaluate how these demands will be met by the City, as well as the future improvements required to maintain the existing LOS. The purpose is to proportionately allocate the cost of the new facilities and any excess capacity to new development, while ensuring that all methods of financing are considered. The following elements are important considerations when completing an IFA.

DEMAND ANALYSIS

The demand analysis serves as the foundation for this analysis. This element focuses on a specific demand unit related to each public service – the existing demand on public facilities and the future demand as a result of new development that will impact system facilities.

LEVEL OF SERVICE ANALYSIS

The demand placed upon existing public facilities by existing development is known as the existing LOS. Through the inventory of existing facilities, combined with population growth assumptions, this analysis identifies the LOS which is provided to a community's existing residents and ensures that future facilities maintain these standards.

EXISTING FACILITY INVENTORY

In order to quantify the demands placed upon existing public facilities by new development activity, the IFFP provides an inventory of the City's existing system improvements. The inventory does not include project improvements. The inventory of existing facilities is important to properly determine the excess capacity of existing facilities and the utilization of excess capacity by new development. Any excess capacity identified within existing facilities can be apportioned to future new development.

FUTURE CAPITAL FACILITIES ANALYSIS

The demand analysis, existing facility inventory and LOS analysis allow for the development of a list of capital projects necessary to serve new growth and to maintain the existing system. This list includes any excess capacity of existing facilities as well as future system improvements necessary to maintain the LOS. Any demand generated from new development that overburdens the existing system beyond the existing capacity justifies the construction of new facilities.

FINANCING STRATEGY

This analysis must also include a consideration of all revenue sources, including impact fees, debt issuance, alternative funding sources, and the dedication (aka donations) of system improvements, which may be used to finance system improvements.³ In conjunction with this revenue analysis, there must be a determination that impact fees are necessary to achieve an equitable allocation of the costs of the new facilities between the new and existing users.⁴

PROPORTIONATE SHARE ANALYSIS

The written impact fee analysis is required under the Impact Fees Act and must identify the impacts placed on the facilities by development activity and how these impacts are reasonably related to the new development. The written impact fee analysis must include a proportionate share analysis, clearly detailing each cost component and the methodology used to calculate each impact fee. A local political subdivision or private entity may only impose impact fees on development activities when its plan for financing system improvements establishes that impact fees are necessary to achieve an equitable allocation of the costs borne in the past and to be borne in the future (UCA 11-36a-302).

² UC 11-36a-301,302,303,304

³ UC 11-36a-302(2)

⁴ UC 11-36a-302(3)



SYSTEM VS. PROJECT IMPROVEMENTS

System improvements are defined as existing and future public facilities designed and intended to provide services to service areas within the community at large.⁵ Project improvements are improvements and facilities that are planned and designed to provide service for a specific development (resulting from a development activity) and considered necessary for the use and convenience of the occupants or users of that development.⁶ References to facilities, amenities, projects, etc. within this analysis are referring to System Improvements unless otherwise stated.

⁵ UC 11-36a-102(20)

