

**Ordinance No. 14-48**

**AN ORDINANCE AMENDING WATER IMPACT FEE FACILITIES PLAN, THE WATER IMPACT FEE ANALYSIS, AND AMENDING TITLE 11, CHAPTER 13 OF THE MUNICIPAL CODE OF PARK CITY, UTAH SETTING FORTH THE ASSESSMENT AND CALCULATION OF IMPACT FEES**

WHEREAS, Park City Municipal Corporation is a political subdivision of the state of Utah, authorized and organized under the provisions of Utah law; and

WHEREAS, the City has completed a Water Impact Fee Facilities Plan (IFFP) and a Water Impact Fee Analysis (IFA) and requires the payment of impact fees as a condition of development approval, so that development pays an equitable portion of the costs of facilities relating to growth; and

WHEREAS, the IFFP and IFA contain an analysis, certification and an executive summary that clearly define the methodology by which water impact fees have been calculated and how those impacts on system improvements are reasonably related to development activity; and

WHEREAS, the IFFP and IFA establish that impact fees are necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the future, in comparison to the benefits already received and yet to be received; and

WHEREAS, a public hearing was duly noticed and held at the regular scheduled City Council meeting of September 25, 2014;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Park City, Utah that:

SECTION 1. PURPOSE: This Impact Fee Ordinance is promulgated pursuant to the requirements of the Impact Fees Act, Utah Code Annotated Title 11 Section 36a (the "Act"). The purpose of this ordinance is to provide for the generation of sufficient revenue to pay the costs of capital projects and debt service related to or required due to demands of new development activity.

SECTION 2. WATER IMPACT FEE FACILITIES PLAN ADOPTED: The Water Impact Fee Facilities Plan Dated September 25, 2014 is hereby adopted.


SECTION 3. WATER IMPACT FEE ANALYSIS: The Water Impact Fee Analysis dated September 25, 2014 is hereby adopted.

SECTION 4. AMENDMENT TO THE MUNICIPAL CODE OF PARK CITY, UTAH ADOPTED: Amendment to Title 11, Chapter 13 of the Municipal Code of Park City is hereby amended as shown on Exhibit A.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be effective December 25, 2014.

PASSED AND ADOPTED this 25th day of September, 2014.

PARK CITY MUNICIPAL CORPORATION

  
\_\_\_\_\_  
Mayor Jack Thomas

Attest:

\_\_\_\_\_  
Marci Heil, City Recorder

Approved as to form:

  
\_\_\_\_\_  
Mark D. Harrington, City Attorney

*(Amended by Ord. Nos. 96-12; 01-37; 03-05; 05-37; 07-35)*

CHAPTER 13 - IMPACT FEES

11-13- 1. DEFINITIONS.

The following words and terms shall have the following meanings for the purposes of this chapter, unless the context clearly requires otherwise:

(A) **BUILDING PERMIT.** The permit required for any Development Activity, as defined herein, and pursuant to Chapter 11-3 et seq. of the Municipal Code of Park City, Utah.

(B) **CONSTRUCTION VALUE.** The value of construction per square foot used by the Park City Building Department to determine plan check and Building Permit fees, multiplied by the area of Development Activity.

(C) **DEPARTMENT.** The ~~Community Development Department.~~Park City Building Department.

(D) **DEVELOPMENT ACTIVITY.** Any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, which is accompanied by a request for a Building Permit.

(E) **DIRECTOR OFFICIAL.** The ~~Chief Building Official of Park City~~Director of Community-Development or his/her designee.

(F) **ENCUMBER.** To reserve, set aside or otherwise earmark, the Impact Fees in order to pay for commitments, contractual obligations or other liabilities incurred for Public Facilities.

(G) **IMPACT FEE.** Any fee levied

pursuant to this chapter as a condition of issuance of a ~~b~~B~~uilding~~ ~~p~~P~~ermit~~. "Impact Fee" does not include fees imposed under Section 11-12 of the Municipal Code.

(H) **INDEPENDENT FEE CALCULATION.** An ~~i~~Impact ~~F~~fee calculation prepared by a fee payer to support assessment of an ~~i~~Impact ~~F~~fee different from any fee set forth herein.

