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## **CHAPTER 30 IMPACT FEES**

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### **Sec. 30-1-1 DEFINITIONS.**

(1) The definitions referred to in Utah Code Annotated § 11-36-102, 1953 as amended, shall apply to the terms used in this chapter. (Adopted 07-16-1997 by Ord. No. 97-28; amended 10-15-1997 by Ord. No. 97-33, included unrevised in Ord. No. 2006-01 on 02-1-06.)

(2) The term “Service Area” as used in this chapter and the area of Grantsville City, which will be served by the impact fees imposed by this chapter, shall constitute the entire corporate boundaries of Grantsville City, Tooele County, Utah unless otherwise indicated. (Adopted 07-16-1997 by Ord. No. 97-28; amended 10-15-1997 by Ord. No. 97-33.)

(3) Equivalent Residential Connection (ERC) for the purposes of Section 30-1-7 (Culinary Water Capital Facilities Impact Fee) of this Chapter is defined as the storage and distribution requirement that will allow a peak usage of 900 gallons of water per day with an average flow of 475 gallons of water per day per connection for each single family dwelling unit. The Culinary Water Capital Facilities impact fee for nonresidential development shall be calculated by estimating the water service demands of the use and then converting it to an ERC, which shall then be multiplied by the impact fee specified in Section 30-1-7 herein for each ERC. Equivalent Residential Connection may also be specified as an equivalent residential user/unit or ERU. (Adopted 10-15-1997 by Ord. No. 97-33, amended on 02-1-06 by Ord. No. 2006-01)

(4) Equivalent Residential Connection (ERC) for the purposes of Section 30-1-8 (Water Source Impact Fee) shall be calculated as follows: The water right required for indoor use is based upon two criteria; a) that the water right will allow the extraction of 800 gallons per day per connection, and b) that the yearly extraction be sufficient to provide 0.45 acre-feet per connection. The indoor water source (rights) acquisition impact fee for nonresidential development shall be calculated by estimating the indoor water service demands of the use and then converting it to an ERC, which shall then be multiplied by the impact fee specified in Section 30-1-8 herein for each ERC. No development, however, shall pay a water source impact fee of less than required for one

ERC. The ERC for outdoor water use is based on .12 irrigated acres per ERC, 3.96 gallons per irrigated acre (.0099 cfs/acre) and 3.0 acre feet of water rights for each irrigated acre. Equivalent Residential Connection may also be specified as an equivalent residential user/unit or ERU. (Subsection (4) adopted 02-1-06 by Ord. No. 2006-01)

(5) Equivalent Residential Connection (ERC) for the purposes of Section 30-1-9 (Wastewater Capital facilities Impact Fee) of this Chapter is defined as 280 gallons of wastewater per day. The wastewater impact fee for a nonresidential development shall be calculated by estimating the wastewater flow per day and then converting it to an ERC, which shall then be multiplied by the impact fee specified in Section 30-1-9 herein for each ERC. Equivalent Residential Connection may also be specified as an equivalent residential user/unit or ERU. (Subsection (5) adopted 02-1-06 by Ord. No. 2006-01)

### **Sec. 30-1-2 COLLECTION PROCEDURES-EXEMPTIONS.**

After the effective date of this Ordinance, no application for a building permit as set forth herein, shall be approved by Grantsville City unless the applicable impact fee has been paid or is adjusted or waived by the City Council.

The impact fees imposed by this Ordinance shall not apply to the following development activities:

(1) Residential development activities that do not increase the number of residential dwelling units.

(2) Nonresidential development activities that do not increase the total square footage in an existing nonresidential development.

(3) Proposed development for which a building permit has been issued prior to the effective date of the enactment of an impact fee.

(4) The water rights acquisition impact fee provided for in Section 30-1-8 shall not apply to new subdivisions and planned unit developments (except minor subdivisions or small planned unit developments of six or less lots) that are initially proposed and developed after April 23, 1999. After April 23, 1999 any new subdivision or planned unit development(except minor subdivisions or small planned unit developments of six or less lots), shall be required to provide, prior to final approval, sufficient water rights to the City or dedicated private water resources to provide for all of the indoor and outdoor water uses required for the development.

(5) Low income housing and other development activities with broad public purposes may be exempted from the payment of impact fees by the City Council. Low income housing shall be defined by the regulations adopted or used by the Tooele County Housing Authority.