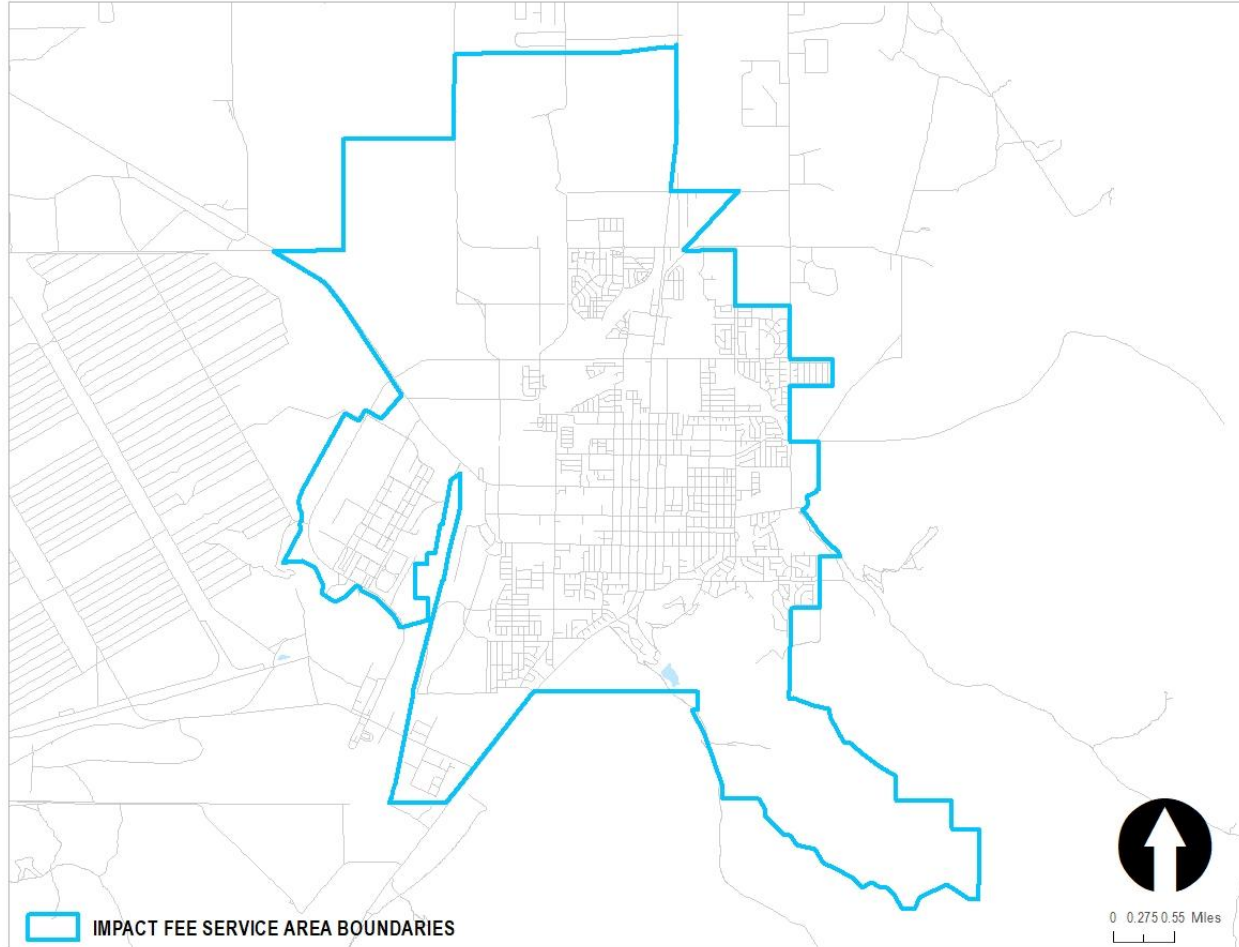
⁶ UC 11-36a102(13)

SECTION 3: OVERVIEW OF SERVICE AREA, DEMAND, AND LOS

SERVICE AREAS

Utah Code requires the impact fee enactment to establish one or more service areas within which impact fees will be imposed.⁷ The impact fees identified in this document will be assessed to a single, city-wide service area.

FIGURE 3.1: WASTEWATER SERVICE AREA



It is anticipated that the growth projected over the next ten years, and through buildout, will impact the City's existing services. wastewater infrastructure will need to be expanded in order to maintain the existing level of service ("LOS"). Impact fees are a logical and sound mechanism for funding growth-related infrastructure. The IFFP and this analysis are designed to accurately assess the true impact of a particular user upon the City's infrastructure and prevent existing users from subsidizing new growth. This analysis also ensures that new growth is not paying for existing system deficiencies. Impact fees should be used to fund the costs of growth-related capital infrastructure based upon the historic funding of the existing infrastructure and the intent of the City to equitably allocate the costs of growth-related infrastructure in accordance with the true impact that a user will place on the system.

⁷ UC 11-36a-402(a)

DEMAND UNITS

As shown in **TABLE 3.1**, the growth in ERUs is expected to reach 18,517 units by 2030. This represents an increase of 4,117 ERUs.

