

CHAPTER 1

BUILDING CODE AND PERMIT REQUIREMENTS

ARTICLE A. IMPACT FEES

SECTION:

- 9-1A-1: Reports Adopted
- 9-1A-2: Fees Imposed
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- 9-1A-7: Administrative Challenges and Appeals Procedure

9-1A-1: **REPORTS ADOPTED:** The City Council hereby approves and adopts the reports from the USU Center for Rural Economic Development, entitled "Providence City Impact Fee Analysis, July 1, 1997" and the analysis reflected therein for each of the impact fees in question. (Ord. 97-OM013, 7-29-1997)

9-1A-2: **FEES IMPOSED:** Impact fees are hereby imposed as a condition of the issuance of a building permit by the City for any development activity which creates additional demand and need for public facilities for the culinary water system, the wastewater (sewer) system, parks and roads, as set forth in the current impact fee schedule as adopted by resolution, which is attached to the Ordinance codified herein. (Ord. 97-OM013, 7-29-1997; 1998 Code)

9-1A-3: **SERVICE AREAS:** The entire area of the City and any areas outside the City serviced by such systems are hereby designated and established as one service area with respect to the culinary water system, the wastewater (sewer) system, parks and roads. (Ord. 97-OM013, 7-29-1997)

9-1A-4: **TIME OF COLLECTION:** Unless otherwise provided by the City Council, impact fees shall be paid to the City prior to the issuance of a building permit by the City. (Ord. 97-OM013, 7-29-1997)

9-1A-5: **ADJUSTMENT OF FEES:**

- A. Considerations: The City may adjust the impact fees imposed pursuant to this Article as necessary in order to:
1. Respond to unusual circumstances in specific cases;
 2. Ensure that the impact fees are imposed fairly;
 3. Permit the adjustment of the amount of the fee based upon studies and data submitted by an applicant or developer, as approved by the City Council; and
 4. Allow a credit against impact fees, as approved by the City Council, for dedication of land for improvement to or new construction of any system improvements by the applicant or developer if the facilities are identified in the City's facilities or other reasonable plans and are required by the City as a condition of approving the development activity. No credits shall be given for project improvements as defined by the Utah Impact Fees Act.
- B. Planning and Zoning Commission: The Planning And Zoning Commission shall have the authority to make such adjustments based upon information submitted by an applicant or developer and any recommendations from other appropriate City officials or employees, including the City Engineer.
- C. Policies Adopted: The City may adopt policies consistent with this Article and any resolutions passed by the City Council to assist in the implementation, administration and interpretation of this Article related to municipal impact fees.
- D. Appeal: If the applicant, developer, person or entity is not satisfied with Planning and Zoning Commission's decision, an appeal may be made to the City Council under the procedures set forth in Section 9-1A-7 of this Article. (Ord. 97-OM013, 7-29-1997)

9-1A-6: **ACCOUNTING, EXPENDITURE AND REFUND:** The City shall account for, expend and refund impact fees collected pursuant to this Article in accordance with the provisions of the Utah Impact Fees Act. (Ord. 97-OM013, 7-29-1997)

9-1A-7: ADMINISTRATIVE CHALLENGES AND APPEALS PROCEDURE:

- A. Request for Information: Any person or entity required to pay an impact fee imposed by the City who believes the fee does not meet the requirements of law may file a written request for information with the City as provided by law.
- B. Analysis Provided by Appellant: Within two (2) weeks of the receipt of the request information, the City shall provide the person or entity with the written analysis required by the Act and with any other relevant information relating to the impact fee.
- C. Written Appeal; Hearing: Within thirty (30) days after paying an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall file a written appeal with the City Recorder, setting forth in detail all factual and legal grounds in support of the appeal and challenge to the impact fee, and which is relied upon by the appealing party with respect to the fees challenged. Upon receipt of the written appeal, the City Recorder shall forward the appeal, together with any recommendations from the City Engineer to the City Council and shall schedule a public hearing before the City Council on the appeal for the purpose of receiving input from all interested persons. The City Council shall thereafter render its decision on the appeal no later than thirty (30) days after the date the appeal was filed with the City Recorder. Any person or entity who has failed to comply with the administrative remedies established by this Section may not file or join an action challenging the validity of any impact fee.
- D. District Court Appeal:
 - 1. Time Limit: Any person or entity who was a party to an appeal under this Section who is adversely affected by the decision of the City Council may petition the District Court for a review of the impact decision within ninety (90) days of a decision upholding an impact fee by the City Council or within one hundred twenty (120) days after the date the challenge to the impact fee was filed, whichever is earlier. The petition for review of the decision shall be filed in the First District Court for Cache County.
 - 2. Transmit Record of Proceedings: In the event a petition is filed with the District Court, the City shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and if available, a true and correct transcript of its proceedings.

3. Transcript: If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for the purposes of subsection D2 of this Section.
4. Record; Court Review Limited: If there is a record:
 - a. The District Court's review is limited to the record provided by the City; and
 - b. The District Court may not accept or consider any evidence outside the City's record, unless that evidence was offered to the City and the court determines that it was improperly excluded by the City.
5. Inadequate Record: If there is an inadequate record, the court may call witnesses and take evidence.
6. Affirmative Decision: The District Court shall affirm the decision of the City Council if the decision is supported by substantial evidence in the record.
7. Attorney Fees: The judge may award reasonable attorney fees and costs to the prevailing party in an action brought under this subsection. (Ord. 97-OM013, 7-29-1997)