



MANTUA TOWN CULINARY WATER IMPACT FEE ANALYSIS

Mantua, Utah | January 2026



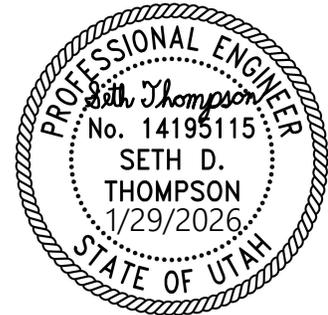
Creating solutions that work and relationships that last.

MANTUA TOWN

CULINARY WATER IMPACT FEE ANALYSIS

January 2026

Annette Ash.....Mayor
Matt Jepson.....Council Member
Scott Ross.....Council Member
Cheryl Burgan.....Council Member
Kenneth Jones.....Council Member



Jaison Hardman, P.E.
Project Engineer

Seth Thompson, P.E.
Project Engineer



2100 North Main Street
Logan, UT 84341
TEL: 435-563-3734



409 North Main Street
Mantua, UT 84324
TEL: 435-723-7054

TABLE OF CONTENTS

IMPACT FEE ANALYSIS CERTIFICATION	II
1 INTRODUCTION	1
1.1 Background	1
1.2 Purpose.....	2
1.3 Methodology	2
2 DEMOGRAPHICS.....	3
2.1 Historic Growth Rate.....	3
2.2 Projected Growth Rate.....	3
2.3 Projected Utility Connections.....	4
2.4 Calculation of ERCs.....	4
3 CULINARY WATER IMPACT FEE ANALYSIS.....	6
3.1 Background	6
3.2 Water Demands.....	6
3.3 Water Rights	6
3.4 Water Sources	7
3.5 Water Storage	7
3.6 Excess Capacity	7
3.7 Identified Water Improvements & Allocable Costs.....	8
3.8 Water Impact Fee Calculation	9
4 CONCLUSIONS.....	10
4.1 Existing Impact Fees.....	10
4.2 Proposed Impact Fees.....	10
4.3 Recommendations.....	10

APPENDICES

APPENDIX A – Analysis of Banberry Factors

APPENDIX B – Capacity Calculations

APPENDIX C – Water Impact Fee Opinion of Probable Costs

APPENDIX D – Utah Impact Fees Act Chapter 36a

IMPACT FEE ANALYSIS CERTIFICATION

In accordance with Utah Code Annotated, § 11-36a-306, Seth Thompson, PE, on behalf of Sunrise Engineering, LLC., makes the following certification:

I certify that the attached impact fee analysis:

- ❖ Includes only the costs of public facilities that are:
 - allowed under the Impact Fees Act; and
 - actually incurred; or
 - projected to be incurred or encumbered within six years after the day on which each impact fee is paid.
- ❖ Does not include:
 - costs of operation and maintenance of public facilities; or
 - costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that existing residents support.
- ❖ Offsets costs with grants or other alternate sources of payment
- ❖ Complies in each and every relevant respect with the Impact Fees Act

Seth Thompson, PE, makes this certification with the following caveats:

1. All of the recommendations for implementations of the Impact Fee Facilities Plans (IFFPs) made in the Impact Fee Analysis documents are followed in their entirety by Mantua, Utah, staff and elected officials.
2. If all or a portion of the Impact Fee Analyses are modified or amended, this certification is no longer valid.
3. All information provided to Sunrise Engineering, LLC., its contractors, or suppliers is assumed to be correct, complete, and accurate. This includes information provided by Mantua Town, Utah, and outside sources.
4. The undersigned is trained and licensed as a professional engineer and has not been trained or licensed as a lawyer. Nothing in the foregoing certification shall be deemed an opinion of law or an opinion of compliance with law which under applicable professional licensing laws or regulations or other laws or regulations must be rendered by a lawyer licensed in the State of Utah.
5. The foregoing Certification is an expression of professional opinion based on the undersigned's best knowledge, information, and belief and shall not be construed as a warranty or guaranty of any fact or circumstance.
6. The foregoing certification is made only to Mantua Town, Utah, and may not be used or relied upon by any other person or entity without the expressed written authorization of the undersigned.

Date: 1/29/2026

Sunrise Engineering, LLC.

