

**TITLE 6.  
FINANCE AND TAXATION.**

**CHAPTER 6-900. MUNICIPAL  
IMPACT FEES.**

**6-901. Impact 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 parks and recreation, the culinary water system and the waste water (sewer) system, as set forth in Exhibit A which is attached hereto and incorporated herein by this reference.

**6-902. Service Areas.**

(1) **Parks and Recreation.** The entire area of the City is hereby designated and established as one service area with respect to parks and recreation.

(2) **Culinary Water System.** The following service areas are hereby established within the City:

(a) Service Area 1: See attached map - AExhibit B@

(b) Service Area 2: See attached map - AExhibit B@

(3) **Waste Water (Sewer) System.** The following service areas are hereby established within the City:

(a) Service Area 1: See attached map - AExhibit B@

(b) Service Area 2: See attached map - AExhibit B@

(c) Service Area 2: See attached map - AExhibit B@

**6-903. 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.

**Part 6-904. Adjustment of Impact Fees.**

(1) The City may adjust the impact fees imposed pursuant to this ordinance as necessary in order to:

(a) Respond to unusual circumstances in specific cases;

(b) Ensure that the impact fees are imposed fairly;

(c) 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

(d) 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 Capital Facilities or General 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.

(2) The City Planning Commission shall have the authority to make such adjustments based upon information submitted by an applicant or developer and any recommendation from the City Engineer.

(3) The City may adopt policies consistent with this ordinance and any resolutions passed by the City Council to assist in the implementation, administration and interpretation of this ordinance related to Municipal Impact Fees.

(4) If the applicant, developer, person or entity is not satisfied with the City Planning Commission's decision, an appeal may be made to the City Council under the procedures set forth in 6-606, below.

**6-905. Accounting, Expenditure and Refund of Impact Fees.** The City shall account for, expend and refund impact fees collected pursuant to this Chapter in accordance with the provisions of the Utah Impact Fees Act.

**6-906. Administrative Challenges and Appeals Procedure.**

(1) 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.

(2) Within two weeks of the receipt of the request for information, the City shall provide the person or entity with the written analysis required by the Act and with any other relevant information relating to the impact fee.

(3) Within 30 days after paying an impact fee, any person or entity who has paid the fee and wished to challenge the fees shall:

(a) File a written appeal with the Tremonton City Manager 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 a recommendation 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 30 days after the date the appeal was filed with the City Manager. 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.

(4) 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 decision within 90 days of a decision upholding an impact fee by the City Council or within 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 Box Elder County.

(5) 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 transcription of its proceedings.

(6) If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for the purposes of subsection E above.

(7) 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.

(8) If there is an inadequate record, the Court may call witnesses and take evidence.

(9) The District Court shall affirm the decision of the City if the decision is supported by substantial evidence in the record.

(10) The judge may award reasonable attorney's fees and costs to the prevailing party in an action brought under this section.

**6-907. Severability.** If any section, paragraph, sentence, clause or phrase of this ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall

remain in full force and effect.

**6-908. Effective Date.** The Tremonton City Council specifically finds that it is necessary for the immediate preservation of the health, safety and welfare of the present and future inhabitants of the City that this Ordinance take effect immediately, and therefore this Ordinance shall take effect immediately after passage by the City Council and subsequent publication and posting as required by law. (Ord. 97-06, Ord. 11-05)

Rev 07-15.1