

April 2014

**POWER  
CAPITAL FACILITIES PLAN**

**INCLUDING**

**IMPACT FEE FACILITIES PLAN  
IMPACT FEE ANALYSIS**

**DRAFT**



**HORROCKS**  
ENGINEERS

## Impact Fee Facilities Plan Certification Page

I certify that the attached impact fee facilities plan:

1. Includes only the costs of public facilities that are:
  - a. allowed under the Impact Fees Act; and
  - b. actually incurred; or
  - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
  - d. existing deficiencies documented as such and not meant for inclusion in impact analysis.
2. Does not include:
  - a. costs of operation and maintenance of public facilities;
  - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
  - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and
3. Complies in each and every relevant respect with the Impact Fees Act

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Brent R. Ventura, P.E.

## Impact Fee Analysis Certification Page

I certify that the attached impact fee analysis:

1. includes only the costs of public facilities that are:
  - a. allowed under the Impact Fees Act; and
  - b. actually incurred; or
  - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
  - a. costs of operation and maintenance of public facilities;
  - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
  - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
3. offsets costs with grants or other alternate sources of payment; and
4. complies in each and every relevant respect with the Impact Fees Act.

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Brent R. Ventura, P.E.

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### Demographics

As demographics form the basis of all other projections in this report, the first study performed was a population study. Current population estimates are used to determine the Level of Service (LOS) for the Payson power system. Future population projections provide the basis for determining the future needs of the city based upon the current LOS. Currently, Payson City has approximately 18,881 residents and is projected to grow to 47,977 by the year 2034 (20 year planning window).

### Power

This study identifies the City's existing power system and also the facilities needed for Payson to continue growing at its current LOS. Specific projects have been identified that will be required for the City to service future population growth. In total, \$9.53 million dollars of power capital facilities improvements are identified for future construction.

### Impact Fee Analysis

Impact fees have been calculated based on the detailed analysis of the power system. The power impact fee is based on two different calculations. The first part is based on future projects that create additional capacity. The second part is based on future projects that do not create additional capacity, but are necessary to the functionality of the system. Both impact fees are calculated on a cost per kW basis and then added together to create a base power impact fee of \$649.90/kW.

The recommended impact fee schedule can be found on the following page.

Although Payson is not required to enact impact fees exactly as outlined in this study, it may not impose fees higher than what is recommended. Following are the recommended fees necessary to finance the required future infrastructure.

## EXECUTIVE SUMMARY

<b>Payson City 2014 Proposed Impact Fee Schedule Residential Single Phase (120/240V)</b>				
<b>Amps</b>	<b>kVA</b>	<b>Max Capacity (kW)</b>	<b>Ave Use (kW)</b>	<b>Proposed Fee</b>
60	14	2	1.2	\$760
100	24	5	2	\$1,300
125	30	6	2.4	\$1,560
150	36	7	2.8	\$1,820
200	48	8	3.2	\$2,080
225	54	10	4	\$2,600
400	96	14	5.6	\$3,639
<b>Commercial Single Phase (120/240V)</b>				
<b>Amps</b>	<b>kVA</b>	<b>Max Capacity (kW)</b>	<b>Ave Use (kW)</b>	<b>Proposed Fee</b>
100	24	5	2.25	\$1,462
125	30	7	3.15	\$2,047
150	36	9	4.05	\$2,632
200	48	14	6.3	\$4,094
400	96	19	8.55	\$5,557
<b>Commercial 3 Phase (120/240V)</b>				
<b>Amps</b>	<b>kVA</b>	<b>Max Capacity (kW)</b>	<b>Ave Use (kW)</b>	<b>Proposed Fee</b>
125	52	16	7	\$4,679
150	62	24	11	\$7,019
200	83	31	14	\$9,066
400	166	63	28	\$18,425
600	249	94	42	\$27,491
800	332	126	57	\$36,849
1,000	415	157	71	\$45,915
1,200	498	189	85	\$55,274
1,600	664	252	113	\$73,698
2,000	830	315	142	\$92,123
2,500	1,038		0	\$0

<b>Commercial 3 Phase (120/208V)</b>				
<b>Amps</b>	<b>kVA</b>	<b>Max Capacity (kW)</b>	<b>Ave Use (kW)</b>	<b>Proposed Fee</b>
125	45	16	7	\$4,679
150	54	24	11	\$7,019
200	72	31	14	\$9,066
400	144	63	28	\$18,425
600	216	94	42	\$27,491
800	288	126	57	\$36,849
1,000	360	157	71	\$45,915
1,200	432	189	85	\$55,274
1,600	576	252	113	\$73,698
2,000	720	315	142	\$92,123
2,500	900		0	\$0
<b>Commercial 3 Phase (277/480V)</b>				
<b>Amps</b>	<b>kVA</b>	<b>Max Capacity (kW)</b>	<b>Ave Use (kW)</b>	<b>Proposed Fee</b>
125	104	35	16	\$10,235.9
150	125	52	23	\$15,207.6
200	166	73	33	\$21,349.1
400	332	145	65	\$42,405.7
600	498	219	99	\$64,047.3
800	664	290	131	\$84,811.5
1,000	830	364	164	\$106,453.0
1,200	996	436	196	\$127,509.7
1,600	1,328	583	262	\$170,500.3
2,000	1,660	728	328	\$212,906.0
2,500	2,075		0	\$0.0
3,000	2,490	1,092	491	\$319,359.0
3,500	2,905	1,275	574	\$372,878.0
3,750	3,113	1,366	615	\$399,491.2
4,000	3,320	1,457	656	\$426,104.5

Payson City is a growing community located at the south end of Utah County and lying at the base of the Wasatch Mountains. It is bounded on the north by Benjamin and Spanish Fork, on the east by Salem and Elk Ridge, on the south by Santaquin and on the west by West Mountain. As established in 2010, Payson had approximately 18,294 residents. As growth continues in Utah Valley, Payson is projected to grow to 47,977 by the year 2034 as discussed in the following chapter.

This Capital Facilities Plan (CFP) analyzes Payson's future growth patterns and its projected power infrastructure needs as it grows. It contains separate chapters outlining the Impact Fee Facilities Plan (IFFP) and Impact Fee Analysis (IFA). The power master plan, prepared by Intermountain Consumer Professional Engineers (ICPE) lays the foundation for creating a CFP, which in turn provides the necessary data to create the IFFP. The IFFP provides a prioritized project schedule for construction, cost estimates and recommended impact fee levels based upon the projects required to accommodate new growth in the next six years.

### *Proportionate Share*

This document attempts to assign only a proportionate share of costs for future improvements due to growth from future developments. It is evident that the cost of much of the existing infrastructure in many of the elements cannot be assigned a legitimate dollar value per resident since very little information is available as to how existing infrastructure was financed, what share the City financed, what agency constructed the improvement, and how much the improvements actually cost. Therefore, in accordance with the Utah Impact Fees Act, Title 11, Chapter 36a, every effort has been made to evaluate impact fees considering only those costs that are attributable to future growth. As such, a current LOS has been defined for each element and master planning performed to maintain the existing standards. Impact fees have been evaluated assigning the costs associated with maintaining these standards to future development as Payson City grows.

### *Impact Fee Adjustments*

Payson City understands that future developments will each have individualized impacts on the City and therefore, in order to impose impact fees fairly, the City may adjust standard impact fees to meet unusual circumstances as allowed by State Code. Adjustments may be made for any of a number of reasons including studies or data submitted by the developer, land dedicated as a condition of development, and/or system improvements constructed by a new development.

The first step in updating a CFP is to evaluate and verify the City's current demographics and future population projections. The following section discusses Payson City's population, growth trends, and projected population at key milestones.

### 2.1 Existing Conditions

#### *Current Population*

In the 2010 Census, Payson City's population was estimated to be approximately 18,294 residents. The 2013 estimate was reached by evaluating building permits issued by the City since the 2010 Census was performed. Detailed calculations and permit information can be found in Appendix "A", Figure A.1. We have also included current estimates and projections from the Governor's Office of Planning and Budget (GOPB) as a matter of reference. Figure A.2 compares this studies projections with the GOPB projections through 2060.

#### *Average Residents per Household*

For purposes of this Capital Facilities Plan (CFP), the current average household density for a single family home in Payson was estimated at 3.6 residents per household, per the 2010 Census. Additionally, it has been documented that multifamily dwellings typically house few residents. Therefore, we have used 2.9 residents per household for multi-family dwelling units.

#### *Current Zoning and Land Use Plans*

Payson City's current land use and zoning plans form the basis of evaluation for future facilities which will be built within City limits. Figures 2-1 and 2-2 on the following pages illustrate the City's currently approved land use and zoning plans. The City's current Land Use Code can be found on the City's website in PDF format.

In order to create a realistic CFP, we have reviewed with City staff, the current annexation boundary, developments that are currently in the review process and developments that are anticipated in the future.

### 2.2 Build-out Population

Total build-out is reached when all vacant land within the City boundaries has been developed to the current zoning and land use plans. We do not anticipate build-out occurring in Payson City for many decades. Payson's build-out population has been estimated at approximately 60,124 as illustrated in Table 2-1.



Table 2-1: Payson Build-out Projection

<b><i>Payson Build-Out Population Projections</i></b>						
<b>Zone</b>	<b>Land Use Classification</b>	<b>Acreage (Acre)</b>	<b>Density (Units/Acre)</b>	<b>Total Units</b>	<b>Residents* per Unit</b>	<b>Residents</b>
<b>A-5-H</b>	Agriculture	234	0.2	47	3.6	168
<b>R-1-A</b>	Residential-Agriculture	484.7	1	485	3.6	1,745
<b>R-1-12</b>	Residential	228	3.6	821	3.6	2,955
<b>R-1-10</b>	Residential	516.2	4.4	2271	3.6	8,177
<b>R-1-9</b>	Residential	893.3	4.8	4288	3.6	15,436
<b>R-1-75</b>	Residential	319.6	5.8	1854	3.6	6,673
<b>R-2-75</b>	Residential	437.4	5.8	2537	3.6	9,133
<b>R-MF</b>	Multi- Family Residential	17.4	15-20	305	2.9	883
<b>PO-1</b>	Professional Office	39	2	78	0	0
<b>CC-1</b>	Central Commercial	58	0	0	0	0
<b>GC-1</b>	General Commercial	226.7	0	0	0	0
<b>S-1</b>	Special Highway Service	432.6	1	433	0	0
<b>I-1</b>	Light Industrial	604.2	2	1208	0	0
<b>I-2</b>	Heavy Industrial	11.1	1	11	0	0
<b>NC-1</b>	Neighborhood Commercial	1.1	0	0	0	0
<b>MH-1</b>	Mountain and Hillside	477.1	0.1	48	3.6	172
<b>MH-2</b>	Mountain and Hillside	391	1	391	3.6	1,408
<b>P-C</b>	Planned Community**	774	4.8	3715	3.6	13,375
<b><i>Projected Build-Out Population</i></b>						<b><i>60,124</i></b>

\*Varying densities used are based on dwelling unit types as discussed in Section 2.3