By: *Seth Thompson*

1 INTRODUCTION

1.1 Background

An impact fee is a fee imposed on new development to “mitigate the impact of the new development on public infrastructure” (Utah Code § 11-36a-102-8(a)). Impact fees are subject to the restrictions within the Fifth Amendment to the US Constitution, prohibiting the taking of private property for public use without just compensation. To comply with the US Constitution, there will be an “essential nexus” between the fee imposed and the protected interest, and the fee imposed must be “roughly proportional” to the burden created by the new development. For more information, see *Nollan v. California Coastal Commission*, 483 US 825 (1987), and *Dolan v. Town of Tigard*, 512 US 374 (1994).

The Utah Impact Fees Act governs the levy of impact fees in Utah, codified as Utah Code § 11-36a. This act requires more specific analysis than the US Constitution. Before imposing an impact fee, a municipality or public service provider, such as Mantua Town, must prepare a written analysis of each impact fee. An impact fee analysis is designed to proportionally allocate to new development the portion of the cost of new facilities that may be required for excess capacity of existing facilities. The impact fee analysis must:

1. identify the anticipated impact on existing facilities by new development;
2. identify the anticipated impact on system improvements by anticipated development;
3. demonstrate how those impacts are reasonably related to the anticipated development;
4. estimate the proportionate share of costs to be recouped by the impact fee; and
5. identify how the impact fee was calculated (Id. at § 304).

Entities imposing impact fees must also prepare an impact fee facility plan unless exempted by statute. An impact fee facilities plan is not required if the municipality’s general plan, under Utah Code 10-9a-401, contains the elements required by the Impact Fees Act. Id. at § 301. Municipalities serving less than 5,000 people and charging total impact fees of less than \$250,000 annually are not required to prepare an impact fee facilities plan. However, they must ensure that the impact fees “are based upon a reasonable plan that otherwise complies with the common law and [other section of the Impact Fees Act]” (Id. at § 301). This impact fee analysis has been prepared in conjunction with the Mantua Town Culinary Well and Tank Project.

The Utah Supreme Court outlined seven factors that may be considered when determining the reasonableness of an impact fee; these factors are now known as the “Banberry factors” (*Banberry Dev. Corp. v. Jordan Town*, 631 P.2d 899, 904 (Utah 1981)). However, the Court has subsequently noted that these factors “were merely ‘means to [an] end.’ And the ultimate legal test is whether the impact fees relate to the cost of the benefits conferred on those paying the fees” (*Tooele Assoc. LTD. V. Tooele Town Corp.*, 247 P.3d 371 (Utah 2011) (quoting *Home Builders Assoc. of Utah v. Town of American Fork*, 973 P.2d 425, at ¶120 (Utah 1999)). Nonetheless, this impact fee study will review each of the Banberry factors for the system impact fee. A brief analysis of the Banberry factors is attached as **Appendix A**.

Although the municipality may enact a lower impact fee than that justified by the impact fee analysis, the municipality may not impose a fee higher than that justified in the analysis.

Pursuant to Utah Administrative Code (UAC) Title 11 Chapter 36 Section 201, Mantua Town has contracted with Sunrise Engineering, LLC., to conduct an impact fee analysis for their Culinary Water service. This analysis will establish a “reasonable plan” for imposing impact fees on future development serviced by Mantua Town.

1.2 Purpose

The purpose of this impact fee analysis is to establish the existing excess capacity, find the proportion of cost of new infrastructure that can be allocated to new growth, and determine a fair maximum impact fee. A summary of the existing system components with excess capacity is included in **Section 3.6** of this analysis.

This impact fee calculates the highest proportionate share of the cost of these public facilities that may be reasonably allocated to new development. Mantua Town is a public water supplier serving less than 5,000 people; thus, it is exempt from the requirement to provide an impact fee facilities plan.

In conjunction with calculating the reasonable impact fee for future projects, this analysis will review and update the current impact fees. A total maximum reasonable impact fee for Mantua Town's culinary system will be calculated.

1.3 Methodology

The impact fee for culinary water facilities is derived primarily from a plan-based method for future planned improvements; however, this analysis also considers cost recovery for excess capacity of current system components. Impact fees may not be used for maintenance or repair of the existing system or for system improvements that increase the level of service to existing system users, unless the improvements provide additional system capacity that directly supports new development. Impact fees may not be used to recoup more than the actual public facility costs incurred or those projected to be incurred "within six years after the day on which each impact fee is paid" (Id. at § 306). Also, impact fees must include an offset for grants or other alternative payment sources. They may not include expenses for operation and maintenance or for overhead, unless overhead expenses are calculated using a methodology consistent with generally accepted cost accounting practices and the standards accepted by the Federal Office of Management and Budget for federal grant reimbursement.