TABLE 3.1: CITY-WIDE ERU PROJECTIONS

YEAR	PROJECTED ERUs
2020	14,400
2030	18,517
2060	24,488
IFFP Increase	4,117

Source: Tooele City Wastewater Collection Master Plan 2022 Appendix B

LEVEL OF SERVICE STANDARDS

Impact fees cannot be used to finance an increase in the LOS to current or future users of system improvements. Therefore, it is important to identify the wastewater LOS currently provided within the City to ensure that the new capacities of projects financed through impact fees do not exceed the established standard.

The treatment LOS is determined based on average flow generation expressed in gpd. In addition, the Master Plan considered a peaking factor of 1.54 for wastewater. The total system capacity will be considered for each component,

compared to the requirements needed to maintain the identified performance standard for existing development. If the existing system capacity is less than the performance standard, it represents a deficiency. If it is greater than the performance standard, it may indicate excess capacity. The Master Plan also considers infiltration and inflow impacts when determining facility sizing.

TABLE 3.2: MASTER PLAN LOS VARIABLES

TREATMENT PLANT	1/1/2019
Gallons (1 Month)	74,899,594
GPD	2,416,116
ERUs	14,400
GPD per ERU	167.79
Hydraulic Loading (GPD/ERU)	170.00
Treatment LOS (GPD/ERU)	170.00
Collection (Peak) LOS	230.00

Source: Tooele Wastewater Collection System Master Plan, p. 4-1 and 4-2

SECTION 4: EXISTING FACILITIES & EXCESS CAPACITY

EXISTING FACILITIES

The City's existing system is defined by the capacity variables found in **TABLE 4.1**.

TABLE 4.1: SUMMARY OF EXISTING FACILITIES

COMPONENT	CAPACITY	UNIT	EXISTING VALUE*	SOURCE
Treatment	3.40	MGD	\$27,009,507	Tooele City Wastewater Master Plan 2022, p. 2-1, LYRB
Collection	The existing Tooele City wastewater collection system consists of nearly 175 miles of pipeline and over 3,300 manholes. The pipe sizes range from 6-inch diameter to 30-inch diameter pipe.		\$11,158,121	Tooele City Wastewater Master Plan 2022, p. 2-1, LYRB

*Based on Original Value Found in City's Depreciation Schedule, including any interest related to debt service.

EXCESS CAPACITY

The intent of the equity buy-in component is to recover the costs of the unused capacity in existing infrastructure from new development. This section addresses any excess capacity within the wastewater system.

TREATMENT

The City's current treatment capacity is 3.4 MGD. Existing development requires 2.66 MGD, leaving 0.74 MGD of excess capacity (or 21.9 percent of the total system). The excess capacity can serve another 4,373 ERUs.

The treatment buy-in component is calculated using the original cost of existing assets as presented in the City's financial records. The total value of existing treatment facilities is estimated at \$27,009,507, with \$5,905,629 allocated to buy-in as shown in **TABLE 4.2** and **4.4**.

TABLE 4.2: CALCULATION OF EXCESS TREATMENT CAPACITY

Design Capacity (MGD)	3.40
Total Existing Demand (MGD)	2.66
Excess/(Deficiency) (MGD)	0.74
Excess/(Deficiency) as % of Total Reliable Capacity	21.9%
Total ERUs Served by Excess Capacity	4,373
Total Value of Treatment System	\$27,009,507
Excess Capacity Value	\$5,905,629
IFFP Demand	4,117
IFFP Demand as % of New Growth	94%
Value to IFFP Demand	\$5,559,907

TABLE 4.4: VALUATION OF EXISTING TREATMENT FACILITIES

Original Value	\$21,587,709
Interest Paid on Treatment Plant	
Series 1997B	\$2,776,448
Series 2010 (Taxable)	\$497,818
Series 2011 Refunding	\$2,147,532
Total Interest	\$5,421,797
Total Treatment Value	\$27,009,507

TABLE 4.3: CALCULATION OF EXCESS COLLECTION CAPACITY

Collection System Value	\$21,119,827
Eligible System Improvements	\$11,158,121
Total ERUs Served	24,488
New Growth Through Buildout	10,088
Growth as % of Buildout	41%
Cost to Growth	\$4,596,665
IFFP Demand	4,117
IFFP Demand as % of New Growth	41%
Value to IFFP Demand	\$1,875,939

COLLECTION SYSTEM

The collection system is evaluated based on providing benefit to development through buildout. The total ERUs served from the collection system is 24,488. New growth through buildout represents 41 percent of the total demand, with the IFFP demand a fraction of the new development through buildout. **TABLE 4.3** illustrates the calculation of the collection system buy-in.