(Originally adopted 07-16-1997 by Ord. No. 97-28; Subsection (4) was added by Ord. No. 99-13 on 04-21-1999; Subsection (5) was added by Ord. No. 2002-1 on 01-09-2002)

### **Sec. 30-1-3 ACCOUNTING.**

The City Treasurer shall establish separate interest-bearing ledger accounts for each type of public facility for which an impact fee is collected. The City shall also deposit impact fee receipts in the appropriate ledger account and retain the interest earned on each fund or account

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in the fund. The City Treasurer shall, at the end of each fiscal year prepare and submit a report to the City Council on each fund or account showing the source and amount of all monies collected, earned or received by the fund or account and each expenditure from the fund or account including other expenditures to support this impact fee process. (Adopted on 07-16-1997 by Ord. No.97-28, included unrevised in Ord. No.99-13, adopted 4-21-1999.

**Sec. 30-1-4 REFUNDS-CREDITS-CHALLENGES - APPEALS.**

(1) Refunds. The City shall refund any impact fee paid by a developer, plus interest earned when:

- a. The developer does not proceed with the development activity and has filed a written request for a refund; or
- b. The fees have not been timely spent or encumbered as required by law; or
- c. No impact has resulted.

(2) Credits. Credits against the amount of an impact fee due from a proposed development may be provided for by the dedication of land or the provision of City resources or facilities by an applicant when such land, facilities or resources are determined to provide additional City facilities or resource capacity to meet the demand generated by the development and when either:

- a. Costs. The costs of such land, facilities or resources have been included in the City impact fee calculation methodology or the land dedicated or facilities provided is determined by the City Council to be a reasonable substitute for the cost of facilities or resources which are included in the City's impact fee calculation methodology. Applications for a credit will be made to the City and will be submitted at or before the time when the impact fee is due. The application for a credit will be accompanied by relevant documentary evidence indicating the eligibility of the applicant for the credit. The City Recorder will present an application for any credit to the City Council, accompanied by a recommendation by the Mayor. Any credit determined appropriate by the City Council shall be applied against the impact fee calculated to be due; provided, however, that in no event shall a credit be granted in an amount exceeding the impact fee due.
- b. Unusual Circumstances. The City Council may adjust the impact fee at the time the fee is charged, to respond to unusual circumstances in specific cases and ensure that the impact fees are imposed fairly. The City Council may also adjust an impact fee based upon studies and data submitted by a developer.

(3) Challenges. Any person claiming that the impact fee required by this ordinance has no reasonable relationship to the needs created by or benefits conferred upon the proposed development and does not demonstrably benefit the new development or is otherwise constitutionally invalid or unlawful pursuant to the standards of applicable case law or statutes then in effect, must file a written challenge with the City Recorder in order to obtain a final determination regarding the application of the impact fee to the development by the City Council, which may include a request for a credit against the impact fees paid. Such a determination shall be a necessary prerequisite before filing any legal challenge to the basis of or

the amount of the impact fee in question. Any challenge to an impact fee must be filed within 30 days after paying an impact fee. The City Council shall make its decision no later than 30 days after the date the challenge to the impact fee is filed.

(4) Arbitration. In addition to the procedure under the foregoing paragraph to challenge an impact fee, a person or entity may submit an impact fee challenge to arbitration, if the person or entity resides in or owns property within the impact fee service area or is an organization, association, or corporation representing the interests of a person or entity owning property within the impact fee service area and files a written request for arbitration with the Grantsville City Council within 30 days after the day the impact fee is paid. If a person or entity files a written request for arbitration an arbitrator or arbitration panel shall be selected as follows:

- (a) the City Council and the person or entity filing the request may agree on a single arbitrator within ten days after the day the request for arbitration is filed; or
- (b) if a single arbitrator is not agreed to, an arbitration panel shall be created with the following members:
  - (i) each party shall select an arbitrator within 20 days after the date the request is filed; and
  - (ii) the arbitrators selected by each party shall select a third arbitrator.