Accordingly, this analysis:

1. determines the actual costs incurred or to be incurred within six years of the date of this report;
2. sets forth existing levels of service;
3. does not include any general overhead expenditures or costs for the operation of the facilities;
4. offsets for potential grants for proposed projects; and
5. includes an analysis of the prior completed projects that remain impact fee eligible.

A growth rate projection is included as part of this impact fee analysis. The capacity of the current system and the excess capacity of each new system component used in this analysis are based upon data provided in the 2022 Town of Mantua Culinary Water System Study. The costs of the proposed public facilities are calculated based upon an engineer's opinion of probable cost.

Because water demands of multi-family, industrial, and commercial connections vary widely, excess capacity of system components is expressed in terms of equivalent residential connections (ERCs), sometimes referred to as equivalent residential units (ERUs). An ERC is equivalent to the amount of water used by a typical single-family residence.

The determination of the existing Level of Service (LOS) of the current system is based upon previous project design capacities as well as minimum standards required by current regulations.

2 DEMOGRAPHICS

2.1 Historic Growth Rate

Historic census data can generally provide a basis for estimating the population growth rate. According to data obtained from the U.S. Census Bureau, Mantua Town’s population growth rate was 4.72 percent per year from 2010 to 2020. The 1980 to 2020 census data is shown in Table 2.1.

Table 2.1 Historic Growth Rate

Year	Census Population	Average Annual Growth Rate	
1980	484		
1990	665	1980 - 1990	3.23%
2000	791	1990 - 2000	1.75%
2010	687	2000 - 2010	-1.40%
2020	1,090	2010-2020	4.72%
Average Annual Growth Rate			2.08%

2.2 Projected Growth Rate

In 2024, the town’s estimated population was 1,354. Mantua has grown rapidly over the past 15 years; however, prior to that, there was significant variability in the Town’s growth rate. The Kem C. Gardner Institute projects that Box Elder County’s average annual growth rate through 2025 will be approximately 1.14 percent. While growth rates are subject to change, projecting a community’s growth is necessary to estimate increased demands on its infrastructure. Town staff expect the town to continue to grow somewhat in the coming years. As such, an annual growth rate of 2.5 percent will be used for this plan.

The rate of growth is not necessarily as important as total growth. If the growth rate varies, and the projected maximum number of connections is reached earlier or later than expected, then future improvements needed to support growth may come earlier or later than anticipated. If growth is faster than expected, system revenue is collected more rapidly, and debt service can be retired earlier, making additional improvements possible.

The current estimated population in Mantua is 1,388. This impact fee analysis covers 20 years, from 2025 through 2045. Based on the forecasted growth rate, the number of residents the Town may have in 20 years can be calculated as follows:

$$P_n = P_p * (1 + i)^n$$

Where:

P_n	=	Projected population in n years;
P_p	=	Present population ($P_p=1,388$);
i	=	Projected annual growth rate ($i=2.50%$); and
n	=	Projection period in years ($n=2045-2025=20$)

I.e.: $2,274 = 1,388 * (1+0.025)^{20}$

Using this equation, the population in 2045 is projected at 2,274. This increase of 886 people will be used to size the future public services and facilities identified in this analysis.

The same 2.5 percent growth rate will be used for non-residential connections, as assumed for residential connections, since non-residential connections are expected to approximately match residential growth over time.

2.3 Projected Utility Connections

Based on data reported to the Utah Division of Water Rights, there are approximately 459 connections in the Mantua Town culinary water system. This includes 447 residential, 5 commercial, 1 industrial, and 6 institutional connections.

The 2.5 percent growth rate for residential and non-residential growth was used to project future utility connections in the 20-year period. The non-residential utility connections are separated into three groups: commercial, industrial, and institutional. The total number of current connections and the calculated total of future connections are shown in **Table 2.2**.

Table 2.2 Utility Connections Projection

Type	Number of Utility Connections		
	2025	2035	2045
Residential	447	572	732
Commercial	5	6	8
Industrial	1	1	2
Institutional	6	8	10
Total	459	587	752

2.4 Calculation of ERCs

Because water demands of commercial, industrial, and institutional connections vary widely, excess capacity of system components is expressed in terms of equivalent residential connections (ERCs), sometimes referred to as estimated residential units (ERUs). An ERC is equivalent to what would be used by a typical single-family residence. Because an ERC relates to the amount of water required for the average residential connection, use of this term allows commercial, industrial, or other large water users to be equated to residential connections.

