

Ordinance No. 2016-38

**AN ORDINANCE AMENDING TITLE 11 CHAPTER 13- IMPACT FEES
OF THE MUNICIPAL CODE OF PARK CITY, UTAH**

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

WHEREAS, the City requires the payment of impact fees as a condition of development approval, so that development pays an equitable portion of the costs of impacts on municipal facilities and infrastructure caused by new growth; and

WHEREAS, a public hearing was duly noticed and held at the regular scheduled City Council meeting of August 4, 2016;

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

SECTION 1. AMENDMENT TO THE MUNICIPAL CODE OF PARK CITY, UTAH: Amendment to Title 11, Chapter 13 of the Municipal Code of Park City is hereby amended as shown on Exhibit A.


SECTION 2. EFFECTIVE DATE. This Ordinance shall be effective upon publication.

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

PASSED AND ADOPTED this August 4, 2016.

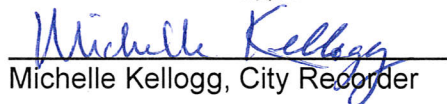


PARK CITY MUNICIPAL CORPORATION



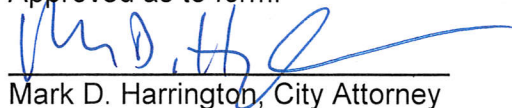
Mayor Jack Thomas

Attest:



Michelle Kellogg, City Recorder

Approved as to form:



Mark D. Harrington, City Attorney

Exhibit A

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.
- ~~A-B.~~ **CALCULATED. Fees as determined by the Official.**
- ~~B-C.~~ **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-D.~~ **DEPARTMENT**. The Park City Building Department.
- ~~D-E.~~ **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-F.~~ **OFFICIAL**. The Chief Building Official of Park City or his/her designee.
- ~~F-G.~~ **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 Building Permit. "Impact Fee" does not include fees imposed under MCPC § 11-12-Section 11-12 of the Municipal Code.
- H. **INDEPENDENT FEE CALCULATION**. An Impact Fee calculation prepared by a fee payer to support assessment of an Impact 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 Impact Fee 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 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 Development Activity and are necessary for the use and convenience of the users of the development resulting from the Development Activity.
- L. **PUBLIC FACILITY**. Any structure built by or for, or maintained by, a governmental entity.
- M. **PUBLIC SAFETY FACILITIES IMPACT FEE**. The Impact Fee 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 planning, design, acquisition, engineering, financing and construction of public safety facilities.
- N. **STREETS AND STORM WATER IMPACT FEE**. The Impact Fee 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 planning, design, engineering, acquisition, financing and construction of additional street and storm water management facilities.
- O. **SYSTEM IMPROVEMENT**. Public facilities identified in the 2006 Capital Facilities Plan and Impact Fee Analysis, the 2014 Water Impact Facilities Plan and the 2014 Water Impact Fee Analysis that are not Project Improvements.
- P. **WATER IMPACT FEE**. The Impact Fee, calculated as an expression of gallons per minute (gpm), 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 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.

11-13-2 Assessment ~~And~~ and Calculation ~~Of~~ 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:**

2005 PCMC IMPACT FEE ANALYSIS UPDATE
Proposed Impact Fee Schedule (Calendar Year 2005)

	Parks, Trails, Open Space	Police	Roadway Facilities	Total
New Construction				
Single Family				
<i>Average Unit</i>	<i>\$3,855.00</i>	<i>\$605.00</i>	<i>\$315.00</i>	<i>\$4,775.00</i>
Unit Less Than 3,000 sq. ft.	\$1,925.00	\$300.00	\$155.00	\$2,380.00
<u>Unit 3,000 – 5,000 sq. ft.</u>	<u>\$3,855.00</u>	<u>\$605.00</u>	<u>\$315.00</u>	<u>\$4,775.00</u>
Unit More Than 5,000 sq. ft.	\$5,780.00	\$910.00	\$470.00	\$7,160.00
Duplex & Multi-Family (per unit)				
<i>Average Unit</i>	<i>\$3,150.00</i>	<i>\$495.00</i>	<i>\$290.00</i>	<i>\$3,935.00</i>
Unit Less Than 2,000 sq. ft.	\$1,575.00	\$245.00	\$145.00	\$1,965.00
<u>Unit 2,000 – 4,000 sq. ft.</u>	<u>\$3,150.00</u>	<u>\$495.00</u>	<u>\$290.00</u>	<u>\$3,935.00</u>
Unit More Than 4,000 sq. ft.	\$4,725.00	\$740.00	\$435.00	\$5,900.00
Hotel Room (per unit)				
<i>Average Unit</i>	<i>\$2,005.00</i>	<i>\$315.00</i>	<i>\$170.00</i>	<i>\$2,490.00</i>
Unit Less Than 750 sq. ft.	\$1,000.00	\$155.00	\$85.00	\$1,240.00
<u>Unit 750 – 2,000 sq. ft.</u>	<u>\$2,005.00</u>	<u>\$315.00</u>	<u>\$170.00</u>	<u>\$2,490.00</u>

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
Additions				
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 <u>(per unit)</u>				
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 <u>(per unit)</u>				
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
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2. **Water Impact Fee Schedule:**

Outdoor Impact Fee This fee shall be assessed for every 1,000 sq ft or fraction thereof. For the purpose of this impact fee, all disturbed area and all area within the limits of disturbance fence is considered to be irrigated landscaping sq ft.