(c) The arbitration panel shall hold a hearing on the challenge within 30 days after the date the single arbitrator is agreed upon or within 30 days after the two arbitrators are selected. The arbitrator or arbitration panel shall issue a decision in writing within ten days from the date the hearing is completed. Except as provided in this section, each arbitration shall be governed by Utah Code Ann. Title 78, Chapter 31a, Utah Arbitration Act. The parties may agree to binding arbitration, formal, nonbinding arbitration or informal, nonbinding arbitration. If the parties agree in writing to binding arbitration, the arbitration shall be binding, the decision of the arbitration panel shall be final, neither party may appeal the decision of the arbitration panel and notwithstanding Subsection (3) above, the person or entity challenging the impact fee may not file an action under Subsection (3) or Utah Code Ann. §11-36-401. If the parties agree to formal, nonbinding arbitration, the arbitration shall be governed by the provisions of Utah Code Ann. Title 63, Chapter 46b, Administrative Procedures Act. For purposes of applying Utah Code Ann. Title 63, Chapter 46b, Administrative Procedures Act, to a formal, nonbinding arbitration under this section, notwithstanding Utah Code Ann. §63-46b-20, "agency" means a local political subdivision. An appeal from a decision in an informal, nonbinding arbitration may be filed with the district court in which the Grantsville City is located. Each authorized appeal to the district court shall be filed within 30 days after the date the arbitration panel issues a decision. The district court shall consider de novo each appeal filed from an informal, nonbinding arbitration filed under this subsection. A person or entity that files an appeal to the district court after an informal nonbinding arbitration decision under this subsection may not file an action under Subsection (3) of this provision or Utah Code Ann. §11-36-401. The filing of a valid written request for arbitration within 30 days after the date the impact fee is paid tolls all time limitations under Utah Code Ann. §11-36-401 until the date the arbitration panel issues a decision. The person or entity filing a request for arbitration and Grantsville City shall equally share all costs of an arbitration proceeding under this section. Except as provided for herein, this

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subsection shall not be construed to prohibit a person or entity from challenging an impact fee as provided in Subsection (3) or Utah Code Ann. §11-36-401.

(5) Oversized Water Services - No Appeal Allowed. If the developer or owner of property knowingly requests or installs a water service, at its option, that is larger than is required by this Chapter or by Section 28-22 of this Code, the impact fees associated with the requested service size, shall be charged and collected by the City. No credit, challenge, appeal or arbitration related to the impact or other fees knowingly paid for an oversized service, shall be allowed under this Chapter, after the impact fee has been paid to the City. If an oversized water service has been installed and the impact fee for the same has not been paid, the developer or owner may replace the oversized service, with a properly sized service, provided the City is paid for its costs to inspect the new installation. (Adopted 02-04-2009 by Ord.2009-03)

(Section 30-1-4 originally adopted on 02-05-1997, amended and renumbered on 07-16-1997 by Ord. No.97-28, amended 04-21-99 by Ord. No. 99-13.)

### **Sec. 30-1-5 PARKS AND RECREATION FACILITIES IMPACT FEE.**

As a condition for the issuance of a building permit for the new construction or placement of any structure for a single or multi-family dwelling within Grantsville City's Boundaries, the developer, owner or builder shall pay an impact fee of \$574.00 for each single family dwelling unit and \$574.00 for each individual dwelling unit in a multi-family dwelling. The City council may adjust the standard impact fee at the time of the fee is charged to respond to unusual circumstances in specific cases and ensure that the impact fees are imposed fairly. (Originally adopted on 02-05-1997 by Ord. No. 97-5, included unrevised and renumbered in Ord. No. 99-13 adopted 04-21-99)

### **Sec. 30-1-6 PUBLIC SAFETY (FIRE AND POLICE) CAPITAL FACILITIES IMPACT FEES.**

As a condition for the issuance of a building permit for the new construction or placement of any structure for a single or multi-family dwelling within Grantsville City's Boundaries, the developer, owner or builder shall pay a public safety (fire and police) capital facilities impact fee of \$228.00 for each single family dwelling unit and \$228.00 for each individual dwelling unit in a multi-family dwelling. Prior to the issuance of a building permit for any nonresidential development activity within the District's boundaries, the developer, owner or builder thereof, shall pay a public safety facilities impact fee of \$0.15 per square feet for each square foot of said nonresidential development. The City Council may adjust the standard impact fee at the time of the fee is charged to respond to unusual circumstances in specific cases and ensure that the impact fees are imposed fairly. The City Treasurer shall deposit 67% of all Public Safety Impact Fees collected pursuant to this Section into a separate interest-bearing ledger account for fire department capital facilities and 33% of said fees into a separate interest-bearing ledger account for police department capital facilities. (Adopted 07-16-1997 by Ord. No.97-28, amended 07-08-1998 by Ord. No. 98-17, included unrevised in Ord. No. 99-13 adopted 04-21-99)

