

Impact Fee Ordinance

Eureka City, Utah

Ordinance No. 06-25-2020-1

ORDINANCE ADOPTING IMPACT FEE ANALYSES AND IMPOSING CERTAIN IMPACT FEES FOR: WASTEWATER, WATER, AND PARKS, RECREATION, TRAILS AND OPEN SPACE; PROVIDING FOR THE CALCULATION AND COLLECTION OF SUCH FEES; PROVIDING FOR APPEAL, ACCOUNTING AND SEVERABILITY OF THE SAME, AND OTHER RELATED MATTERS

WHEREAS Eureka City is a municipality in the State of Utah (“the City”), authorized and organized under the provisions of Utah law and is authorized pursuant to the Impact Fees Act, Utah Code Ann. 11-36a-101 et seq. (“Impact Fees Act”) to adopt impact fees; and

WHEREAS, pursuant to the Impact Fees Act, given that the City has a population less than 5,000 people, formal impact fee facilities plans are not required;

WHEREAS, on December 20, 2019, the City posted “Notice of Intent to Prepare Reasonable Impact Fee Facilities Plan and Impact Fee Written Analysis,” on Utah’s Public Notice Website and as otherwise required, as to its intention to prepare impact fee analyses for wastewater, culinary water, and parks, recreation, trails and open space impact fees to be charged for new development within the City;

WHEREAS the Eureka City Council (the “Council”) met in regular session on June 25, 2020, to convene a public hearing and to consider adopting the Impact Fee Analyses, imposing wastewater, water, parks, recreation, trails, and open space impact fees (“Impact Fee Analyses”), providing for the calculation and collection of such fees, and providing for an appeal process, accounting and reporting method and other related matters; and

WHEREAS, on June 25, 2020, after considering the input of the public and stakeholders and relying on the professional advice of the impact fee consultant(s), Eureka City adopted the findings, conclusions, and recommendations of the Impact Fee Analyses prepared by Zion’s Public Finance, Inc., a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference; and

WHEREAS, based on the input of the public and stakeholders and relying on the professional advice of consultant(s); and

WHEREAS, on June 12, 2020, a copy of the Impact Fee Analyses and proposed Impact Fee Ordinance, along with a summary of the analyses that was designated to be understood by a lay person, were made available to the public and deposited at the City offices, the US Post Office in Eureka, Utah, and Taylor’s General Store in Eureka, Utah; and

WHEREAS, on June 12, 2020, Eureka City posted notice of the date, time and place of the public hearing to consider the Impact Fee Analyses in three public places, published in a newspaper of general circulation, and on the public notices website; and

WHEREAS, on June 25, 2020, the Council held a public hearing regarding the Impact Fee Analyses and the Impact Fee Ordinance; and

WHEREAS, after careful consideration and review of the comments at the public hearing, the Council has determined that it is in the best interest of the health, safety and welfare of the inhabitants of Eureka City to adopt the findings and recommendations of the Impact Fee Analyses to address the impacts of development upon the wastewater, culinary water, and parks, recreation, trails and open space, to approve the Impact Fee Analyses, to adopt wastewater, culinary water, and parks, recreation, trails and open space impact fees, to provide for the calculation and collection of such fees, and to provide for an appeal process, and an accounting and reporting method of the same.

NOW, THEREFORE, BE IT ORDAINED by the Eureka City Council as follows:

Section 1. Findings. The Council finds and determines as follows:

1.1. All required notices have been given and made and public hearings conducted as requested by the Impact Fees Act with respect to the Impact Fee Analyses and this Impact Fee Ordinance (this “Ordinance”).

1.2. Growth and development activities in Eureka City will create additional demands on its infrastructure. The facility improvement requirements that have been analyzed and the Impact Fee Analyses are the direct result of the additional facility needs caused by future development activities. The persons responsible for growth and development activities should pay a proportionate share of the costs of the facilities needed to serve the growth and development activity.

1.3. 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 with the benefits already received and yet to be received.

1.4. In enacting and approving the Impact Fee Analyses including the impact fees recommended and this Ordinance, the Council has taken into consideration, and may consider on a case-by-case basis in the future, the future capital facilities and needs of Eureka City, the capital financial needs of Eureka City that are the result of Eureka City’s future facilities’ needs, the distribution of the burden of costs to different properties within Eureka City based on the use of wastewater, culinary water, and parks, recreation, trails and open space of Eureka City by such properties, the financial contribution of those properties and other properties similarly situated in Eureka City at the time of computation of the required fee and prior to the

enactment of this Ordinance, all revenue sources available to Eureka City, and the impact on future facilities that will be required by growth and new development activities in Eureka City.

1.5. The provisions of this Ordinance shall be liberally construed in order to carry out the purpose and intent of the Council in establishing the impact fee program.

Section 2. Definitions.

2.1. Except as provided below, words and phrases that are defined in the Impact Fees Act shall have the same meaning in this Ordinance.