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

3. **~~INDOOR~~ Indoor Residential Water Impact Fee - Winter Month Average Day (Observed Dec 16 to Jan 15)** This fee shall be assessed per unit for multi-unit dwellings. The fee shall include living area sq ft only and exclude garages, decks and porches.

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

4. **Indoor Non-residential Water Impact Fee (Peak Day)** Fees for any property type not listed below will be considered non-standard and will be calculated by the Official on a case by case basis.

Property Type		Gallons per Unit	GPM per Unit	Floor Area per Unit	Fee per Unit
Assembly					
	Restaurant, Bar including decks	35	0.0243	15	\$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	<u>\$1,727.02</u>
Industrial		Calculated	Calculated		Calculated
Institutional					
	Inpatient Treatment	250	0.1736	240	\$2,878.36
	Outpatient Treatment	5	0.0035	<u>100</u>	Calculated <u>\$57.57</u>
	Sleeping Area	5	0.0035	<u>120</u>	Calculated <u>\$57.57</u>
<u>Commercial Laundry</u> (per washer)	Other	Calculated <u>580</u>	Calculated <u>0.4027</u>	Per Machine	Calculated <u>\$6,677.80</u>
Retail		10	0.0069	60	\$115.13
Swimming Pool or Skating Rink					
	Rink or Pool Area	10	0.0069	50	\$115.13
	Decks	Calculated <u>10</u>	Calculated <u>0.0069</u>	<u>15</u>	Calculated <u>\$115.13</u>
Warehouse		Calculated	Calculated		Calculated
Parking Garage		Calculated	Calculated		Calculated

Government		Calculated	Calculated		Calculated
Library					
	Reading Area	Calculated	Calculated		Calculated
	Stack Area	Calculated	Calculated		Calculated

5. Non Standard Impact Fee Calculation

Non-Standard Users Impact Fee Formula
Step 1: Identify Estimated Peak Day GPM Demand of Proposed Development Step 2: Multiply Equivalent Peak Day GPMs by Impact Fee per GPM of \$16,579.38

PCD (Amended by Ord. Nos. 96-12; 01-37; 03-05; 05-37; 07-35; 11-27; 14-49)

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 System Improvement identified in the Capital Facilities Plan and Impact Fee Analysis, the Water Impact Fee 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 System Improvement provided by the fee payer.
- C. The fee payer shall pay the cost of the appraisal.
- D. After receiving the appraisal, the 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 Official before the Impact Fee offset will be awarded.

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

- E. Any claim for offset must be made not later than the time of application for Building Permit. Any claim not so made shall be deemed waived.
- F. Determinations made by the 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 Impact Fees for:

- A. Construction of affordable housing, up to \$5,000 per unit;
- B. Construction of a public facility.

11-13-5 Appeals

- A. A fee payer may appeal the Impact Fees imposed or other determinations, which the 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.
- B. Appeals shall be taken within ten (10) days of the Official's issuance of a written determination, by filing with the Department a notice of appeal specifying the grounds for the appeal, and providing payment of \$500 or a request for a fee waiver showing a justification of hardship, which the Official may grant in his/her sole discretion. Criteria considered for hardship may include, but is not limited to qualified individuals in accordance with affordable housing deed restrictions or a lack of financial resources to pay the fee without impacting basic living expenses. The fee for appeal is refundable at a percentage proportional to any reduction in the impact fee as a result of the hearing up to 100%.
- 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 Impact Fees to a given Development Activity, the availability or amount of the offset, or the accuracy or applicability of an Independent Fee 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 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 Official by this Chapter.
- F. Where the Hearing Officer determines that there is a flaw in the Impact Fee 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~~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 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 request for a refund within 180 days of the expiration or abandonment of the permit for the Development Activity.
- G. A property Owner may be eligible to receive a rebate of up to fifty percent (50%) of the paid exterior water Impact Fee 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 two (2) years of the payment of the exterior water Impact Fee and within six (6) months of the installation of drought tolerant landscaping. The completed application 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.

PCD (Amended by Ord. Nos. 04-27; 14-49)

11-13-8 Use ~~Of~~of Funds

- A. Pursuant to this Chapter, Impact Fees:
 - 1. Shall be used for public facilities that reasonably benefit the new Development Activity ~~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 acquiring public facilities previously incurred in anticipation of new growth and development to the extent that the Development Activity will be served by the previously constructed improvements or the incurred costs.
- C. 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.

PCD (Amended by Ord. Nos. 96-12; 14-49)

11-13-9 Independent Fee Calculations

- A. If a fee payer believes that a fee should be charged, other than the Impact Fees determined according to this Chapter, then the fee payer shall prepare and submit to the Official an Independent Fee Calculation for the Impact Fee(s) associated with the Development Activity for which a Building Permit is sought prior to or within ten (10) days of payment of the impact fee determined according to this chapter. The documentation submitted shall show the basis upon which the Independent Fee Calculation was made. The Director is not required to accept any documentation, which the Official reasonably deems to be inaccurate, unsubstantiated, or unreliable and may require the fee payer to submit additional or different documentation prior to the Official's consideration of an Independent Fee Calculation.
- B. Any fee payer submitting an Independent Fee Calculation shall pay an administrative processing fee, per calculation, of one hundred dollars (\$100).
- C. Based on the information within the Official's possession, the Official may recommend, and the City Manager is authorized to adjust, the Impact Fee to the specific characteristics of the Development Activity, and/or according to principles of fairness. Such adjustment shall be preceded by written findings justifying the fee.
- D. Determinations made by the Official pursuant to this section may be appealed subject to the procedures set forth herein.