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

(J) **PARKS, TRAILS AND OPEN SPACE IMPACT FEE.** The ~~i~~Impact ~~F~~fee imposed as a condition precedent to a ~~b~~B~~uilding~~ ~~p~~P~~ermit~~ that is used to offset the proportionate impact of the ~~d~~D~~evelopment~~ ~~a~~A~~ctivity~~ on the need for the planning, design, engineering, acquisition, financing and construction of City-owned parks, trails and open space

(K) **PROJECT IMPROVEMENT.** Site improvements and facilities that are planned and designed to provide service for the ~~d~~D~~evelopment~~ ~~a~~A~~ctivity~~ and are necessary for the use and convenience of the users of the development resulting from the ~~d~~D~~evelopment~~ ~~a~~A~~ctivity~~.

(L) **PUBLIC FACILITY.** Any structure built by or for, or maintained by, a governmental entity.

(M) **PUBLIC SAFETY FACILITIES IMPACT FEE.** The ~~i~~Impact ~~f~~Fee imposed as

a condition precedent to a Building Permit that is used to offset the proportionate impact of the ~~d~~Development ~~a~~Activity on the need for the planning, design, acquisition, engineering, financing and construction of public safety facilities.

(N) **STREETS AND STORM WATER IMPACT FEE.** The ~~i~~Impact ~~F~~fee imposed as a condition precedent to a ~~b~~Building ~~p~~Permit that is used to offset the proportionate impact of the ~~d~~Development ~~a~~Activity on the need for the planning, design, engineering, acquisition, financing and construction of additional street and storm water management facilities.

(O) **SYSTEM IMPROVEMENT.** Public facilities identified in the 200~~3~~6 Capital Facilities Plan and Impact Fee Analysis, the 201~~4~~03 Water Impact Fee ~~Capital~~ Facilities Plan and the 2014 Water Impact Fee Analysis that are not ~~P~~project ~~i~~Improvements.

(P) **WATER CONNECTION IMPACT FEE.** The ~~i~~Impact ~~F~~fee, calculated as an expression of ~~new-equivalent residential units-gallons per minute (ERUs-gpm)~~, to assess the impact of indoor ~~D~~development ~~A~~activity, and increased area of irrigated landscape, to assess the impact of outdoor ~~D~~development ~~a~~Activity, imposed as a condition precedent to a ~~B~~building ~~p~~Permit that is used to offset the proportionate impact of the ~~d~~Development ~~a~~Activity on the need for the planning, design, engineering, acquisition, financing and construction of water delivery systems. The Water Impact Fee is assessed within the Service Area which is the area within the Park City Water Service District Boundary.

~~(A) — WATER IMPACT FEE. The impact fee, calculated as an expression of~~

~~new equivalent residential units (ERUs), to assess the impact of indoor development activity, and increased area of irrigated landscape, to assess the impact of outdoor development activity, imposed as a condition precedent to a building permit that is used to offset the proportionate impact of the development activity on the need for the acquisition and transfer of water rights and points of diversion and the planning, design, engineering, acquisition, financing and construction of physical sources to realize those water rights.~~

*(Amended by Ord. No. 95-35; 96-12; 01-37; 03-05; 04-27)*

**11-13- 2. ASSESSMENT AND CALCULATION OF IMPACT FEES.**

(A) **ASSESSMENT OF IMPACT FEES.** The City shall collect the following Impact Fees from any applicant seeking a Building Permit:

- (1) Parks, Trails, Open Space, Public Safety Facilities, Streets and Storm Water Facilities Impact Fees:

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<b>2005 PCMC IMPACT FEE ANALYSIS UPDATE</b>				
<i>Proposed Impact Fee Schedule (Calendar Year 2005)</i>				
	Parks, Trails, Open Space	Police	Roadway Facilities	Total
<b>New Construction</b>				
Single Family				
Average Unit	\$3,855.00	\$605.00	\$315.00	\$4,775.00
Unit Less Than 3,000 sq. ft.	\$1,925.00	\$300.00	\$155.00	\$2,380.00
Unit More Than 5,000 sq. ft.	\$5,780.00	\$910.00	\$470.00	\$7,160.00
Duplex & Multi-Family				
Average Unit	\$3,150.00	\$495.00	\$290.00	\$3,935.00
Unit Less Than 2,000 sq. ft.	\$1,575.00	\$245.00	\$145.00	\$1,965.00
Unit More Than 4,000 sq. ft.	\$4,725.00	\$740.00	\$435.00	\$5,900.00
Hotel Room				
Average Unit	\$2,005.00	\$315.00	\$170.00	\$2,490.00
Unit Less Than 750 sq. ft.	\$1,000.00	\$155.00	\$85.00	\$1,240.00
Unit More Than 2,000 sq. ft.	\$3,005.00	\$470.00	\$255.00	\$3,730.00
Commercial	NA	\$555.00	\$410.00	\$965.00
Light Industrial	NA	\$445.00	\$320.00	\$765.00
<b>Additions</b>				
Single Family				
0-500 Square Feet	NA	NA	NA	\$0.00
501-1500 Square Feet	\$480.00	\$75.00	\$35.00	\$590.00
1501-3000 Square Feet	\$960.00	\$150.00	\$75.00	\$1,185.00
3001-5000 Square Feet	\$1,925.00	\$300.00	\$155.00	\$2,380.00
More than 5000 Square Feet	\$3,855.00	\$605.00	\$315.00	\$4,775.00
Duplex & Multi Family				
0-500 Square Feet	NA	NA	NA	0.00
501-1000 Square Feet	\$390.00	\$60.00	\$35.00	\$485.00
1001-2000 Square Feet	\$785.00	\$120.00	\$70.00	\$975.00
2001-4000 Square Feet	\$1,575.00	\$245.00	\$145.00	\$1,965.00
More than 4000 Square Feet	\$3,150.00	\$495.00	\$290.00	\$3,935.00
Hotel Room				
0-200 Square Feet	NA	NA	NA	0.00
201-750 Square Feet	\$500.00	\$75.00	\$40.00	\$615.00
751-2000 Square Feet	\$1,000.00	\$155.00	\$85.00	\$1,240.00
More than 2000 Square Feet	\$2,005.00	\$315.00	\$170.00	\$2,490.00
Commercial (per sq. ft.)	NA	\$0.55	\$0.41	\$0.96
Light Industrial (per sq. ft.)	NA	\$0.44	\$0.32	\$0.76

(2) **Water Impact Fee Schedule:**

**Outdoor Impact Fee**

Yard Area (Irrigated Sq Ft)	Peak Day Gallons	1 Gpm (Gal)	Gpm Demand	Proposed Fee
Calculated Per 1,000 Sq Ft	138.8	1,440	0.096	\$ 1,598

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**Indoor Residential (Peak Day)**

**INDOOR - Winter Month Average Day (Observed Dec 16 to Jan 15)**

Unit Size (Sq. Ft.)	Peak Day	1 Gpm (Gal)	Gpm Demand	Proposed Fee
-	1,000	298	1,440	0.2067 \$ 3,428
1,001	2,000	400	1,440	0.2776 4,602
2,001	3,000	539	1,440	0.3740 6,200
3,001	4,000	687	1,440	0.4771 7,910
4,001	5,000	817	1,440	0.5671 9,403
5,001+		983	1,440	0.6829 11,322

**Indoor Non-Residential (Peak Day)**

Property Type	Gallons per Unit	GPM per Unit	Floor Area per Unit	Fee per Unit
Assembly				
Restaurant, Bar including decks	35	0.0243	7	402.97
Theater, Auditorium, Church	5	0.0035	7	57.57
Office	15	0.0104	100	172.70
Educational				
Classroom	25	0.0174	20	\$ 287.84
Shop/Vocational	25	0.0174	50	287.84
Exercise Area	25	0.0174	50	287.84
Hotel/Motel	150	0.1042	580	1,727.02
Industrial	Calculated	Calculated		Calculated
Institutional				
Inpatient Treatment	250	0.1736	240	\$ 2,878.36
Outpatient Treatment	5	0.0035		Calculated
Sleeping Area	5	0.0035		Calculated
Other	Calculated	Calculated		Calculated
Retail	10	0.0069	60	115.13
Swimming Pool or Skating Rink				
Rink or Pool Area	10	0.0069		\$ 115.13
Decks	Calculated	Calculated		Calculated
Warehouse	Calculated	Calculated		Calculated
Parking Garage	Calculated	Calculated		Calculated
Government	Calculated	Calculated		Calculated
Library				
Reading Area	Calculated	Calculated		Calculated
Stack Area	Calculated	Calculated		Calculated

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TABLE L.3: NON-STANDARD IMPACT FEE CALCULATION

Non-Standard Users Impact Fee Formula
Step 1: Identify Estimated GPM Demand of Proposed Development
Step 2: Multiply Equivalent GPMs by Impact Fee per GPM of \$16,579

*(Amended by Ord. Nos. 96-12; 01-37; 03-05; 05-37; 07-35)*

**11-13- 3. OFFSETS.**

(A) A fee payer can request that an offset or offsets be awarded to him/her for the value of a required ~~s~~System ~~i~~Improvement identified in the Capital Facilities Plan and Impact Fee Analysis, the Water ~~Impact Fee~~Capital Facilities Plan and ~~the Water Impact Fee~~ Analysis.