**Sec. 30-1-7 CULINARY WATER CAPITAL FACILITIES IMPACT FEE.**

As a condition for the issuance of a building permit or as a condition of obtaining culinary water service for any new residential or commercial construction or development or any other activity within Grantsville City’s boundaries that requires a new or expanded culinary water service, the developer, owner or builder shall pay a culinary water (source development, storage and distribution) capital facilities impact fee based upon the size of the culinary water service meter connection necessary for the development as follows:

<u>Meter Size in Inches</u>	<u>Max Flow Rate (GPM)</u>	<u>ERC’s</u>	<u>Impact Fee per Meter Size</u>
3/4"			25
		1.00	
		\$2,828.00	
1"			40
		1.60	
		\$4,526.00	
1 ½"			50
		2.00	
		\$5,657.00	
2"			100
		4.00	
		\$11,315.00	
3"			150
		6.00	
		\$16,973.00	
4"			200
		8.00	
		\$22,631.00	
6"			500
		20.00	
		\$56,579.00	

The City council may adjust the standard water capital facilities impact fee at the time of the fee is charged, to respond to unusual circumstances in specific cases and ensure that the impact fees are imposed fairly. (Originally adopted 07-16-1997 by Ord. No. 97-28, amended 04-21-1999 by Ord. No. 99-13; amended 02-1-06 by Ord. No. 2006-01)

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**Sec. 30-1-8 WATER RIGHTS ACQUISITION IMPACT FEE.**

(Amended 9-15-10 by Ord. 2010-20 effective 9-23-10)

1 (1) The City Council has found and determined, based on established calculations of projected water interest requirements, that the City's existing water interests do not exceed the water interests needed to meet the reasonable future water requirement of the City and the public, as determined under Subsection 73-1-4(2)(f) of the Utah Code. Accordingly, it is the policy and requirement of the City that, except as provided in Subsection (3) below or by Section 28-22 of the Grantsville City Code, new development within the City shall satisfy the indoor and outdoor water requirements by paying water rights acquisition impact fees, pursuant to this Section.

(2) Except as otherwise provided, each owner of property within the City proposing any residential, commercial, industrial or other use of such property that (i) requires indoor and/or outdoor water use, and (ii) requires City approval, whether by way of approval of a subdivision plat, issuance of a building permit, approval to connect to the City Waterworks System, or otherwise (such owner of property being referred to herein as a "Property Owner," and the property to be so used being referred to herein as the "Property"), shall, as a condition for the issuance of such City approval, pay an indoor and outdoor culinary water rights acquisition impact fee as follows:

(a) Indoor Use Impact Fee:  $\$1,260.00$  per Equivalent Residential Connection (ERC). (.45 acre-feet x  $\$2,800.00$  per acre foot of water)

(b) Outdoor Use Impact Fee: The typical outdoor use impact fee for developed property including residential lots shall be calculated by multiplying the irrigated acreage of each lot by 3.0 (which is the required acre feet of water rights per irrigated acre) and then multiplying the resulting acre feet of required water for the lot by  $\$2,800.00$ . Irrigated acreage for residential lots of up to and including one acre in size shall be determined by multiplying the total acreage of the lot by 64%. No additional outdoor use impact fee shall be charged for residential lots over one acre in size and therefore the outdoor use impact fee is capped at  $\$6,118.56$  for residential lots of one acre in size or larger.

1Example One: A residential lot of 7000 total square feet = .16 acres x .64 = irrigated area of .1028 acre x 3.0 = .3085 acre feet of water x  $\$2,800$  =  $\$863.91$  as the outdoor use impact fee.

Example Two: A lot of 21,780 total square feet = .5 acres x .64 = irrigated area of .32 acre x 3.0 = .96 acre feet of water x \$2,800 = \$2,688.00 as the outdoor use impact fee.