\*\*Density for the P-C Zone has been calculated using the Bamberger Ranch approved concept plan (i.e. 3,563 units on 739.49 acres)

## 2.3 Current & Future Growth

### *Current Growth Trends*

Forecasting the City's future needs relies heavily upon projecting future population trends and economic growth. We have used the following data sources to project the near future's growth rates for Payson City:

- Recent building permits issued
- 2010 Census information
- Historic population projections and trends
- Utah Governor's Office of Planning and Budget, Demographics and Economic Analysis (DEA)

There are a few significant developments that are planned and will be beginning construction in the near future. These developments include Springside Meadows, Heritage Springs, Bamberger Ranch and Payson View Estates. These developments will contribute significantly to the growth of Payson over the next 15 years. As such, an effort was made to evaluate what type of units would be built in these new developments. It is estimated that at least 60% of the newest developments in the residential and planned community zones. Payson, will have mostly traditional single

Figure 2-1: Payson City's Current Land Use Plan

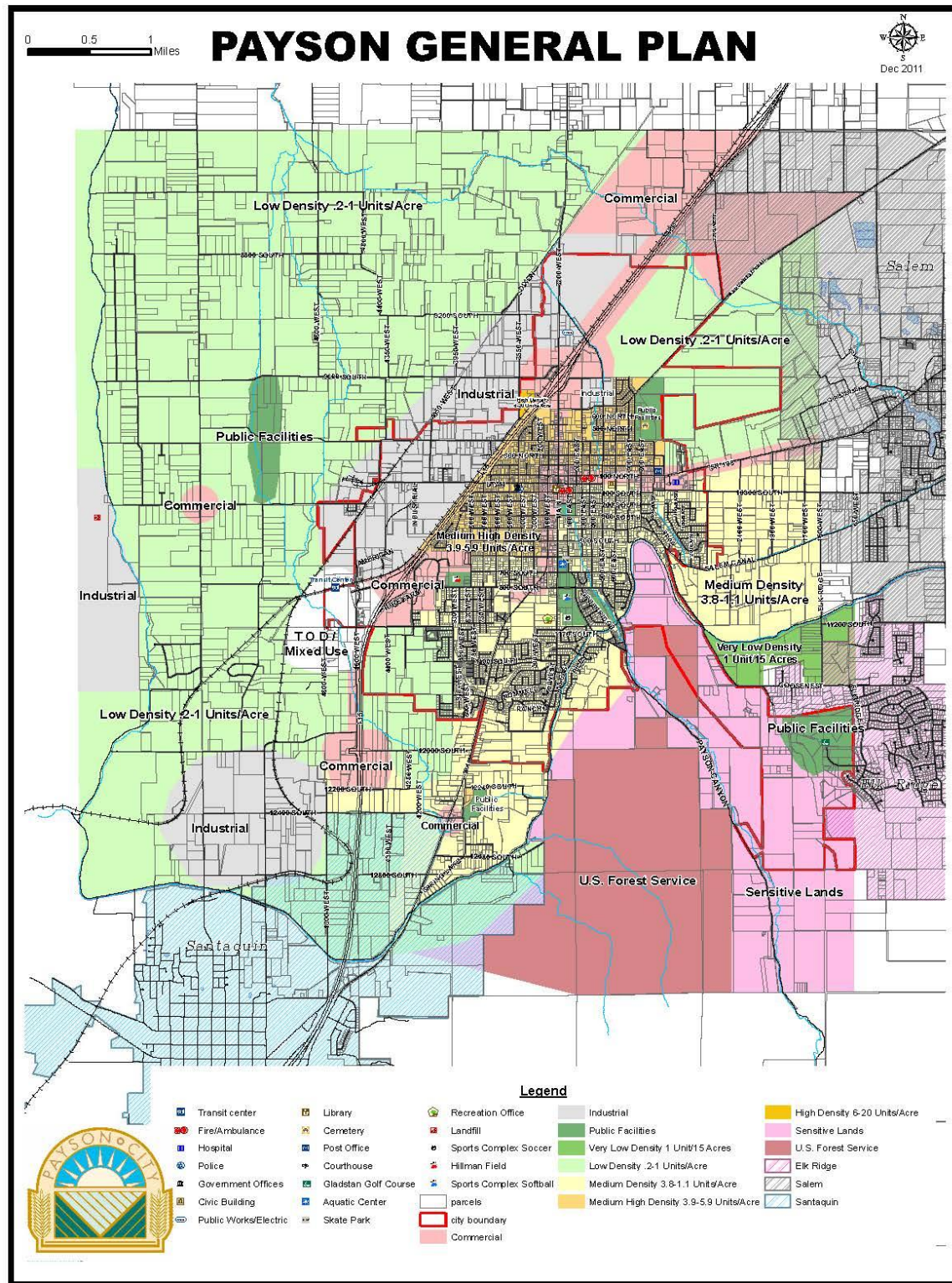
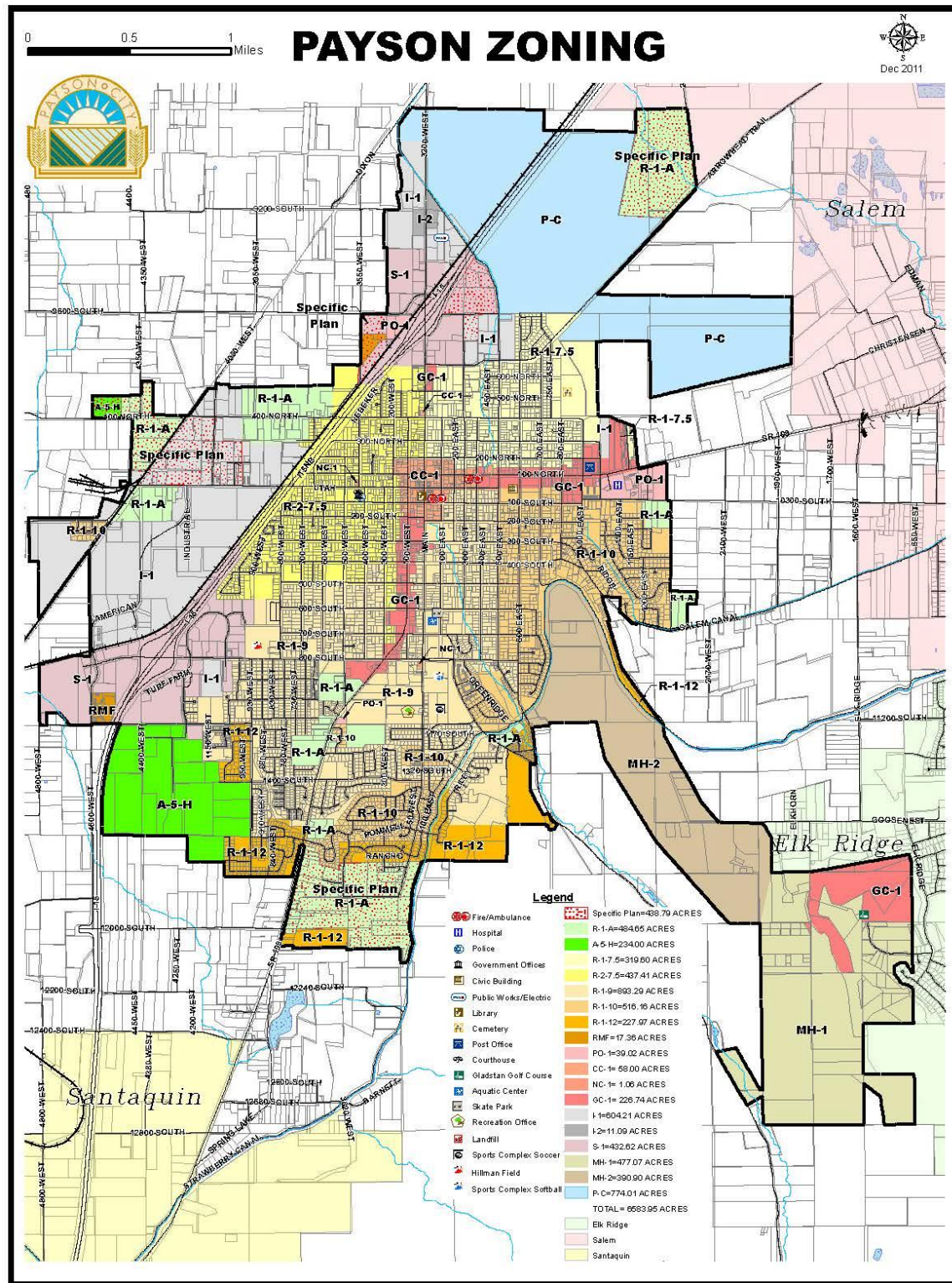




Figure 2-2: Payson City's Current Zoning Plan



family dwellings, there will be some multi-family units similar to townhomes and condominiums. These units are anticipated to have a lower occupancy rate (2.9) than Payson’s traditional rate (3.6).

### *Future Growth Trends*

Due to the recent downturn in the housing development market, minimal population growth has occurred in the past several years. This year has brought a rejuvenated development market and growth is beginning to trend upward again. It is expected that slower growth will continue over the next couple of years as the market returns to relatively rapid growth rates similar to those seen prior to the recession. The major growth from Springside Meadows, Heritage Springs, Bamberger Ranch and Payson View Estates is expected to be experienced between 2015 and 2033 followed by a tapering off. Figure 2-3 illustrates the estimated population growth projections.