MANNER OF FINANCING EXISTING PUBLIC FACILITIES

The City has funded its existing capital infrastructure through a combination of different revenue sources, including impact fees, user fees, dedications, the issuance of debt, and grant monies. This analysis has removed all funding that has come from federal grants and donations to ensure that none of those infrastructure items are included in the LOS.

SECTION 5: CAPITAL FACILITY ANALYSIS

The estimated costs attributed to new growth were analyzed based on existing development versus future development patterns, as well as through an analysis of flow data. From this analysis, a portion of future infrastructure costs were attributed to new growth and included in this impact fee analysis as shown in **TABLE 5.1 AND 5.2**. The costs of capital projects related to curing existing deficiencies cannot be funded through impact fees and were not included in the calculation of the impact fees. A four percent annual construction inflation adjustment is applied to projects completed after 2022 (the base year cost estimate).

TABLE 5.1: ILLUSTRATION OF WASTEWATER COLLECTION SYSTEM CAPITAL IMPROVEMENTS

PROJECT ID	DESCRIPTION	COST ¹	YEAR	CONSTRUCTION YEAR COST	GROWTH RELATED	GROWTH RELATED COST	% IFFP ELIGIBLE	COST TO IFFP
E-1	Remove and upgrade existing 8" gravity line to 200 ft of 10" gravity line.	\$120,000	2024	\$129,792	41%	\$53,469	100%	\$53,469
E-2	Remove and upgrade existing 12" gravity line to 2,100 ft of 15" gravity line.	\$1,260,000	2025	\$1,417,329	41%	\$583,878	100%	\$583,878
E-3	Remove and upgrade existing 12" gravity line to 2,550 ft of 15" gravity line.	\$1,520,000	2026	\$1,778,185	41%	\$732,536	100%	\$732,536
E-4	Remove and upgrade existing 18" and 21" gravity line to 6,500 ft of 24" gravity line. Contains 36" bore for 115 ft under railroad tracks.	\$5,260,000	2027	\$6,399,594	41%	\$2,636,357	100%	\$2,636,357
F-1	Remove and upgrade existing 30" gravity line to 160 ft of 36" gravity line.	\$450,000	2024	\$486,720	100%	\$486,720	100%	\$486,720
Total		\$8,610,000		\$10,211,620		\$4,492,959		\$4,492,959

¹All costs include 25% for engineering, administrative costs, and contingencies. Costs are shown in 2022 dollars.

Source: Tooele Wastewater Collection System Master Plan, p. 8-2 and 8-3

Notes: These projects have capacity to serve existing demand and demand through 2060

The City has identified additional treatment improvements that will be needed to maintain the total capacity of the facility and provide necessary system redundancy. The total growth-related cost is estimated at \$12.6M. Based on the total capacity added by the proposed improvements, the fee per GPD is \$11.13 or a cost of \$1,892 per ERU.