(Adopted 04-21-1999 by Ord. No. 99-13; amended 12-19-2001 by Ord. No. 2001-19)

(3) The City Council may adjust the standard water rights acquisition impact fee at the time the fee is charged to respond to unusual circumstances for specific cases and to ensure that the impact fees are imposed fairly. Property Owners that provide a permanent water source in accordance with Section 28-22 need not pay the water rights acquisition impact fees, provided that the water rights and facilities so provided can be verified as supplying adequate water for the Property and adequate assurance is given, in the manner provided for in Section 28-22, and that no Grantsville City culinary water, other than that conveyed to the City, will be used for any purpose on the Property, in perpetuity. (Adopted 04-21-1999 by Ord. No. 99-03; amended 12-03-2003 by Ord. 2003-29; previous subsection 3 was repealed on 10-17-07 by Ord. No. 2007-36, new subsection added 9-15-10 by Ord. 2010-20 effective 9-23-10)

(4) The water rights acquisition impact fees provided for in this Section shall apply only to Property Owners seeking approval for (i) any development initially proposed prior to April 23, 1999, (ii) new single through four family dwellings, (iii) amendments to existing platted subdivisions that require only up to a total of two acre feet of additional indoor water and only up to a total of eight acre feet of additional outdoor water for full development, and (iv) minor subdivisions, small subdivisions and small planned unit developments which have a projected indoor and outdoor water usage comparable to four or fewer single family dwellings. Property proposed for a subdivision or a minor subdivision that was originally included as a part of a parcel that was previously developed as a major platted subdivision, shall require the conveyance of the necessary culinary and secondary water rights to the City under Section 28-22, even if the new proposed subdivision or minor subdivision has four or fewer lots or requires no more than two acre feet of indoor water or no more than eight acre feet of outdoor water. (Adopted 04-21-1999 by Ord. No. 99-13; amended 12-19-2001 by Ord. 2001-19; amended 9-15-10 by Ord. 2010-20 effective 9-23-10)

(5) The Outdoor Use Impact fee is based upon a typical irrigated residential lot or development as defined above. The Outdoor use Impact fee for residential lots up to one acre in size shall be strictly applied without regard to claims of restricted irrigation areas, since these claims can rarely be verified or enforced. The water rights acquisition fee for industrial or commercial purposes shall be based upon an estimate of the indoor and outdoor water usage specified for the project, but shall in no event be less than the minimum impact fee specified above. (Adopted 04-21-1999 by Ord. No. 99-13; amended 12-19-2001 by Ord. No. 2001-19)

(6) No owner or possessor of real property within Grantsville City has the right to use City culinary water for outdoor use (irrigation) on more than the irrigated acreage as is allowed by this Section or in the development plan as otherwise approved by the City. Owners or possessors of such real property, for which the appropriate outdoor use impact fee has been paid and who do not

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have access to non-city secondary water, may at their option irrigate more than the specified irrigated acreage of their property or lot with City culinary water until such time as the City determines by a formally adopted Resolution that its culinary water supply is insufficient to continue to allow such irrigation. Any such Resolution may temporarily terminate the use of culinary water on more than the allowed irrigated acreage until the water shortage abates or the Resolution may permanently terminate such use. Any person who irrigates more of their property than the allowed irrigated acreage as defined herein, after a Resolution prohibiting said use is adopted, shall be guilty of guilty of a Class "C" Misdemeanor. Nothing contained in this Section shall prohibit the City from otherwise limiting the outside use of culinary water in times of emergency or shortage. (Adopted 12-19-2001 by Ord. No.2001-19; amended 9-15-10 by Ord. 2010-20 effective 9-23-10)

**Sec. 30-1-9 WASTEWATER CAPITAL FACILITIES IMPACT FEE.**

As a condition for the issuance of a building permit or as a condition of obtaining wastewater (sewer) or culinary water service for any new residential or commercial construction or development or any other activity within Grantsville City's boundaries that requires a new or expanded wastewater or culinary water service, the developer, owner or builder shall pay a wastewater capital facilities impact fee based upon the size of the culinary water service meter connection necessary for the development as follows:

<b><u>Meter Size In Inches</u></b>	<b><u>Max Wastewater Flow (GPM)</u></b>	<b><u>ERC's</u></b>	<b><u>Impact Fee per Meter Size</u></b>
3/4"		20	1.00 \$2,276.00
1"		38	1.90 \$4,324.00
1 1/2"		48	2.38 \$5,405.00
2"		95	4.75 \$10,811.00

3"		143	7.13
	\$16,216.00		
4"			190
			9.50
			\$21,622.00
6"			475
			23.75
			\$54,055.00

(Originally adopted 7-16-1997 by Ord. No. 97-28, amended and renumbered on 04-21-1999 by Ord. No. 99-13; amended 02-01-2006 by Ord. No. 2006-01)