An ERC is calculated by dividing the total water used in residential connections by the total number of residential connections. The total number of ERCs and ERC ratios for each category is shown below in **Table 2.3**. An ERC ratio is found by dividing the water usage of a type of connection by the water usage per ERC. For example, a commercial business that uses five times as much water as the average home has an ERC ratio of five. Mantua Town services about 478 ERCs.

Table 2.3 ERC Ratios

2025	Connections	ERC Multiplier	ERCs
Residential	447	1	447
Commercial	5	1.2	6
Industrial	1	1	1
Institutional	6	4	24
Totals	459		478

*ERC Ratio is based on water usage reported to the DWRI

Based on values reported through the Utah Division of Water Rights (DWRI), the estimated number of ERCs in 2045 is 783, assuming a 2.5 percent growth rate. This is shown in **Table 2.4**.

Table 2.4 Projected ERCs

Year	2025	2035	2045
Residential	447	572	732
Commercial	6	8	10
Industrial	1	1	2
Institutional	24	31	39
Total ERCs	478	612	783

3 CULINARY WATER IMPACT FEE ANALYSIS

3.1 Background

The number of ERCs a system services is based on water utility demands. Mantua Town owns and operates a public water utility that currently supplies potable water to approximately 478 ERCs.

3.2 Water Demands

The following values were taken from the City's 2022 Culinary Water System Study:

- Average Day Demand per ERC (including indoor and outdoor usage) = 1,576 gpd
- Observed Peak Day Demand per ERC (including indoor and outdoor usage) = 1,976 gpd
- Fire Flow Storage = 1,000 gpm for 60 minutes

Capacity calculations for water rights, source, and storage are included in **Appendix B**.

3.3 Water Rights

Mantua Town currently owns five municipal water rights. Total rights equal 1.695 cfs, or 1,227.13 acre-feet. The water rights are associated with four springs and two wells and can be used on any, each, or all basis. **Table 3.1** lists the current water rights along with their associated sources. The average day demand per ERC is 1.77 ac-ft/year, allowing the Town of Mantua 695 ERCs.

Table 3.1 Summary of Water Rights

Mantua Culinary Water Rights				
	W.R. #	Source Type	Total Divertible (cfs)	Total Divertible (ac-ft/yr)
1	29-1123	Underground Water Wells (2) and Springs (4)	0.134	97.01
2	29-1241	Underground Water Wells (2) and Springs (4)	1	723.97
3	29-2418	Underground Water Wells (2) and Springs (4)	0.044	31.85
4	29-2569	Underground Water Wells (2) and Springs (4)	0.067	48.51
5	29-2625	Underground Water Wells (2) and Springs (4)	0.45	325.79
Total			1.695	1227.13

Table 3.3 represents a cursory review of the water rights on record with the Utah Division of Water Rights. Water right demands are based on the average yearly demand in acre-feet. At a 2.5 percent growth rate, the Town may exceed its water right by 2041, after which the Town will need to acquire additional water rights to meet the increase in demand. By 2045, the Town has a projected demand of 1385 ac-ft/yr, which equates to a deficit of 158 ac-ft/yr.

3.4 Water Sources

Four springs and two wells currently supply water to Mantua Town. These include the Flume Hollow Spring, Upper Mantua Spring, Lower Mantua Spring, an unnamed spring, Town Well No. 1, and Town Well No. 2. They have a combined safe yield capacity of 1,030 gpm. The available safe yield flow from the Town's sources is summarized in **Table 3.2**.

Table 3.2 Summary of Water Source Safe Yield

Water Source	Flow (gpm)
City Springs	30
Town Well No. 1	300
Town Well No. 2	700
Total	1,030

The peak day demand per ERC is 1.37 gpm, so the current cumulative source capacity is adequate for up to 751 ERCs. This satisfies the Town's current and projected needs until approximately 2044. In 2045, the Town has a projected demand of 1,074 gpm, which equates to a deficit of 44 gpm by the end of the planning period.

Town staff have noted that Well No. 1 was completed in July 1975. At higher flow rates, the well produces significant levels of sand from the alluvial formations it draws from. The well house is aging, deteriorating, and nearing the end of its lifespan. It is recommended that the Town leave Well No. 1 as a redundant source to meet state requirements and install a new well to service future connections. With Well No. 1 continuing to operate as a backup source, the new well would need to be sized to meet the 344 gpm deficit at the end of the planning period with this new source being 100% impact fee eligible. The recommendation to install a new well was identified in the Town's 2022 Water System Study.

3.5 Water Storage

Mantua Town owns and operates two culinary water storage tanks with a third currently under construction. **Table 3.3** summarizes the Town's current storage capacity.