2.2. "Development Activity" shall mean any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land that creates additional demand and need for public facilities. Development activity will include residential and commercial users.

2.3. "Impact Fee" shall mean payment of money imposed upon development activity as a condition of development approval. "Impact fee" includes development impact fees, but does not include a tax, special assessment, hookup fee, building permit fee, fee for project improvements, or other reasonable permit or application fee.

2.4. "Project Improvements" shall mean site improvements and facilities that are planned and designed to provide service for development resulting from a development activity and are necessary for the use and convenience of occupants or users of development resulting from a development activity. "Project improvement" does not mean system improvement, as defined below.

2.4. "Proportionate Share" of the cost of public facility improvements means an amount that is roughly proportionate and reasonably related to the service demands and needs of a development activity.

2.5. "Service Area" refers to a geographic area designated by the City as designated in Exhibit A.

2.6. "System Improvements" refers both to existing public facilities designed to provide services within the Service Area and to future public facilities identified in a reasonable plan for capital improvements adopted by the City that are intended to provide service to the Service Area. "System Improvements" do not include "Project Improvements" as defined above.

2.7. "Utah State Impact Fees Act" shall mean Title 11, Chapter 36a, Utah Code Annotated or its successor state statute if that title and chapter is renumbered, recodified, or amended.

Section 3. Adoption.

The Council hereby approves and adopts the Impact Fee Analyses including the recommended impact fees attached and the analyses reflected therein.

Section 4. Impact Fee Calculations.

4.1. *Impact Fees.* The City Council, by this Ordinance, approves impact fees in accordance with the Impact Fee Analyses set forth in Exhibit A.

4.2. *Developer Credits/Developer Reimbursements.* A developer, including a school district or charter school, may be allowed to receive a credit against or proportionate reimbursement of impact fees if the developer dedicates land for a system improvement, builds and dedicates some or all of a system improvement, or dedicates a public facility that Eureka City and the developer agree will reduce the need for a system improvement. A credit against impact fees shall be granted for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities are system improvements to the respective utilities, or are dedicated to the public and offset the need for an identified future improvement.

4.3. *Adjustment of Fees.* The Council may adjust either up (but not above the maximum allowable fee) or down the standard impact fees at the time the fee is charged in order to respond to an unusual circumstance in specific cases and to ensure that the fees are imposed fairly. The Council may adjust the amount of the fees to be imposed if the fee payer submits studies and data clearly showing that the payment of an adjusted impact fee is more consistent with the true impact being placed on the system.

4.4. *Impact Fee Accounting.* Eureka City shall establish a separate interest-bearing ledger account for the cash impact fees collected pursuant to this Ordinance. Interest earned on such account shall be allocated to that account.

(a) *Reporting.* At the end of each fiscal year, Eureka City shall prepare a report generally showing the source and amount of all monies collected, earned and received by the fund or account and of each expenditure from the fund or account. The report shall also identify impact fee fund by the year in which they were received, the project from which the funds were collected, the capital projects from which the funds were budgeted, and the projected schedule for expenditure and be provided to the State Auditor on the appropriate form found on the State Auditor's Website.

(b) *Impact Fee Expenditures.* Funds collected pursuant to the impact fees shall be deposited in such account and only be used by the City to construct and upgrade the respective facilities to adequately service development activity or used as otherwise approved by law.

4.5. *Refunds.* The City shall refund any impact fee paid when:

(a) the fee payer has not proceeded with the development activity and has filed a written request with the Council for a refund within one (1) year after the impact fee was paid;

(b) the fees have not been spent or encumbered within six (6) years of the payment date; and

(c) no impact has resulted.

Section 5. Appeal.

5.1. Any person required to pay an impact fee who believes the fee does not meet the requirements of the law may file a written request for information with the City Council.

5.2. Within two (2) weeks of the receipt of the request for information the City shall provide the person or entity with a copy of the reports and with any other relevant information relating to the impact fee.

5.3. Any person or entity required to pay an impact fee imposed under this article, who believes the fee does not meet the requirements of law may request and be granted a full administrative appeal of that grievance. An appeal shall be made to the Council within thirty (30) calendar days of the date of the action complained of, or the date when the complaining person reasonably should have become aware of the action.

5.4 The notice of the administrative appeal to the Council shall be filed and shall contain the following information:

(a) the person's name, mailing address, and daytime telephone number;

(b) a copy of the written request for information and a brief summary of the grounds for appeal; and

(c) the relief sought.

5.5 The City shall schedule the appeal before the Council no sooner than five (5) days and no later than fifteen (15) days from the date of the filing of the appeal. The written decision of the Council shall be made no later than thirty (30) days after the date the challenge to the fee is filed with the City and shall, when necessary, be forwarded to the appropriate officials for action.


Section 6. Recitals. The recitals set forth above are adopted and incorporated herein.

This Ordinance shall be effective as of June 25th, 2020.



J. NICHOLSON CASTLETON
Mayor of Eureka City

Attested By:



Patricia Bigler, City Recorder