**Figure 2-3 Projected Population Growth**

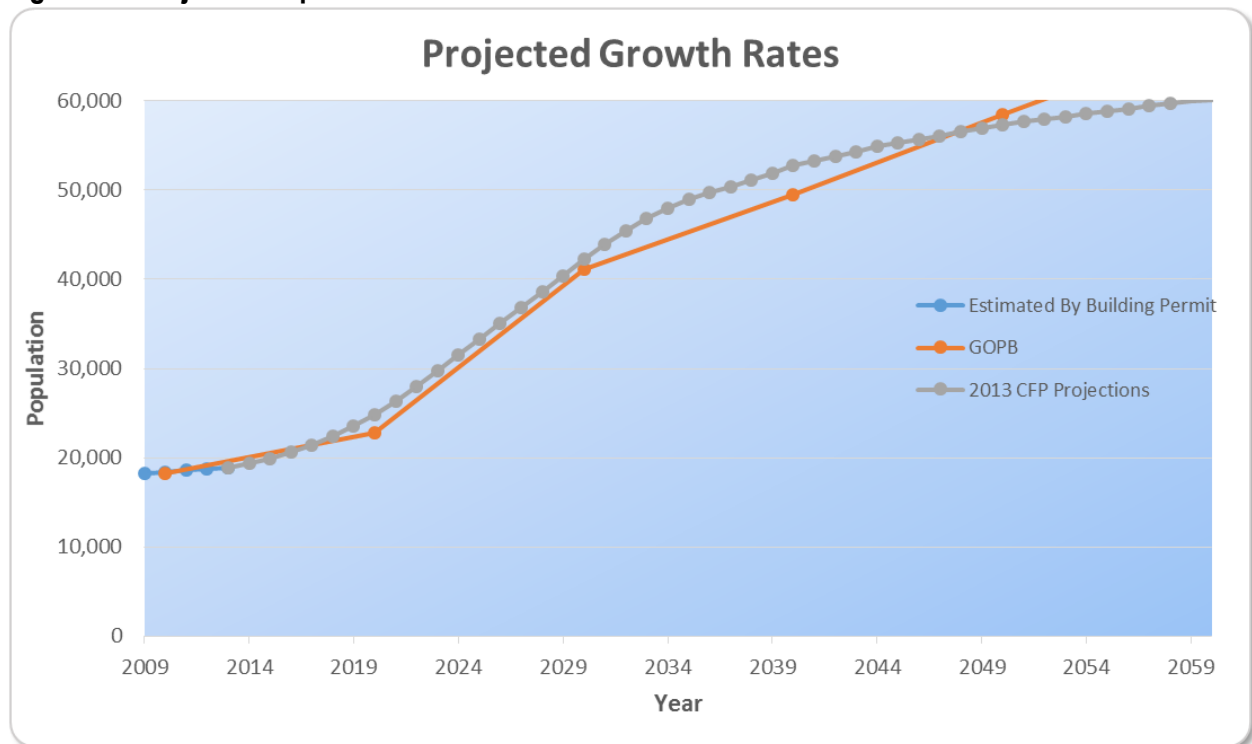


Table 2-2, on the next page, gives the overall projected growth patterns as projected by various organizations (for comparison purposes) and as projected and accepted for this study for the next 20 years. Actual growth patterns and rates will vary with time and should be updated regularly. Appendix A contains the entire chart projecting population growth through build-out.

Table 2-2: Various Growth Projections for Payson City

<b>Population Estimate and Projected Growth Rate within Payson City Limits</b>					
<b>Fiscal Year</b>	<b>Estimated by Building Permit</b>	<b>Building permit growth Rate</b>	<b>2013 CFP Population Projections</b>	<b>2013 CFP Projected Growth Rate</b>	<b>GOPB Projected Population</b>
2010 Census	18,294				
2010	18,420	0.69%			18,294
2011	18,600	0.98%			
2012	18,762	0.87%			
2013	18,881	0.63%	18,881		
2014			19,353	2.50%	
2015			19,933	3.00%	
2016			20,631	3.50%	
2017			21,456	4.00%	
2018			22,422	4.50%	
2019			23,543	5.00%	
2020			24,838	5.50%	22,832
2021			26,328	6.00%	
2022			28,039	6.50%	
2023			29,722	6.00%	
2024			31,505	6.00%	
2025			33,238	5.50%	
2026			35,066	5.50%	
2027			36,819	5.00%	
2028			38,660	5.00%	
2029			40,400	4.50%	
2030			42,218	4.50%	41,144
2031			43,907	4.00%	
2032			45,443	3.50%	
2033			46,807	3.00%	
2034			47,977	2.50%	

**Planning Window**

A 20 year planning window is typical throughout the industry for purposes of sizing infrastructure unless build-out is expected to occur soon thereafter. Therefore, we will utilize a 20 year planning window for the elements of this study. However, as per Title 11-36a, Impact Fees Act of the Utah State code, the impact fee planning portion of this study will utilize a six year planning window.

Unlike many other cities its size, Payson City owns and operates a power plant and the necessary infrastructure to provide power to its residents. As such, it behooves Payson to master plan its power facilities to accommodate new growth. Therefore, the City hired ICPE to study its future needs. As a result of these studies, ICPE produced the following reports that are used as the basis for this plan: the Payson City Load Flow and Protection Coordination Study (2013) and the 2013 Annexation Evaluation and supporting materials. This plan does not redefine needs or costs, but summarizes the results of the previous studies, creates a CFP and calculates appropriate impact fees to be assigned to new development.

### 3.1 Definitions

*kV-* Kilovolt, a unit equal to 1,000 volts  
*kVA-* Kilovolt Amperes, a unit equal to 1,000 volt amperes  
*MVA-* Megavolt Amperes, a unit equal to 1 million volt amperes  
*VA =* Volt amperes (voltage x amps)  
*Watts =* voltage x amps x power factor (PF)

### 3.2 Level of Service (LOS)

Payson’s LOS for its current power system is defined by City ordinances, fee schedules and construction standards. The following criteria establish conditions for which power facilities are currently planned. On average, Payson is currently planning to provide the following amount of power to each connection in each designated zone.

**Table 3-1: Average Connections**

<b>Zone</b>	<b>Panel</b>
<b><i>Very Low Density</i></b>	<i>3 kw</i>
<b><i>Low Density</i></b>	<i>3 kw</i>
<b><i>Medium Density</i></b>	<i>3 kw</i>
<b><i>Medium High Density</i></b>	<i>2.75 kw</i>
<b><i>High Density</i></b>	<i>2.5 kw</i>
<b><i>Mixed Use</i></b>	<i>6 kw</i>
<b><i>Commercial</i></b>	<i>9 kw</i>
<b><i>Public Facilities</i></b>	<i>15 kw</i>
<b><i>Industrial</i></b>	<i>275 kw</i>

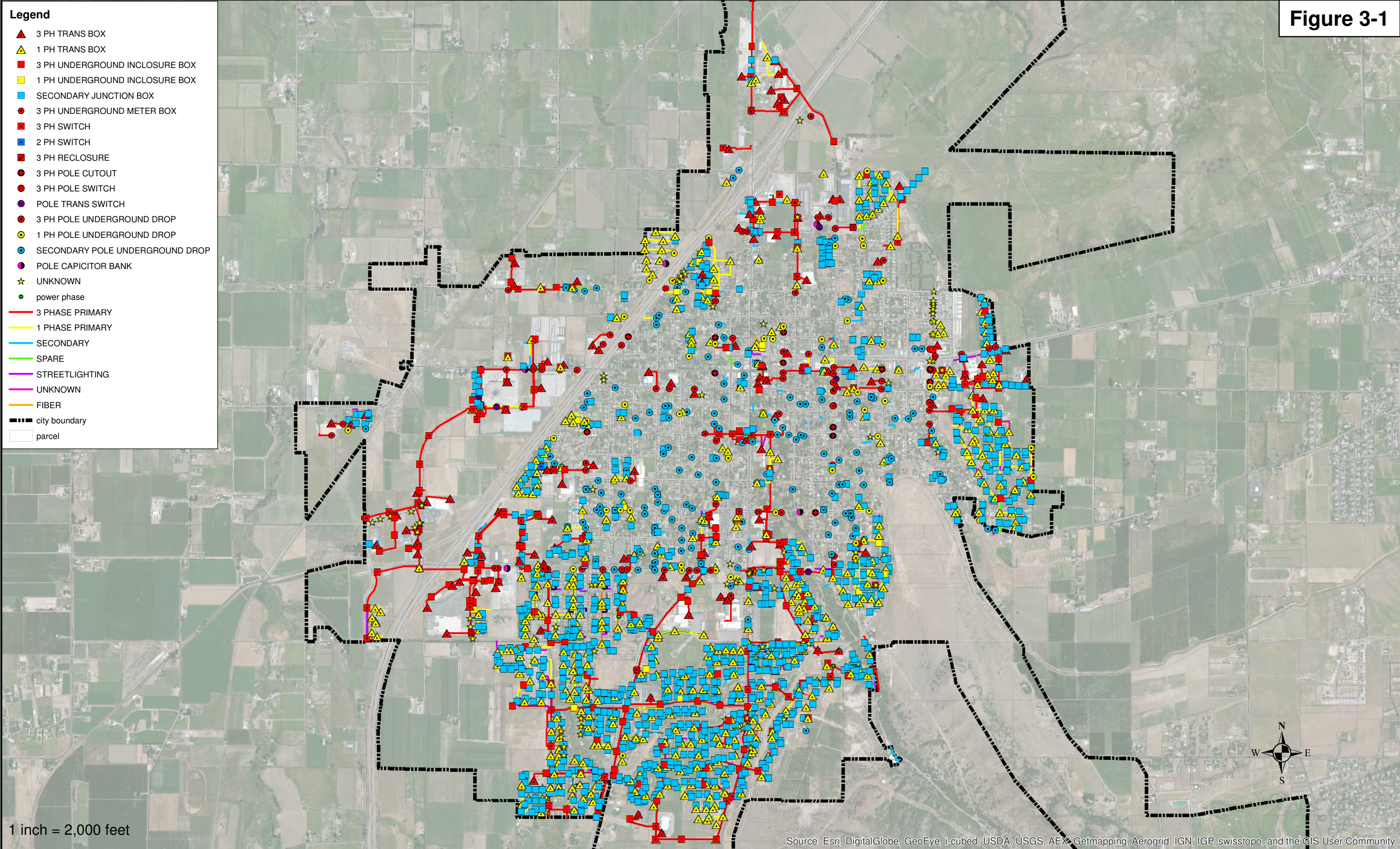
These average connection amounts are the basis for master planning power in Payson City.

### 3.3 Existing Facilities

Payson’s existing power facilities are in generally good condition. The system is illustrated in Figure 3-1. It consists of power substations, circuits and transmission lines that provide power to the current residents of Payson City.



Figure 3-1



O:\2013\PG-117-1311 Payson Master Plans\Project Data\GIS\HorrocksMxd\Payson Existing Power Fig 3-1.mxd, 2/12/2014 4:19:53 PM, drewg



### *Existing Deficiencies*

There are currently no major existing deficiencies in the Payson City power system. City infrastructure generates enough power to provide every connection sufficiently. However, it should be noted that the system lacks backup capacity in several of its facilities. Projects that include backup capacity are identified in Section 3.4. However, these projects have not been included in impact fee calculations even though some of the new backup capacity will serve future developments.

### 3.4 Future Facilities

Proposed improvements to the system that will be required, to accommodate future development, are identified below as they are described by ICPE in the master plan. They are graphically illustrated in Figure 3-2.

1. *Install Future Substation #1.* A new substation is required due to load growth and is also necessary to help with N-1 reliability and to allow the Race Track circuits to be completely picked up when the Race Track transformer is out of service. This substation will contain a 12/16/20 MVA transformer. Its approximate location is 12240 South Highway 198.
2. *Install two new 477 ACSR transmission lines to feed Future Substation #1.* One line will feed from Industrial Substation and the other will feed from Race Track Substation. The creation of this transmission loop will increase N-1 reliability since the substation can feed from either direction. Routes illustrated in Figure 3-2 are approximate.
3. *Install 1100 kcmil underground feeder circuit to connect Future Substation #1 to Circuit 410.* This feeder circuit is required to connect the new substation to the existing system. The route illustrated in Figure 3-2 is approximate. The connection location is approximately 930 West 1620 South.
4. *Install 1100 kcmil underground feeder circuit to connect future Substation #1 to Circuit 430.* This feeder circuit is required to connect the new substation to the existing system. The route illustrated in Figure 3-2 is approximate. The connection location is approximately 1550 South Highway 198.
5. *Install 1100 kcmil underground feeder circuit to connect Future Substation #1 to Circuit 430.* This feeder circuit is required to connect the new substation to the existing system. The route illustrated in Figure 3-2 is approximate. The connection location is approximately 1800 South Main Street.
6. *Paco Substation to be re-built from 4160 V to 12.47 kV.* The Paco Substation needs to be converted to match the voltage for the rest of the distribution system to help with system reliability. This will also accommodate new growth. The substation is necessary to allow Down Town circuits to be completely picked up when the Down Town transformer is out of service. This substation will contain new 12/16/20 MVA transformer.