TABLE 5.2: ILLUSTRATION OF WASTEWATER TREATMENT SYSTEM CAPITAL IMPROVEMENTS

PROJECT DESCRIPTION	COST	ADDITIONAL CAPACITY (MGD)	YEAR	CONSTRUCTION YEAR COST	GROWTH RELATED	GROWTH RELATED COST	% IN IFFP PLANNING HORIZON	IFFP COSTS	\$/GPD
Biosolids Drying Process + Dewatering Equipment	\$10,513,000	1.40	2024	\$11,370,861	41%	\$4,662,053	100%	\$4,662,053	\$8.12
Waste Solids Holding/Digestion + Thickener Replacement	\$2,289,000	1.40	2025	\$2,574,814	41%	\$1,055,674	100%	\$1,055,674	\$1.84
Tertiary Filter Retrofit	\$1,763,000	6.70	2023	\$1,833,520	77%	\$1,411,810	100%	\$1,411,810	\$0.27
New Headworks Building and Equipment	\$7,318,000	8.50	2023	\$7,610,720	72%	\$5,479,718	100%	\$5,479,718	\$0.90
Oxidation Ditch (1.7 MGD basis)	\$19,600,000	1.70	2028	\$24,800,253	100%	\$24,800,253	0%	\$0	\$0.00
Aeration Support Facilities	\$2,126,000	1.70	2025	\$2,391,461	100%	\$2,391,461	0%	\$0	\$0.00
Clarifiers 4 and 5, Piping, and Splitter Structure	\$5,626,000	1.70	2026	\$6,581,624	100%	\$6,581,624	0%	\$0	\$0.00
New RAS/WAS Pumping Facilities	\$3,000,000	1.70	2027	\$3,649,959	100%	\$3,649,959	0%	\$0	\$0.00
Total Estimated Project Costs	\$52,235,000	24.80		\$60,813,211		\$50,032,552		\$12,609,255	\$11.13
								LOS (GPD/ERU)	170.00
								Cost per ERU	\$1,892.14

Source: Memo Future Project List - Impact Fee Eligibilities, Table 1

The IFFP has determined the projects included in this analysis using capital project and engineering data, planning analysis and other information. The accuracy and correctness of this plan is contingent upon the accuracy of the data and assumptions. Any deviations or changes in the assumptions due to changes in the economy or other relevant information used by the City for this study may cause this plan to be inaccurate and may require modifications.

SYSTEM VS. PROJECT IMPROVEMENTS

System improvements are defined as existing and future public facilities that are intended to provide services to service areas within the community at large.⁸ Project improvements are improvements and facilities that are planned and designed to provide service for a specific development and considered necessary for the use and convenience of the occupants or users of that specific development.⁹ This analysis only includes the costs of system improvements related to new growth within the proportionate share analysis.

FUNDING OF FUTURE FACILITIES

The IFFP must also include a consideration of all revenue sources, including impact fees and the dedication (donations) of system improvements, which may be used to finance system improvements.¹⁰ In conjunction with this revenue analysis, there must be a determination that impact fees are necessary to achieve an equitable allocation of the costs of the new facilities between the new and existing users.¹¹

In considering the funding of future facilities, the City has determined the portion of future projects that will be funded by impact fees as growth-related, system improvements. Impact fees are an appropriate funding and repayment mechanism of the growth-related improvements. Where applicable, impact fees will offset the cost of future facilities. However, impact fees cannot be used to fund non-qualified expenses (i.e. the costs to cure existing deficiencies, to raise the LOS, to recoup more than the actual cost of system improvements, or the cost to fund overhead). Other revenues such as utility rate revenue, property taxes, grants, or loans can be used to fund these types of expenditures, as described below.

UTILITY RATE REVENUES

Utility rate revenues serve as the primary funding mechanism within enterprise funds. Rates are established to ensure appropriate coverage of all operations and maintenance expenses, as well as all non-growth related debt service and capital project needs.

PROPERTY TAX REVENUES

Property tax revenues are not specifically identified in this analysis as a funding source for growth-related capital projects, but inter-fund loans may be made from the general fund which will ultimately include some property tax revenues. Interfund loans will be repaid once sufficient impact fee revenues have been collected. The City follows Utah Code 10-6-132 which requires interest to be accrued on interfund loans. Property tax revenue are generally not used to support enterprise funds.

GRANTS AND DONATIONS

Grants and donations are not currently contemplated in this IFFP. However, the impact fees will be adjusted if grants become available to reflect the grant monies received. A donor and the City may enter into a Development Agreement which may entitle the donor to a reimbursement for the value of the system improvements, up to the LOS, funded through impact fees if donations are made by new development.

IMPACT FEE REVENUES

Impact fees are charged to ensure that new growth pays its proportionate share of the costs for the development of public infrastructure. Impact fee revenues can also be attributed to the future expansion of public infrastructure if the revenues are used to maintain an existing LOS. Increases to an existing LOS cannot be funded with impact fee revenues. Impact fee revenues are generally considered non-operating revenues and help offset future capital costs.