(B) For each request for an offset or offsets, unless otherwise agreed, the fee payer shall retain an appraiser approved by the Department to determine the value of the ~~s~~System ~~i~~Improvement provided by the fee payer.

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

(D) After receiving the appraisal, the ~~Director-Official~~ shall provide the applicant with a letter or certificate setting forth the dollar amount of the offset, the reason for the offset, where applicable, the legal description of the site donated, and the legal description or other adequate description of the project or development to which the offset may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the ~~Director-Official~~ before the ~~i~~Impact ~~F~~fee offset will be awarded.

The failure of the applicant to sign, date, and return such document within sixty (60) days

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shall nullify the offset.

(E) Any claim for offset must be made not later than the time of application for ~~b~~Building ~~p~~Permit. Any claim not so made shall be deemed waived.

(F) Determinations made by the ~~Director~~ Official pursuant to this section shall be subject to the appeals procedure set forth in Section 11-13-6 below.

**11-13- 4. WAIVER.**

The City Council may waive ~~I~~mpact ~~F~~ees for:

(A) Construction of affordable housing, up to \$5,000 per unit;

(B) Construction of a ~~P~~ublic ~~F~~acility.

**11-13- 5. APPEALS.**

(A) A fee payer may appeal the ~~i~~mpact ~~F~~ees imposed or other determinations, which the ~~Director~~ Official is authorized to make pursuant to this Chapter. However, no appeal shall be permitted unless and until the ~~I~~mpact ~~F~~ees at issue have been paid.

(B) Appeals shall be taken within ten (10) days of the ~~Director~~ Official's issuance of a written determination, by filing with the Department a notice of appeal specifying the grounds for the appeal, and depositing the necessary fee, which is set forth in the existing fee resolution for appeals of land use decisions.

(C) The Department 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.

(D) The Hearing Officer is authorized to make findings of fact regarding the applicability of the ~~I~~mpact ~~F~~ees to a given ~~d~~Development ~~a~~Activity, the availability or amount of the offset, or the accuracy or applicability of an ~~i~~ndependent ~~F~~ee ~~e~~Calculation. The decision of the Hearing Officer shall be final, and may be appealed to the Third Judicial District Court for Summit County.

(E) The Hearing Officer may, so long as such action is in conformance with the provisions of this Chapter, reverse or affirm, in whole or in part, or may modify the determinations of the ~~Director~~ Official with respect to the amount of the Impact Fees imposed or the offset awarded upon a determination that it is proper to do so based on principles of fairness, and may make such order, requirements, decision or determination as ought to be made, and to that end shall have the powers which have been granted to the ~~Director~~ Official by this Chapter.

(F) Where the Hearing Officer determines that there is a flaw in the ~~I~~mpact ~~F~~ee program or that a specific exemption or offset should be awarded on a consistent basis or that the principles of fairness require amendments to this Chapter, the Hearing Officer shall advise the City Attorney as to any question or questions that the Hearing Officer believes should be reviewed and/or amended.

**11-13- 6. ESTABLISHMENT OF IMPACT FEES ACCOUNTS.**

(A) Impact Fees shall be earmarked specifically and deposited in special



interest-bearing accounts. The fees received shall be prudently invested in a manner consistent with the investment policies of the City.

(B) Funds withdrawn from these accounts must be used in accordance with the provisions of Section 11-13-8 below. Interest earned on the ~~Impact Fees~~ shall be retained in each of the accounts and expended for the purposes for which the ~~Impact Fees~~ were collected. Money in these accounts shall not be commingled with other funds.

(C) Impact Fees shall be disbursed, expended, or ~~encumbered~~ within six (6) years of receipt, unless the Council identifies in written findings an extraordinary and compelling reason or reasons for the City to hold the fees beyond the 6 year period. Under such circumstances, the Council shall establish the period of time within which ~~Impact Fees~~ shall be expended or ~~encumbered~~.

#### 11-13- 7. REFUNDS.

(A) If the City fails to disburse, expend, or ~~encumber~~ the ~~Impact Fees~~ within six (6) years of when the fees were paid, or where extraordinary or compelling reasons exist, such other time periods as established pursuant to Section 11-13-7(C) below, the current ~~Owner~~ of the property on which the ~~Impact Fees~~ have been paid 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.