Figure 3-2

**Legend**

**Future\_power\_Points**

**Point**

◆

New Switch

■

Substation

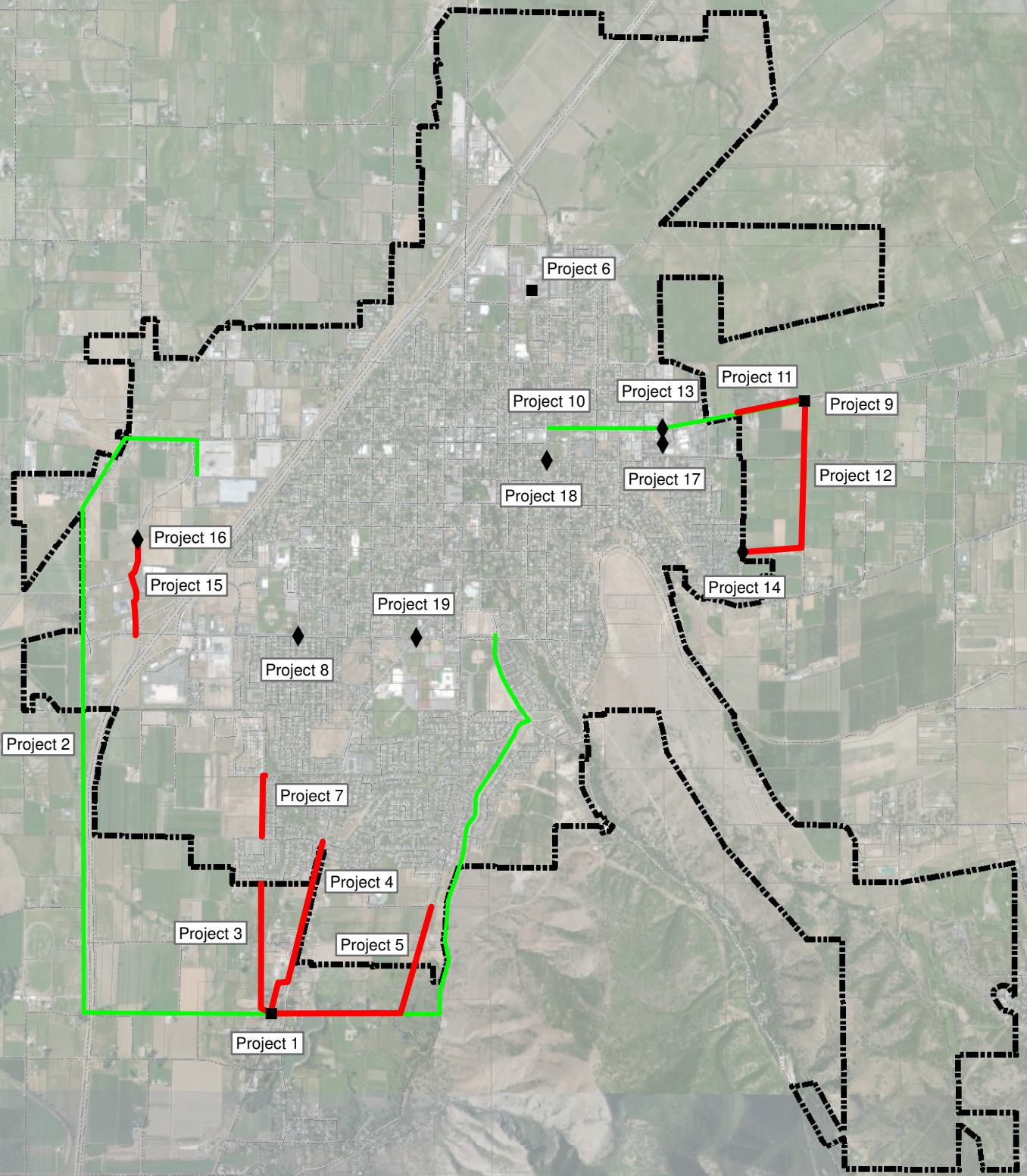
**Future\_power\_lines**

**LineType**

New Circuit

Transmission Line

city boundary



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

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7. *Reconductor Circuit 410 along 930 West from 1400 South to 1550 South.* This project is necessary due to line overloading that occurs when the west part of Circuit 410 is picked up by Circuit 810 when the Race Track transformer is out of service. The lines will be reconducted from #2 AWG to 4/0 AWG (or larger).
8. *Install new overhead switch at approximately 800 South and 800 West.* This switch is required to allow the west part of Circuit 410 to be picked up by 810 and the east side of Circuit 410 to be picked up by Circuit 820 when Racetrack Substation is out of service.
9. *Install Future Substation #2.* This new substation is required to accommodate load growth due to new development. The substation will contain a 12/16/20 MVA transformer. And will be located at approximately 2100 West Highway 198.
10. *Install 46 kV transmission line to feed Future Substation #2.* This transmission line is required to energize new substation. The route shown in Figure 3-2 is approximate.
11. *Install 1100 kcmil underground feeder circuit to connect Future Substation #2 to Circuit 330.* These feeder circuits are required to connect the new substation to the existing system. The route illustrated in Figure 3-2 is approximate. The connection location is approximately Professional Way and Highway 198.
12. *Install 1100 kcmil underground feeder circuit to connect Future Substation #2 to Circuit 330.* These feeder circuits are required to connect the new substation to the existing system. The route illustrated in Figure 3-2 is approximate. The connection location is approximately 1300 East Loafer View drive.
13. *Install 12.47 kV overhead switch at approximately 900 East Highway 198.* A new switch is required to allow new Circuit 910 to pick up the northeast part of 330.
14. *Install 12.47 kV pad mounted switch at approximately 1300 East Loafer View Drive.* A new switch is required to all new Circuit 920 to pick up the southeast part of Circuit 330.
15. *Install 500 kcmil (or larger) underground line from approximately American Way/Innovation Ct. to 800 South/I-15.* This line is required to allow Circuit 730 to pick up Circuit 810 and the west part of Circuit 410 when Future Substation #1 transformer is out of service.
16. *Install 12.47 kV pad mounted switch at approximately American Way/Innovation Ct.* This switch is required to allow Circuit 730 to pick up Circuit 810 and the west part of Circuit 410 when Future Substation #1 transformer is out of service.
17. *Install 12.47 kV overhead switch at approximately 100 South and 500 East.* This switch is required to allow Circuit 920 and the south part of Circuit 330 to be picked up by Circuit 420 when Future Substation #2 transformer is out of service.

18. *Install 12.47 kV overhead switch at approximately 50 North 900 East.* This switch is required to allow Circuit 920 and the south part of Circuit 330 to be picked up by Circuit 420 when Future Substation #2 transformer is out of service.

19. *Install 12.47 kV pad mounted switch at approximately 800 South/Highway 198.* This switch is required to allow a much needed configuration that is required when Industrial Transformer #2 is out of service.

### 3.5 Power Capital Facilities Plan

The Capital Facilities Plan (CFP) is a summary of the master planned projects prioritized into construction timing and associated with planning level cost estimates. For this study, the master plan was completed by ICPE and can be found in the Payson City Load Flow and Protection Coordination Study (2013). Recommended improvements to the power system have been separated into the following categories: short range (1-6 years) and medium range (7-10 years). Table 3-2 summarizes the improvement projects, anticipated costs and projected funding sources.

**Table 3-2: Power Capital Facilities Estimates**

Segment	Estimate (Millions)	Funding Source
<b>1-6 Year Improvements</b>		
(1) Future Substation #1	\$1.90	50% Impact Fees /50% City
(2) 2 New 477 ACSR Transmission Lines	\$2.10	66% Impact Fees / 33% City
(3) 1100 kcmil 12.47 Feeder Circuit	\$0.22	50% Impact Fees /50% City
(4) 1100 kcmil 12.47 Feeder Circuit	\$0.22	50% Impact Fees /50% City
(5) 1100 kcmil 12.47 Feeder Circuit	\$0.22	50% Impact Fees /50% City
(6) Convert Paco Substation	\$1.95	33% Impact Fees / 66% City
(7) Reconductor 12.47 kV Line	\$0.04	66% Impact Fees / 33% City
(8) 12.47 kV Overhead Switch	\$0.02	50% Impact Fees /50% City
(9) Future Substation #2	\$1.90	66% Impact Fees / 33% City
(10) 46 kV Transmission Line	\$0.40	66% Impact Fees / 33% City

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(11) 1100 kcmil 12.47 Feeder Circuit	\$0.18	66% Impact Fees / 33% City
(12) 1100 kcmil 12.47 Feeder Circuit	\$0.18	66% Impact Fees / 33% City
(13) 12.47 kV Overhead Switch	\$0.02	50% Impact Fees /50% City
(14) 12.47 kV Pad Mount Switch	\$0.03	50% Impact Fees /50% City
(15) 500 kcmil 12.47 Underground Line	\$0.05	50% Impact Fees /50% City
(16) 12.47 kV Pad Mount Switch	\$0.03	50% Impact Fees /50% City
<b>Subtotal</b>	<b>\$9.46</b>	
<b>7-10 Year Improvements</b>		
(17) 12.47 kV Overhead Switch	\$0.02	Impact Fees
(18) 12.47 kV Overhead Switch	\$0.02	Impact Fees
(19) 12.47 kV Pad Mount Switch	\$0.03	Impact Fees
<b>Subtotal</b>	<b>\$0.07</b>	
<b>Total</b>	<b>\$9.53</b>	

*Data supporting budgetary power cost estimates is located in the Payson City Load Flow and Protection Coordination Study (2013) and the 2013 Annexation Evaluation.*

Impact fees provide communities with a legal means to obtain funds from new developments to finance the construction of infrastructure improvements that are needed to serve new growth. State law requires that impact fees be used only for projects made necessary by new growth and not for existing deficiencies. Throughout this study, existing conditions have been analyzed as well as future needs due to development and growth. This section defines the financial impact that new development will have on Payson City in the next six years and calculates the impact fees necessary to cover the capital costs. These fees will be needed to maintain the existing level of service for the power system throughout the City. It does not include existing deficiencies.

Impact fees charged for new development are based on the new capacity made available by the planned project as well as the connections each project can serve. Calculations for the impact fees are included in this chapter. According to the current state law, impact fees must use a six year planning window to encumber the funds. Therefore, the calculations in this chapter consider only those projects that are planned to be constructed or encumbered within the next six years. Budgetary costs were evaluated in 2014 dollars. As such, no consideration has been made to include finance costs if certain projects must be financed through means other than cash.