DEBT FINANCING

In the event the City has not accumulated sufficient impact fees to pay for the construction of time-sensitive or urgent capital projects needed to accommodate new growth, the City must look to revenue sources other than impact fees for funding. The Impact Fees Act allows for the costs related to the financing of future capital projects to be legally included in the impact fee. This

⁸ UC 11-36a-102(20)

⁹ UC 11-36a102(13)

¹⁰ UC 11-36a-302(2)

¹¹ UC 11-36a-302(3)

allows the City to finance and quickly construct infrastructure for new development and reimburse itself later from impact fee revenues for the costs of principal, interest, and costs of issuance.

This analysis assumes future growth-related facilities will be funded on a pay-as-you-go basis, utilizing impact fee and utility fee revenues.

EQUITY OF IMPACT FEES

Impact fees are intended to recover the costs of capital infrastructure that relate to future growth. The impact fee calculations are structured for impact fees to fund 100 percent of the growth-related facilities identified in the proportionate share analysis as presented in the impact fee analysis. Even so, there may be years that impact fee revenues cannot cover the annual growth-related expenses. In those years, growth-related projects may be delayed, or other revenues such as general fund revenues or other fund's revenues and/or fund balance reserves may be used to make up any annual deficits. Any borrowed funds are to be repaid in their entirety through subsequent impact fees.

NECESSITY OF IMPACT FEES

An entity may only impose impact fees on development activity if the entity's plan for financing system improvements establishes that impact fees are necessary to achieve parity between existing and new development. This analysis has identified the improvements to public facilities and the funding mechanisms to complete the suggested improvements. Impact fees are identified as a necessary funding mechanism to help offset the costs of capital improvements related to new growth. In addition, alternative funding mechanisms are identified to help offset the cost of future capital improvements.

SECTION 6: WASTEWATER IMPACT FEE CALCULATION

PROPOSED WASTEWATER IMPACT FEE

The IFFP must properly complete the legislative requirements found in the Impact Fee Act if it is to serve as a working document in the calculation of appropriate impact fees. The improvements identified in this IFFP are necessary for new development to maintain the existing LOS. The total system costs are divided by the total demand units the projects are designed to serve.

COMBINED WASTEWATER IMPACT FEE CALCULATION

The wastewater impact fees proposed in this analysis will be assessed within all areas of the City. **TABLE 6.1** below illustrates the appropriate buy-in component, the fee associated with projects occurring in the next ten years and the applicable planning and interest costs. The proportionate share analysis determines the proportionate cost assignable to new development based on the proposed capital projects and the estimated ERU demand served by the proposed projects, in this case, the ERUs over the next ten years, which are illustrated in **TABLE 3.1**.

TABLE 6.1: CALCULATION OF PROPORTIONATE IMPACT FEE

	TOTAL COST	% TO GROWTH	COST TO GROWTH	% TO IFFP GROWTH	COST TO IFFP GROWTH	DEMAND SERVED	COST PER ERU	% OF TOTAL
Buy-In								
Treatment	\$27,009,507	22%	\$5,905,629	94%	\$5,559,907	4,117	\$1,350	28.53%
Collection	\$11,158,121	41%	\$4,596,665	41%	\$1,875,939	4,117	\$456	9.64%
Subtotal: Buy-In	\$38,167,628				\$7,435,846		\$1,806	38.17%
Future Facilities								
Treatment	\$52,235,000	95.78%	\$50,032,552	16%	\$7,789,940	4,117	\$1,892	39.99%
Collection	\$10,211,620	44.00%	\$4,492,959	100%	\$4,492,959	4,117	\$1,091	23.06%
Impact Fee Interest Credit	(\$250,000)	100.00%	(\$250,000)	100%	(\$250,000)	4,117	(\$61)	-1.29%
Professional Expense	\$11,626	100.00%	\$11,626	100%	\$11,626	4,117	\$3	0.06%
Subtotal: Future Facilities	\$62,208,246				\$12,044,525		\$2,925	61.83%
Total	\$100,375,874				\$19,480,371		\$4,731	100.00%
						Treatment Total	\$3,203	67.70%
						Collection Total	\$1,528	32.30%

NON-STANDARD WASTEWATER IMPACT FEES

The City reserves the right under the Impact Fees Act¹² to assess an adjusted fee that more closely matches the true impact that the land use will have upon the City's wastewater system. The adjustment for non-standard wastewater impact fees could result in a different impact fee if evidence suggests a particular user will create a different impact than what is standard for its category. A developer may submit studies and data for a particular development and request an adjustment. The impact fee for non-standard development would be determined based on LOS variables presented in this report, calculated on a case-by-case basis.