(B) Owners seeking a refund of impact

fees must submit a written request for a refund of the fees to the ~~Director~~Official within 180 days of the date that the right to claim the refund arises.

(C) Any ~~Impact Fees~~ for which no application for a refund has been made within this 180 day period shall be retained by the City and expended on the type of public facilities for which they were collected.

(D) Refunds of ~~Impact Fees~~ under this section shall include any interest earned on the ~~Impact Fees~~.

(E) When the City seeks to terminate any or all components of the ~~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 two (2) times. All funds available for refund shall be retained for a period of 180 days. At the end of the 180 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.

(F) 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 one (1) year of the date that right to claim the refund arises, if the ~~Development Activity~~ for which the ~~Impact Fees~~ were imposed did not occur, no impact resulted, and the ~~Owner~~ makes written

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request for a refund within 180 days of the expiration or abandonment of the permit for the ~~D~~development ~~D~~activity.

acquiring public facilities previously incurred in anticipation of new growth and development to the extent that the ~~D~~Development ~~a~~Activity will be served by the previously constructed improvements or the incurred costs.

(G) A property ~~O~~owner ~~is~~ may be eligible to receive a rebate of up to fifty percent (50%) of the paid exterior water ~~i~~Impact ~~f~~Fee, ~~and if approved, construction and landscape plans include for~~ installation of a drip irrigation system and drought tolerant landscaping in the area of disturbance. For a rebate to be considered an application must be submitted to the Planning Department within ~~threetwo~~ (32) years of the payment of the exterior water ~~i~~Impact ~~f~~Fee and within six (6) months of the installation of drought tolerant landscaping. ~~A~~The completed application ~~form, form~~ and an irrigation plan must be submitted to the Planning Department for review and approval. Conversions of previously disturbed or existing landscaping do not apply, only newly disturbed area from Development Activity will be eligible for a rebate.

*(Amended by Ord. 04-27)*

**11-13- 8. USE OF FUNDS.**

(A) Pursuant to this Chapter, ~~i~~Impact ~~f~~ Fees:

- (1) Shall be used for public facilities that reasonably benefit the new development; and
- (2) Shall not be imposed to make up for deficiencies in public facilities serving existing developments; and
- (3) Shall not be used for maintenance or operation of public facilities.

(B) Impact fees may be used to recoup costs of designing, constructing and/or

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(C) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of public facilities for which ~~I~~mpact ~~f~~ees may be expended, ~~i~~mpact ~~f~~ees 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 ~~d~~evelopment ~~a~~ctivity.

*(Amended by Ord. 96-12)*

**11-13-9. INDEPENDENT FEE CALCULATIONS.**

(A) If a fee payer believes that a fee should be charged, other than the ~~I~~mpact ~~f~~ees determined according to this Chapter, then the fee payer shall prepare and submit to the ~~D~~irector~~O~~fficial an ~~i~~ndependent ~~f~~ee ~~e~~valuation for the ~~i~~mpact ~~f~~ee(s) associated with the ~~d~~evelopment ~~a~~ctivity for which a ~~b~~uilding ~~p~~ermit is sought. The documentation submitted shall show the basis upon which the ~~i~~ndependent ~~f~~ee ~~e~~valuation was made. The ~~D~~irector~~O~~fficial is not required to accept

any documentation, which the ~~O~~fficial~~D~~irector reasonably deems to be inaccurate, unsubstantiated, or unreliable and may require the fee payer to submit additional or different documentation prior to the ~~O~~fficial~~D~~irector's consideration of an ~~i~~ndependent ~~f~~ee ~~e~~valuation.

(B) Any fee payer submitting an ~~i~~ndependent ~~f~~ee ~~e~~valuation shall pay an administrative processing fee, per calculation, of one hundred dollars (\$100).

(C) Based on the information within the ~~D~~irector~~O~~fficial's possession, the ~~D~~irector~~O~~fficial may recommend, and the City Manager is authorized to adjust, the ~~i~~mpact ~~f~~ee to the specific characteristics of the ~~d~~evelopment ~~a~~ctivity, and/or according to principles of fairness. Such adjustment shall be preceded by written findings justifying the fee.

(D) Determinations made by the ~~D~~irector~~O~~fficial pursuant to this section may be appealed subject to the procedures set forth herein.