The power infrastructure in Payson City is interconnected and has been evaluated as a single service area. Therefore, the impact fees have been calculated based on a single service area.

#### 4.1 Power Impact Fee Facilities

The Power Capital Facilities Plan identifies \$9.46 million (2014 dollars) of improvements that need to be made to the system in the next six years. Power impact fees can only supplement system improvements due to growth within the City.

The projects eligible for impact fees and projected to be constructed in the next six years are summarized in Table 4-1 with impact fee eligible cost identified.

**Table 4-1: Power Impact Fee Facilities Estimates**

Segment	Project Cost (millions)	Impact Eligibility	Impact Fee Eligible Cost
(1) Future Substation #1	\$1.90	50%	\$950,000
(2) 46 kV Transmission Lines	\$2.10	66%	\$1,386,000
(3) 1100 kcmil 12.47 Feeder Circuit	\$0.22	50%	\$110,000
(4) 1100 kcmil 12.47 Feeder Circuit	\$0.22	50%	\$110,000
(5) 1100 kcmil 12.47 Feeder Circuit	\$0.22	50%	\$110,000

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(6) Convert Paco Substation	\$1.95	33%	\$643,500
(7) Reconductor 12.47 kV Line	\$0.04	66%	\$40,000
(8) 12.47 kV Overhead Switch	\$0.02	50%	\$20,000
(9) Future Substation #2	\$1.90	66%	\$1,254,000
(10) 46 kV Transmission Line	\$0.40	66%	\$400,000
(11) 1100 kcmil 12.47 Feeder Circuit	\$0.18	66%	\$118,800
(12) 1100 kcmil 12.47 Feeder Circuit	\$0.18	66%	\$118,800
(13) 12.47 kV Overhead Switch	\$0.02	50%	\$20,000
(14) 12.47 kV Pad Mount Switch	\$0.03	50%	\$30,000
(15) 500 kcmil 12.47 Underground Line	\$0.05	50%	\$25,000
(16) 12.47 kV Pad Mount Switch	\$0.03	50%	\$30,000
<b>Subtotal</b>	<b>\$9.46</b>		<b>\$4,826,100</b>

### 4.2 Power Impact Fee Analysis

The power base impact fee is constituted of two separate parts. The first portion contains projects that are capacity oriented. For each of these projects we have analyzed the capacity of the project and the number of kilowatts (kW) it will provide. This portion of the base impact fee is calculated as illustrated below by dividing the cost of the project by the kW.

**Table 4-2: Part 1 of the Base Rate**

<b>Project</b>	<b>Watts (kW)</b>	<b>Impact Fee Cost</b>	<b>Impact Fee Cost/kW</b>
1	18,000.00	\$950,000	\$52.78
2	7,294.50	\$1,386,000	\$190.01
3	6,733.80	\$110,000	\$16.34
4	6,733.80	\$110,000	\$16.34
5	6,733.80	\$110,000	\$16.34
6	18,000.00	\$643,500	\$35.75
9	18,000.00	\$1,254,000	\$69.67
11	6,733.80	\$118,800	\$17.64
12	6,733.80	\$118,800	\$17.64
15	2,806	\$25,000	\$8.91
		<b>\$4,826,100</b>	<b>\$441.40</b>

The second portion contains projects that are specifically system projects that do not create capacity. Therefore, their cost is spread across the number of new units that will create growth in the next six years as illustrated below. Per Chapter 2 – Demographics, 4,662 new residents are expected to move into Payson in the next six years. At 3.6 residents per household, this equates to 1,295 residential units.

**Table 4-3: Part 2 of the Base Rate**

Project	New Connections	Project Cost	Impact Fee Cost/ Connection	Peak Use/ Connection	Impact Fee Cost/ kW
7	1,295	\$40,000	\$30.89	2.0	\$15.44
8	1,295	\$20,000	\$15.44	2.0	\$7.72
10	1,295	\$400,000	\$308.88	2.0	\$154.44
13	1,295	\$20,000	\$15.44	2.0	\$7.72
14	1,295	\$30,000	\$23.17	2.0	\$11.58
16	1,295	\$30,000	\$23.17	2.0	\$11.58
			<b>\$417</b>		<b>\$208.49</b>

Therefore, the recommended **power base impact fee rate is \$649.90**. The following schedule recommends proposed impact fees for various demand scenarios. The fees are based on average usage as anticipated by the Payson Power Department.

**Table 4-4: Proposed Impact Fee Schedule**

Payson City 2014 Proposed Impact Fee Schedule Residential Single Phase (120/240V)				
Amps	kVA	Max Capacity (kW)	Ave Use (kW)	Proposed Fee
60	14	2	1.2	\$760
100	24	5	2	\$1,300
125	30	6	2.4	\$1,560
150	36	7	2.8	\$1,820
200	48	8	3.2	\$2,080
225	54	10	4	\$2,600
400	96	14	5.6	\$3,639
Commercial Single Phase (120/240V)				
Amps	kVA	Max Capacity (kW)	Ave Use (kW)	Proposed Fee
100	24	5	2.25	\$1,462
125	30	7	3.15	\$2,047

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150	36	9	4.05	\$2,632
200	48	14	6.3	\$4,094
400	96	19	8.55	\$5,557
<b>Commercial 3 Phase (120/240V)</b>				
<b>Amps</b>	<b>kVA</b>	<b>Max Capacity (kW)</b>	<b>Ave Use (kW)</b>	<b>Proposed Fee</b>
125	52	16	7	\$4,679
150	62	24	11	\$7,019
200	83	31	14	\$9,066
400	166	63	28	\$18,425
600	249	94	42	\$27,491
800	332	126	57	\$36,849
1,000	415	157	71	\$45,915
1,200	498	189	85	\$55,274
1,600	664	252	113	\$73,698
2,000	830	315	142	\$92,123
2,500	1,038		0	\$0
<b>Commercial 3 Phase (120/208V)</b>				
<b>Amps</b>	<b>kVA</b>	<b>Max Capacity (kW)</b>	<b>Ave Use (kW)</b>	<b>Proposed Fee</b>
125	45	16	7	\$4,679
150	54	24	11	\$7,019
200	72	31	14	\$9,066
400	144	63	28	\$18,425
600	216	94	42	\$27,491
800	288	126	57	\$36,849
1,000	360	157	71	\$45,915
1,200	432	189	85	\$55,274
1,600	576	252	113	\$73,698
2,000	720	315	142	\$92,123
2,500	900		0	\$0
<b>Commercial 3 Phase (277/480V)</b>				
<b>Amps</b>	<b>kVA</b>	<b>Max Capacity (kW)</b>	<b>Ave Use (kW)</b>	<b>Proposed Fee</b>
125	104	35	16	\$10,235.9
150	125	52	23	\$15,207.6
200	166	73	33	\$21,349.1
400	332	145	65	\$42,405.7



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600	498	219	99	\$64,047.3
800	664	290	131	\$84,811.5
1,000	830	364	164	\$106,453.0
1,200	996	436	196	\$127,509.7
1,600	1,328	583	262	\$170,500.3
2,000	1,660	728	328	\$212,906.0
2,500	2,075		0	\$0.0
3,000	2,490	1,092	491	\$319,359.0
3,500	2,905	1,275	574	\$372,878.0
3,750	3,113	1,366	615	\$399,491.2
4,000	3,320	1,457	656	\$426,104.5

Appendix “A”

## **Demographics**

**Figure A.1**

Payson City Population Estimate by Permit History							
Year	Building Permits Issued				Residents per Unit*	New Residents*	Total Population
	Residential	Commercial	New Garage	Miscellaneous			
2009-2010							18,294
2010	35	5	10	121	3.6	126	18,420
2011	50	19	5	91	3.6	180	18,600
2012	45	15	8	121	3.6	162	18,762
2013	33	10	8	56	3.6	118.8	18,881

\*Total Population is calculated using residents per unit as defined in the 2010 Census (3.6 res/unit) times the number of new residential units, added to the previous years total population.

**Figure A.2**

<b>Population Estimate and Projected Growth Rate within Payson City Limits</b>					
<b>Fiscal Year</b>	<b>Estimated by Building Permit</b>	<b>Building permit growth Rate</b>	<b>2013 CFP Population Projections</b>	<b>2013 CFP Projected Growth Rate</b>	<b>GOPB Projected Population</b>
2010 Census	18,294				
2010	18,420	0.69%			18,294
2011	18,600	0.98%			
2012	18,762	0.87%			
2013	18,881	0.63%	18,881		
2014			19,353	2.50%	
2015			19,933	3.00%	
2016			20,631	3.50%	
2017			21,456	4.00%	
2018			22,422	4.50%	
2019			23,543	5.00%	
2020			24,838	5.50%	22,832
2021			26,328	6.00%	
2022			28,039	6.50%	
2023			29,722	6.00%	
2024			31,505	6.00%	
2025			33,238	5.50%	
2026			35,066	5.50%	
2027			36,819	5.00%	
2028			38,660	5.00%	
2029			40,400	4.50%	
2030			42,218	4.50%	41,144
2031			43,907	4.00%	
2032			45,443	3.50%	
2033			46,807	3.00%	
2034			47,977	2.50%	
2035			48,936	2.00%	
2036			49,670	1.50%	
2037			50,415	1.50%	
2038			51,172	1.50%	
2039			51,939	1.50%	
2040			52,718	1.50%	49,496
2041			53,246	1.00%	
2042			53,778	1.00%	
2043			54,316	1.00%	
2044			54,859	1.00%	
2045			55,270	0.75%	
2046			55,685	0.75%	
2047			56,103	0.75%	

2048			56,523	0.75%	
2049			56,947	0.75%	
2050			57,374	0.75%	58,500
2051			57,661	0.50%	
2052			57,949	0.50%	
2053			58,239	0.50%	
2054			58,530	0.50%	
2055			58,823	0.50%	
2056			59,117	0.50%	
2057			59,413	0.50%	
2058			59,710	0.50%	
2059			60,008	0.50%	
2060			60,124	0.19%	67,200

## Appendix “B”

### **Power**

Figure B.1

Detailed Base Impact Fee Calculations										
Project	Amps	Voltage (kV)	kW	Power Factor (PF)	Watts (kW)	Cost	Base Cost/kW	Fee Factor	Impact Fee Cost	Impact Fee Cost/kW
1			20,000	90%	18,000	\$1,900,000	\$105.56	50%	\$950,000	\$52.78
2	650	12.47	8,105	90%	7,295	\$2,100,000	\$287.89	66%	\$1,386,000	\$190.01
3	600	12.47	7,482	90%	6,734	\$220,000	\$32.67	50%	\$110,000	\$16.34
4	600	12.47	7,482	90%	6,734	\$220,000	\$32.67	50%	\$110,000	\$16.34
5	600	12.47	7,482	90%	6,734	\$220,000	\$32.67	50%	\$110,000	\$16.34
6			20,000	90%	18,000	\$1,950,000	\$108.33	33%	\$643,500	\$35.75
9			20,000	90%	18,000	\$1,900,000	\$105.56	66%	\$1,254,000	\$69.67
11	600	12.47	7,482	90%	6,734	\$180,000	\$26.73	66%	\$118,800	\$17.64
12	600	12.47	7,482	90%	6,734	\$180,000	\$26.73	66%	\$118,800	\$17.64
15	250	12.47	3,118	90%	2,806	\$50,000	\$17.82	50%	\$25,000	\$8.91
Totals					97,769	\$8,920,000	\$776.63		\$4,826,100	\$441.40

Project	New Connections	Project Cost	Impact Fee Cost/ Connection	Peak Use/ Connection	Impact Fee Cost/ kW
7	1,295	\$40,000	\$30.89	2.0	\$15.44
8	1,295	\$20,000	\$15.44	2.0	\$7.72
10	1,295	\$400,000	\$308.88	2.0	\$154.44
13	1,295	\$20,000	\$15.44	2.0	\$7.72
14	1,295	\$30,000	\$23.17	2.0	\$11.58
16	1,295	\$30,000	\$23.17	2.0	\$11.58
			\$417		\$208.49

Base Impact Fee = \$649.90

*New Connections is calculated as follows:*

Projected growth: 4,662  
 Residents per unit: 3.6  
 Projected new units: 1,295  
 Average unit kW usage: 3  
 Projected new kW: 3,885

## Appendix “C”

### **Applicable State Codes**



**11-36a-101. Title.**

This chapter is known as the "Impact Fees Act."