FORMULA FOR NON-STANDARD WASTEWATER IMPACT FEES:

Treatment: (Total Average Daily Demand (GPD) / 170 (GPD)) * Treatment Impact Fee/ERU (\$3,203) = Treatment Fee

Collection: (Total Peak Daily Demand (GPD) / 230 (GPD)) * Collection Impact Fee/ERU (\$1,528) = Collection Fee

Treatment Fee + Collection Fee = Total Impact Fee

For purposes of impact fees, an ERU is defined as 170 GPD average demand for treatment and 230 GPD peak demand for collection.

CONSIDERATION OF ALL REVENUE SOURCES

The Impact Fees Act requires the proportionate share analysis to demonstrate that impact fees paid by new development are the most equitable method of funding growth-related infrastructure. See **SECTION 5** for further discussion regarding the consideration of revenue sources.

¹² UC 11-36a-402(1)(c)

EXPENDITURE OF IMPACT FEES

Legislation requires that impact fees should be spent or encumbered with six years after each impact fee is paid. Impact fees collected should be spent only on those projects outlined in the IFFP as growth related costs to maintain the LOS.

PROPOSED CREDITS OWED TO DEVELOPMENT

Credits may be applied to developers who have constructed and donated system facilities to the City that are included in the IFFP in-lieu of impact fees. Credits for system improvements may be available to developers up to, but not exceeding, the amount commensurate with the LOS identified within this IFA. Credits will not be given for the amount by which system improvements exceed the LOS identified within this IFA. This situation does not apply to developer exactions or improvements required to offset density or as a condition of development. Any project that a developer funds must be included in the IFFP if a credit is to be issued.

In the situation that a developer chooses to construct system facilities found in the IFFP in-lieu of impact fees, the decision must be made through negotiation with the developer and the City on a case-by-case basis.

GROWTH-DRIVEN EXTRAORDINARY COSTS

The City does not anticipate any extraordinary costs necessary to provide services to future development.

SUMMARY OF TIME PRICE DIFFERENTIAL

The Impact Fees Act allows for the inclusion of a time price differential to ensure that the future value of costs incurred at a later date are accurately calculated to include the costs of construction inflation. A four percent annual construction inflation adjustment is applied to projects completed after 2022 (the base year cost estimate).

EXHIBIT B

TOOELE CITY CODE CHAPTER 4-15 (AMENDED)

Chapter 15. Development Impact Fees

- 4-15-1 Definitions.**
- 4-15-2 Assessment of Impact Fees.**
- 4-15-3 Exemption from Impact Fees.**
- 4-15-4 Credits.**
- 4-15-5 Waiver.**
- 4-15-6 Appeals.**
- 4-15-7 Establishment of Impact Fees Accounts.**
- 4-15-8 Refunds.**
- 4-15-9 Use of Funds.**
- 4-15-10 Independent Fee Calculations.**

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:

~~(A) Residential. the base fee shall be \$4,731 2,290 per Equivalent Residential Unit (ERU), as defined in the documents comprising the 2023 Wastewater Impact Fee Facilities Plan and Impact Fee Analysis. 2010 Waste Water Capital Facilities Plan (impact fee facilities plan).~~

~~(B) Non-residential. as determined under Figure 4.5 (Impact Fee ERU Multipliers) of the 2010 Sewer Treatment and Collections 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 in Figure 4.6 (Calculation of Non-Standard Sewer Impact Fee) of the 2023 Wastewater Impact Fee Facilities Plan and Impact Fee Analysis ~~2010 Sewer Treatment and Collections 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-feet 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. 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)