Enacted by Chapter 47, 2011 General Session

**11-36a-102. Definitions.**

As used in this chapter:

- (1) (a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:
  - (i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or
  - (ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.
- (b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.
- (2) "Charter school" includes:
  - (a) an operating charter school;
  - (b) an applicant for a charter school whose application has been approved by a chartering entity as provided in Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and
  - (c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
- (3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.
- (4) "Development approval" means:
  - (a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;
  - (b) development activity, for a public entity that may develop without written authorization from a local political subdivision;
  - (c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:
    - (i) to reserve or provide:
      - (A) a water right;
      - (B) a system capacity; or
      - (C) a distribution facility; or
    - (ii) to deliver for a development activity:
      - (A) culinary water; or
      - (B) irrigation water; or
  - (d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:
    - (i) to reserve or provide:
      - (A) sewer collection capacity; or
      - (B) treatment capacity; or
    - (ii) to provide sewer service for a development activity.
- (5) "Enactment" means:
  - (a) a municipal ordinance, for a municipality;
  - (b) a county ordinance, for a county; and

- (c) a governing board resolution, for a local district, special service district, or private entity.
- (6) "Encumber" means:
  - (a) a pledge to retire a debt; or
  - (b) an allocation to a current purchase order or contract.
- (7) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, local district, special service district, or private entity.
- (8) (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.
  - (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.
- (9) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.
- (10) "Impact fee facilities plan" means the plan required by Section 11-36a-301.
- (11) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.
- (12) (a) "Local political subdivision" means a county, a municipality, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.
  - (b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 53A-20-100.5.
- (13) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:
  - (a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or
  - (b) functional condition of development approval because the private entity:
    - (i) has no reasonably equivalent competition in the immediate market; and
    - (ii) is the only realistic source of water for the applicant's development.
- (14) (a) "Project improvements" means site improvements and facilities that are:
  - (i) planned and designed to provide service for development resulting from a development activity;
  - (ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and
  - (iii) not identified or reimbursed as a system improvement.
  - (b) "Project improvements" does not mean system improvements.
- (15) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.
- (16) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:
  - (a) water rights and water supply, treatment, storage, and distribution facilities;
  - (b) wastewater collection and treatment facilities;
  - (c) storm water, drainage, and flood control facilities;
  - (d) municipal power facilities;
  - (e) roadway facilities;
  - (f) parks, recreation facilities, open space, and trails;
  - (g) public safety facilities; or
  - (h) environmental mitigation as provided in Section 11-36a-205.
- (17) (a) "Public safety facility" means:
  - (i) a building constructed or leased to house police, fire, or other public safety entities; or
  - (ii) a fire suppression vehicle costing in excess of \$500,000.
  - (b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

- (18) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.
- (b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:
- (i) are necessitated by the new development; and
  - (ii) are not funded by the state or federal government.
- (c) "Roadway facilities" does not mean federal or state roadways.
- (19) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.
- (b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.
- (20) "Specified public agency" means:
- (a) the state;
  - (b) a school district; or
  - (c) a charter school.
- (21) (a) "System improvements" means:
- (i) existing public facilities that are:
    - (A) identified in the impact fee analysis under Section 11-36a-304; and
    - (B) designed to provide services to service areas within the community at large; and
  - (ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.
- (b) "System improvements" does not mean project improvements.

Amended by Chapter 200, 2013 General Session

**11-36a-201. Impact fees.**

- (1) A local political subdivision or private entity shall ensure that any imposed impact fees comply with the requirements of this chapter.
- (2) A local political subdivision and private entity may establish impact fees only for those public facilities defined in Section 11-36a-102.
- (3) Nothing in this chapter may be construed to repeal or otherwise eliminate an impact fee in effect on the effective date of this chapter that is pledged as a source of revenues to pay bonded indebtedness that was incurred before the effective date of this chapter.

Enacted by Chapter 47, 2011 General Session

**11-36a-202. Prohibitions on impact fees.**

- (1) A local political subdivision or private entity may not:
- (a) impose an impact fee to:
    - (i) cure deficiencies in a public facility serving existing development;
    - (ii) raise the established level of service of a public facility serving existing development;
    - (iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement; or
    - (iv) include an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with:
      - (A) generally accepted cost accounting practices; and
      - (B) the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
  - (b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

- (c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.
- (2) (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:
  - (i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;
  - (ii) on a school district or charter school for a park, recreation facility, open space, or trail;
  - (iii) on a school district or charter school unless:
    - (A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and
    - (B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements; or
  - (iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:
    - (A) the Utah National Guard;
    - (B) the Utah Highway Patrol; or
    - (C) a state institution of higher education that has its own police force.
- (b) (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:
  - (A) the school is intended to replace another school, whether on the same or a different parcel;
  - (B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and
  - (C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.
- (ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.
- (c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:
  - (i) the state's development causes an impact on the road facility; and
  - (ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.
- (3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 53A-20-100.5.

Enacted by Chapter 47, 2011 General Session

**11-36a-203. Private entity assessment of impact fees -- Charges for water rights, physical infrastructure -- Notice -- Audit.**

- (1) A private entity:
  - (a) shall comply with the requirements of this chapter before imposing an impact fee; and
  - (b) except as otherwise specified in this chapter, is subject to the same requirements of this chapter as a local political subdivision.
- (2) A private entity may only impose a charge for water rights or physical infrastructure necessary to provide water or sewer facilities by imposing an impact fee.
- (3) Where notice and hearing requirements are specified, a private entity shall comply with the notice and hearing requirements for local districts.

(4) A private entity that assesses an impact fee under this chapter is subject to the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 47, 2011 General Session

**11-36a-204. Other names for impact fees.**

- (1) A fee that meets the definition of impact fee under Section 11-36a-102 is an impact fee subject to this chapter, regardless of what term the local political subdivision or private entity uses to refer to the fee.
- (2) A local political subdivision or private entity may not avoid application of this chapter to a fee that meets the definition of an impact fee under Section 11-36a-102 by referring to the fee by another name.

Enacted by Chapter 47, 2011 General Session

**11-36a-205. Environmental mitigation impact fees.**

Notwithstanding the requirements and prohibitions of this chapter, a local political subdivision may impose and assess an impact fee for environmental mitigation when:

- (1) the local political subdivision has formally agreed to fund a Habitat Conservation Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531, et seq. or other state or federal environmental law or regulation;
- (2) the impact fee bears a reasonable relationship to the environmental mitigation required by the Habitat Conservation Plan; and
- (3) the legislative body of the local political subdivision adopts an ordinance or resolution:
  - (a) declaring that an impact fee is required to finance the Habitat Conservation Plan;
  - (b) establishing periodic sunset dates for the impact fee; and
  - (c) requiring the legislative body to:
    - (i) review the impact fee on those sunset dates;
    - (ii) determine whether or not the impact fee is still required to finance the Habitat Conservation Plan; and
    - (iii) affirmatively reauthorize the impact fee if the legislative body finds that the impact fee must remain in effect.

Enacted by Chapter 47, 2011 General Session

**11-36a-301. Impact fee facilities plan.**

- (1) Before imposing an impact fee, each local political subdivision or private entity shall, except as provided in Subsection (3), prepare an impact fee facilities plan to determine the public facilities required to serve development resulting from new development activity.
- (2) A municipality or county need not prepare a separate impact fee facilities plan if the general plan required by Section 10-9a-401 or 17-27a-401, respectively, contains the elements required by Section 11-36a-302.
- (3) A local political subdivision or a private entity with a population, or serving a population, of less than 5,000 as of the last federal census that charges impact fees of less than \$250,000 annually need not comply with the impact fee facilities plan requirements of this part, but shall ensure that:
  - (a) the impact fees that the local political subdivision or private entity imposes are based upon a reasonable plan that otherwise complies with the common law and this chapter; and
  - (b) each applicable notice required by this chapter is given.

Amended by Chapter 200, 2013 General Session

**11-36a-302. Impact fee facilities plan requirements -- Limitations -- School district or charter school.**

- (1) (a) An impact fee facilities plan shall:
- (i) identify the existing level of service;
  - (ii) subject to Subsection (1)(c), establish a proposed level of service;
  - (iii) identify any excess capacity to accommodate future growth at the proposed level of service;
  - (iv) identify demands placed upon existing public facilities by new development activity at the proposed level of service; and
  - (v) identify the means by which the political subdivision or private entity will meet those growth demands.
- (b) A proposed level of service may diminish or equal the existing level of service.
- (c) A proposed level of service may:
- (i) exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or
  - (ii) establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.
- (2) In preparing an impact fee facilities plan, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:
- (a) grants;
  - (b) bonds;
  - (c) interfund loans;
  - (d) impact fees; and
  - (e) anticipated or accepted dedications of system improvements.
- (3) A local political subdivision or private entity may only impose impact fees on development activities when the local political subdivision's or private entity's plan for financing system improvements establishes that impact fees are necessary to maintain a proposed level of service that complies with Subsection (1)(b) or (c).
- (4) (a) Subject to Subsection (4)(c), the impact fee facilities plan shall include a public facility for which an impact fee may be charged or required for a school district or charter school if the local political subdivision is aware of the planned location of the school district facility or charter school:
- (i) through the planning process; or
  - (ii) after receiving a written request from a school district or charter school that the public facility be included in the impact fee facilities plan.
- (b) If necessary, a local political subdivision or private entity shall amend the impact fee facilities plan to reflect a public facility described in Subsection (4)(a).
- (c) (i) In accordance with Subsections 10-9a-305(3) and 17-27a-305(3), a local political subdivision may not require a school district or charter school to participate in the cost of any roadway or sidewalk.
- (ii) Notwithstanding Subsection (4)(c)(i), if a school district or charter school agrees to build a roadway or sidewalk, the roadway or sidewalk shall be included in the impact fee facilities plan if the local jurisdiction has an impact fee facilities plan for roads and sidewalks.

**11-36a-303. Impact fee analysis.**

- (1) Subject to the notice requirements of Section 11-36a-504, each local political subdivision or private entity intending to impose an impact fee shall prepare a written analysis of each impact fee.
- (2) Each local political subdivision or private entity that prepares an impact fee analysis under Subsection (1) shall also prepare a summary of the impact fee analysis designed to be understood by a lay person.

Enacted by Chapter 47, 2011 General Session

**11-36a-304. Impact fee analysis requirements.**

- (1) An impact fee analysis shall:
  - (a) identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity;
  - (b) identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;
  - (c) subject to Subsection (2), demonstrate how the anticipated impacts described in Subsections (1)(a) and (b) are reasonably related to the anticipated development activity;
  - (d) estimate the proportionate share of:
    - (i) the costs for existing capacity that will be recouped; and
    - (ii) the costs of impacts on system improvements that are reasonably related to the new development activity; and
  - (e) based on the requirements of this chapter, identify how the impact fee was calculated.
- (2) In analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision or private entity, as the case may be, shall identify, if applicable:
  - (a) the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;
  - (b) the cost of system improvements for each public facility;
  - (c) other than impact fees, the manner of financing for each public facility, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;
  - (d) the relative extent to which development activity will contribute to financing the excess capacity of and system improvements for each existing public facility, by such means as user charges, special assessments, or payment from the proceeds of general taxes;
  - (e) the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;
  - (f) the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements or public facilities that will offset the demand for system improvements, inside or outside the proposed development;
  - (g) extraordinary costs, if any, in servicing the newly developed properties; and
  - (h) the time-price differential inherent in fair comparisons of amounts paid at different times.

Enacted by Chapter 47, 2011 General Session

**11-36a-304. Impact fee analysis requirements.**

- (1) An impact fee analysis shall:
  - (a) identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity;

- (b) identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;
  - (c) subject to Subsection (2), demonstrate how the anticipated impacts described in Subsections (1)(a) and (b) are reasonably related to the anticipated development activity;
  - (d) estimate the proportionate share of:
    - (i) the costs for existing capacity that will be recouped; and
    - (ii) the costs of impacts on system improvements that are reasonably related to the new development activity; and
  - (e) based on the requirements of this chapter, identify how the impact fee was calculated.
- (2) In analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision or private entity, as the case may be, shall identify, if applicable:
- (a) the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;
  - (b) the cost of system improvements for each public facility;
  - (c) other than impact fees, the manner of financing for each public facility, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;
  - (d) the relative extent to which development activity will contribute to financing the excess capacity of and system improvements for each existing public facility, by such means as user charges, special assessments, or payment from the proceeds of general taxes;
  - (e) the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;
  - (f) the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements or public facilities that will offset the demand for system improvements, inside or outside the proposed development;
  - (g) extraordinary costs, if any, in servicing the newly developed properties; and
  - (h) the time-price differential inherent in fair comparisons of amounts paid at different times.

Enacted by Chapter 47, 2011 General Session

#### **11-36a-305. Calculating impact fees.**

- (1) In calculating an impact fee, a local political subdivision or private entity may include:
  - (a) the construction contract price;
  - (b) the cost of acquiring land, improvements, materials, and fixtures;
  - (c) the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and
  - (d) for a political subdivision, debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements.
- (2) In calculating an impact fee, each local political subdivision or private entity shall base amounts calculated under Subsection (1) on realistic estimates, and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

Enacted by Chapter 47, 2011 General Session



**11-36a-306. Certification of impact fee analysis.**

(1) An impact fee facilities plan shall include a written certification from the person or entity that prepares the impact fee facilities plan that states the following:

"I certify that the attached impact fee facilities plan:

1. includes only the costs of public facilities that are:
  - a. allowed under the Impact Fees Act; and
  - b. actually incurred; or
  - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
  - a. costs of operation and maintenance of public facilities;
  - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; or
  - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and
3. complies in each and every relevant respect with the Impact Fees Act."

(2) An impact fee analysis shall include a written certification from the person or entity that prepares the impact fee analysis which states as follows:

"I certify that the attached impact fee analysis:

1. includes only the costs of public facilities that are:
  - a. allowed under the Impact Fees Act; and
  - b. actually incurred; or
  - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
  - a. costs of operation and maintenance of public facilities;
  - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; or
  - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
3. offsets costs with grants or other alternate sources of payment; and
4. complies in each and every relevant respect with the Impact Fees Act."

Amended by Chapter 278, 2013 General Session

**11-36a-401. Impact fee enactment.**

(1) (a) A local political subdivision or private entity wishing to impose impact fees shall pass an impact fee enactment in accordance with Section 11-36a-402.

(b) An impact fee imposed by an impact fee enactment may not exceed the highest fee justified by the impact fee analysis.

(2) An impact fee enactment may not take effect until 90 days after the day on which the impact fee enactment is approved.

Enacted by Chapter 47, 2011 General Session

**11-36a-402. Required provisions of impact fee enactment.**

(1) A local political subdivision or private entity shall ensure, in addition to the requirements described in Subsections (2) and (3), that an impact fee enactment contains:

- (a) a provision establishing one or more service areas within which the local political subdivision or private entity calculates and imposes impact fees for various land use categories;
- (b) (i) a schedule of impact fees for each type of development activity that specifies the amount of the impact fee to be imposed for each type of system improvement; or
  - (ii) the formula that the local political subdivision or private entity, as the case may be, will use to calculate each impact fee;
- (c) a provision authorizing the local political subdivision or private entity, as the case may be, to adjust the standard impact fee at the time the fee is charged to:
  - (i) respond to:
    - (A) unusual circumstances in specific cases; or
    - (B) a request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected; and
  - (ii) ensure that the impact fees are imposed fairly; and
- (d) a provision governing calculation of the amount of the impact fee to be imposed on a particular development that permits adjustment of the amount of the impact fee based upon studies and data submitted by the developer.

(2) A local political subdivision or private entity shall ensure that an impact fee enactment allows a developer, including a school district or a charter school, to receive a credit against or proportionate reimbursement of an impact fee if the developer:

- (a) dedicates land for a system improvement;
- (b) builds and dedicates some or all of a system improvement; or
- (c) dedicates a public facility that the local political subdivision or private entity and the developer agree will reduce the need for a system improvement.

(3) A local political subdivision or private entity shall include a provision in an impact fee enactment that requires a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:

- (a) are system improvements; or
- (b) (i) are dedicated to the public; and
  - (ii) offset the need for an identified system improvement.

Enacted by Chapter 47, 2011 General Session

**11-36a-403. Other provisions of impact fee enactment.**

(1) A local political subdivision or private entity may include a provision in an impact fee enactment that:

- (a) provides an impact fee exemption for:
  - (i) development activity attributable to:
    - (A) low income housing;
    - (B) the state;
    - (C) subject to Subsection (2), a school district; or
    - (D) subject to Subsection (2), a charter school; or
  - (ii) other development activity with a broad public purpose; and
- (b) except for an exemption under Subsection (1)(a)(i)(A), establishes one or more sources of funds other than impact fees to pay for that development activity.

(2) An impact fee enactment that provides an impact fee exemption for development activity attributable to a school district or charter school shall allow either a school district or a charter school to qualify for the exemption on the same basis.

(3) An impact fee enactment that repeals or suspends the collection of impact fees is exempt from the notice requirements of Section 11-36a-504.

Enacted by Chapter 47, 2011 General Session

**11-36a-501. Notice of intent to prepare an impact fee facilities plan.**

(1) Before preparing or amending an impact fee facilities plan, a local political subdivision or private entity shall provide written notice of its intent to prepare or amend an impact fee facilities plan.

(2) A notice required under Subsection (1) shall:

(a) indicate that the local political subdivision or private entity intends to prepare or amend an impact fee facilities plan;

(b) describe or provide a map of the geographic area where the proposed impact fee facilities will be located; and

(c) subject to Subsection (3), be posted on the Utah Public Notice Website created under Section 63F-1-701.

(3) For a private entity required to post notice on the Utah Public Notice Website under Subsection (2)(c):

(a) the private entity shall give notice to the general purpose local government in which the private entity's private business office is located; and

(b) the general purpose local government described in Subsection (3)(a) shall post the notice on the Utah Public Notice Website.

Enacted by Chapter 47, 2011 General Session

**11-36a-502. Notice to adopt or amend an impact fee facilities plan.**

(1) If a local political subdivision chooses to prepare an independent impact fee facilities plan rather than include an impact fee facilities element in the general plan in accordance with Section 11-36a-301, the local political subdivision shall, before adopting or amending the impact fee facilities plan:

(a) give public notice, in accordance with Subsection (2), of the plan or amendment at least 10 days before the day on which the public hearing described in Subsection (1)(d) is scheduled;

(b) make a copy of the plan or amendment, together with a summary designed to be understood by a lay person, available to the public;

(c) place a copy of the plan or amendment and summary in each public library within the local political subdivision; and

(d) hold a public hearing to hear public comment on the plan or amendment.

(2) With respect to the public notice required under Subsection (1)(a):

(a) each municipality shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);

(b) each county shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2); and

(c) each local district, special service district, and private entity shall comply with the notice and hearing requirements of, and receive the protections of, Section 17B-1-111.

(3) Nothing contained in this section or Section 11-36a-503 may be construed to require involvement by a planning commission in the impact fee facilities planning process.

Enacted by Chapter 47, 2011 General Session

**11-36a-503. Notice of preparation of an impact fee analysis.**

- (1) Before preparing or contracting to prepare an impact fee analysis, each local political subdivision or, subject to Subsection (2), private entity shall post a public notice on the Utah Public Notice Website created under Section 63F-1-701.
- (2) For a private entity required to post notice on the Utah Public Notice Website under Subsection (1):
  - (a) the private entity shall give notice to the general purpose local government in which the private entity's primary business is located; and
  - (b) the general purpose local government described in Subsection (2)(a) shall post the notice on the Utah Public Notice Website.

Enacted by Chapter 47, 2011 General Session

**11-36a-504. Notice of intent to adopt impact fee enactment -- Hearing -- Protections.**

- (1) Before adopting an impact fee enactment:
  - (a) a municipality legislative body shall:
    - (i) comply with the notice requirements of Section 10-9a-205 as if the impact fee enactment were a land use ordinance;
    - (ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use ordinance; and
    - (iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 10-9a-801 as if the impact fee were a land use ordinance;
  - (b) a county legislative body shall:
    - (i) comply with the notice requirements of Section 17-27a-205 as if the impact fee enactment were a land use ordinance;
    - (ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use ordinance; and
    - (iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 17-27a-801 as if the impact fee were a land use ordinance;
  - (c) a local district or special service district shall:
    - (i) comply with the notice and hearing requirements of Section 17B-1-111; and
    - (ii) receive the protections of Section 17B-1-111;
  - (d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:
    - (i) make a copy of the impact fee enactment available to the public; and
    - (ii) post notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, on the Utah Public Notice Website created under Section 63F-1-701; and
  - (e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.
- (2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Enacted by Chapter 47, 2011 General Session

**11-36a-601. Accounting of impact fees.**

A local political subdivision that collects an impact fee shall:

- (1) establish a separate interest bearing ledger account for each type of public facility for which an impact fee is collected;
- (2) deposit a receipt for an impact fee in the appropriate ledger account established under Subsection (1);
- (3) retain the interest earned on each fund or ledger account in the fund or ledger account;

- (4) at the end of each fiscal year, prepare a report on each fund or ledger account showing:
  - (a) the source and amount of all money collected, earned, and received by the fund or ledger account; and
  - (b) each expenditure from the fund or ledger account; and
- (5) produce a report that:
  - (a) identifies impact fee funds by the year in which they were received, the project from which the funds were collected, the impact fee projects for which the funds were budgeted, and the projected schedule for expenditure;
  - (b) is in a format developed by the state auditor;
  - (c) is certified by the local political subdivision's chief financial officer; and
  - (d) is transmitted annually to the state auditor.

Enacted by Chapter 47, 2011 General Session

**11-36a-602. Expenditure of impact fees.**

- (1) A local political subdivision may expend impact fees only for a system improvement:
  - (a) identified in the impact fee facilities plan; and
  - (b) for the specific public facility type for which the fee was collected.
- (2) (a) Except as provided in Subsection (2)(b), a local political subdivision shall expend or encumber the impact fees for a permissible use within six years of their receipt.
  - (b) A local political subdivision may hold the fees for longer than six years if it identifies, in writing:
    - (i) an extraordinary and compelling reason why the fees should be held longer than six years; and
    - (ii) an absolute date by which the fees will be expended.

Enacted by Chapter 47, 2011 General Session

**11-36a-603. Refunds.**

A local political subdivision shall refund any impact fee paid by a developer, plus interest earned, when:

- (1) the developer does not proceed with the development activity and has filed a written request for a refund;
- (2) the fee has not been spent or encumbered; and
- (3) no impact has resulted.

Enacted by Chapter 47, 2011 General Session

**11-36a-701. Impact fee challenge.**

- (1) A person or an entity residing in or owning property within a service area, or an organization, association, or a corporation representing the interests of persons or entities owning property within a service area, has standing to file a declaratory judgment action challenging the validity of an impact fee.
- (2) (a) A person or an entity required to pay an impact fee who believes the impact fee does not meet the requirements of law may file a written request for information with the local political subdivision who established the impact fee.
  - (b) Within two weeks after the receipt of the request for information under Subsection (2)(a), the local political subdivision shall provide the person or entity with the impact fee analysis, the impact fee facilities plan, and any other relevant information relating to the impact fee.
- (3) (a) Subject to the time limitations described in Section 11-36a-702 and procedures set forth in Section 11-36a-703, a person or an entity that has paid an impact fee that was imposed by a local political subdivision may challenge:
  - (i) if the impact fee enactment was adopted on or after July 1, 2000:
    - (A) subject to Subsection (3)(b)(i) and except as provided in Subsection (3)(b)(ii), whether the local political subdivision complied with the notice requirements of this chapter with respect to the imposition of the impact fee; and
    - (B) whether the local political subdivision complied with other procedural requirements of this chapter for imposing the impact fee; and

- (ii) except as limited by Subsection (3)(c), the impact fee.
- (b) (i) The sole remedy for a challenge under Subsection (3)(a)(i)(A) is the equitable remedy of requiring the local political subdivision to correct the defective notice and repeat the process.
- (ii) The protections given to a municipality under Section 10-9a-801 and to a county under Section 17-27a-801 do not apply in a challenge under Subsection (3)(a)(i)(A).
- (c) The sole remedy for a challenge under Subsection (3)(a)(ii) is a refund of the difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated.
- (4) (a) Subject to Subsection (4)(d), if an impact fee that is the subject of an advisory opinion under Section 13-43-205 is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion:
  - (i) the substantially prevailing party on that cause of action:
    - (A) may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution; and
    - (B) shall be refunded an impact fee held to be in violation of this chapter, based on the difference between the impact fee paid and what the impact fee should have been if the government entity had correctly calculated the impact fee; and
  - (ii) in accordance with Section 13-43-206, a government entity shall refund an impact fee held to be in violation of this chapter to the person who was in record title of the property on the day on which the impact fee for the property was paid if:
    - (A) the impact fee was paid on or after the day on which the advisory opinion on the impact fee was issued but before the day on which the final court ruling on the impact fee is issued; and
    - (B) the person described in Subsection (3)(a)(ii) requests the impact fee refund from the government entity within 30 days after the day on which the court issued the final ruling on the impact fee.
- (b) A government entity subject to Subsection (3)(a)(ii) shall refund the impact fee based on the difference between the impact fee paid and what the impact fee should have been if the government entity had correctly calculated the impact fee.
- (c) Subsection (4) may not be construed to create a new cause of action under land use law.
- (d) Subsection (3)(a) does not apply unless the resolution described in Subsection (3)(a) is final.

Enacted by Chapter 47, 2011 General Session

**11-36a-702. Time limitations.**

- (1) A person or an entity that initiates a challenge under Subsection 11-36a-701(3)(a) may not initiate that challenge unless it is initiated within:
  - (a) for a challenge under Subsection 11-36a-701(3)(a)(i)(A), 30 days after the day on which the person or entity pays the impact fee;
  - (b) for a challenge under Subsection 11-36a-701(3)(a)(i)(B), 180 days after the day on which the person or entity pays the impact fee; or
  - (c) for a challenge under Subsection 11-36a-701(3)(a)(ii), one year after the day on which the person or entity pays the impact fee.
- (2) The deadline to file an action in district court is tolled from the date that a challenge is filed using an administrative appeals procedure described in Section 11-36a-703 until 30 days after the day on which a final decision is rendered in the administrative appeals procedure.

Enacted by Chapter 47, 2011 General Session

**11-36a-703. Procedures for challenging an impact fee.**

- (1) (a) A local political subdivision may establish, by ordinance or resolution, or a private entity may establish by prior written policy, an administrative appeals procedure to consider and decide a challenge to an impact fee.  
(b) If the local political subdivision or private entity establishes an administrative appeals procedure, the local political subdivision shall ensure that the procedure includes a requirement that the local political subdivision make its decision no later than 30 days after the day on which the challenge to the impact fee is filed.
- (2) A challenge under Subsection 11-36a-701(3)(a) is initiated by filing:
  - (a) if the local political subdivision or private entity has established an administrative appeals procedure under Subsection (1), the necessary document, under the administrative appeals procedure, for initiating the administrative appeal;
  - (b) a request for arbitration as provided in Section 11-36a-705; or
  - (c) an action in district court.
- (3) The sole remedy for a successful challenge under Subsection 11-36a-701(1), which determines that an impact fee process was invalid, or an impact fee is in excess of the fee allowed under this act, is a declaration that, until the local political subdivision or private entity enacts a new impact fee study, from the date of the decision forward, the entity may charge an impact fee only as the court has determined would have been appropriate if it had been properly enacted.
- (4) Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1) may not be construed as requiring a person or an entity to exhaust administrative remedies with the local political subdivision before filing an action in district court under Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1).
- (5) The judge may award reasonable attorney fees and costs to the prevailing party in an action brought under this section.
- (6) This chapter may not be construed as restricting or limiting any rights to challenge impact fees that were paid before the effective date of this chapter.

Amended by Chapter 200, 2013 General Session

**11-36a-704. Mediation.**

- (1) In addition to the methods of challenging an impact fee under Section 11-36a-701, a specified public agency may require a local political subdivision or private entity to participate in mediation of any applicable impact fee.
- (2) To require mediation, the specified public agency shall submit a written request for mediation to the local political subdivision or private entity.
- (3) The specified public agency may submit a request for mediation under this section at any time, but no later than 30 days after the day on which an impact fee is paid.
- (4) Upon the submission of a request for mediation under this section, the local political subdivision or private entity shall:
  - (a) cooperate with the specified public agency to select a mediator; and
  - (b) participate in the mediation process.

Enacted by Chapter 47, 2011 General Session

**11-36a-705. Arbitration.**

- (1) A person or entity intending to challenge an impact fee under Section 11-36a-703 shall file a written request for arbitration with the local political subdivision within the time limitation described in Section 11-36a-702 for the applicable type of challenge.
- (2) If a person or an entity files a written request for arbitration under Subsection (1), an arbitrator or arbitration panel shall be selected as follows:
  - (a) the local political subdivision and the person or entity filing the request may agree on a single arbitrator within 10 days after the day on which the request for arbitration is filed; or
  - (b) if a single arbitrator is not agreed to in accordance with Subsection (2)(a), 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 under Subsection (2)(b)(i) shall select a third arbitrator.
- (3) The arbitration panel shall hold a hearing on the challenge no later than 30 days after the day on which:
  - (a) the single arbitrator is agreed on under Subsection (2)(a); or
  - (b) the two arbitrators are selected under Subsection (2)(b)(i).
- (4) The arbitrator or arbitration panel shall issue a decision in writing no later than 10 days after the day on which the hearing described in Subsection (3) is completed.
- (5) Except as provided in this section, each arbitration shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- (6) The parties may agree to:
  - (a) binding arbitration;
  - (b) formal, nonbinding arbitration; or
  - (c) informal, nonbinding arbitration.
- (7) If the parties agree in writing to binding arbitration:
  - (a) the arbitration shall be binding;
  - (b) the decision of the arbitration panel shall be final;
  - (c) neither party may appeal the decision of the arbitration panel; and
  - (d) notwithstanding Subsection (10), the person or entity challenging the impact fee may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
- (8) (a) Except as provided in Subsection (8)(b), if the parties agree to formal, nonbinding arbitration, the arbitration shall be governed by the provisions of Title 63G, Chapter 4, Administrative Procedures Act.
  - (b) For purposes of applying Title 63G, Chapter 4, Administrative Procedures Act, to a formal, nonbinding arbitration under this section, notwithstanding Section 63G-4-502, "agency" means a local political subdivision.
- (9) (a) An appeal from a decision in an informal, nonbinding arbitration may be filed with the district court in which the local political subdivision is located.
  - (b) An appeal under Subsection (9)(a) shall be filed within 30 days after the day on which the arbitration panel issues a decision under Subsection (4).
  - (c) The district court shall consider de novo each appeal filed under this Subsection (9).
  - (d) Notwithstanding Subsection (10), a person or entity that files an appeal under this Subsection (9) may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
- (10) (a) Except as provided in Subsections (7)(d) and (9)(d), this section may not be construed to prohibit a person or entity from challenging an impact fee as provided in Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
  - (b) The filing of a written request for arbitration within the required time in accordance with Subsection (1) tolls all time limitations under Section 11-36a-702 until the day on which the arbitration panel issues a decision.
- (11) The person or entity filing a request for arbitration and the local political subdivision shall equally share all costs of an arbitration proceeding under this section.

Enacted by Chapter 47, 2011 General Session