Table 3.3 Summary of Storage Capacity

Structure	Material	Capacity (gal)
Tank 1	Concrete	150,000
Tank 2	Concrete	500,000
Tank 3 (New)	Concrete	500,000
Total		1,150,000

With the new storage tank, the Town's combined storage capacity is 1.15 million gallons (MG). This satisfies the Town's current and projected needs through approximately 2040. In 2045, the Town has a projected need of 1,296,357 gallons, which equates to a deficit of 146,357 gallons by the end of the planning period.

3.6 Excess Capacity

The following culinary water system components in Mantua Town have a calculated excess capacity:

1. The Town has a storage capacity of 1,150,000 gallons of water. Accounting for a fire storage demand of 60,000 gallons and 1,579 gallons per ERC of storage, the 2025 storage need is 814,762 gallons. This leads to an excess of approximately 335,238 gallons, equivalent to 212 ERCs for future connections. The Town's new storage tank is a 500,000-gallon tank and cost \$1,899,436 to construct including the associated piping project. A total of \$570,862 has been spent on the construction of the tank project so far from previously collected impact fees with an additional existing impact fee balance of \$822,552 to be spent on the tank. These previously collected impact fees are applied to the tank project for the capacity of the tank used by the associated new system connections. The remaining \$506,022 of the tank cost is applied to the 212 ERCs that will use the excess capacity in the tank for the impact fee calculation.
2. The Town has a source capacity of 1,030 gpm. The current calculated need is 656 gpm at peak daily demand. This leads to an excess capacity of 374 gpm, which is equivalent to approximately 273 ERCs. Excess capacity in existing source infrastructure is factored into this analysis because it was constructed decades ago, and its full costs have already been recovered. However, if Well No. 1 is to be used as a redundant source to meet state requirements, constructing a new well to service growth will be impact fee eligible.

3.7 Identified Water Improvements & Allocable Costs

Mantua Town has identified several system components it intends to construct within the six-year impact fee eligible window. It is anticipated that \$4,557,000 from the Town will be allocated to these projects.

1. **New Culinary Well and Well House:** Mantua needs approximately 350 gpm in new source to meet the projected demands through the planning period and allow Well No. 1 to operate as a redundant backup source. The target minimum production of this new well will be 350 gpm, but it may produce more. This project includes engineering and construction costs for test well drilling, production well drilling, well equipping, a concrete well house, chlorination equipment, electrical, SCADA, and other appurtenances necessary to meet state requirements. The production well would be 12 inches in diameter and drilled to a depth of 400 feet, which is comparable to Well No. 1. The well would also include an emergency backup generator in the event of a power failure. The estimated Engineer's Opinion of Probable Cost for the new well is \$2,797,000. All of the project will be allocated to serve new growth. One ERC requires 1.37 gpm of source capacity for indoor and outdoor use. So, the well will serve approximately 305 new ERCs.
2. **Brigham City Connection Booster Station:** Mantua has an existing emergency connection to Brigham City's spring waterline that provides limited flow. With a booster station, Mantua could also divert water from Brigham City's two wells into Mantua's tanks. This connection would provide significant reliability and redundancy for Mantua's culinary water system. The project includes a concrete building, booster pump equipment, and interconnect piping. The estimated Engineer's Opinion of Probable Cost for this booster station is \$462,000. This booster station would serve the Town's existing 478 ERCs and the 305 new ERCs anticipated during the planning period. As such, 39 percent of the project will be allocated to new growth.
3. **Upsize Mainline Along Main Street:** Mantua also identified a need to upsize an eight-inch pipeline along Main Street between Fish Hatchery Road and 984 North for fire flow capacity. This line is the main distribution line from the Town's 150,000-gallon tank and will improve fire flow throughout the Town. The line will be upsized to 10 inches. Upsizing this line will help maintain the same level of service for current new growth. The estimated Engineer's Opinion of Probable Cost for this pipeline is \$1,298,000. This pipeline will serve the Town's existing 478 ERCs and the 305 new ERCs

anticipated during the planning period. As such, 39 percent of the project will be allocated to new growth.

Cost estimates were prepared for each of the water improvements identified in this section. These can be found in **Appendix C**. In addition to these improvements, the Water Impact Fee Facilities Plan and Impact Fee Analysis should be updated every five years so the Town can review progress and make any desirable changes to the plan. A summary of all identified water improvements with their associated costs is included in **Table 3.4**.

Table 3.4 Summary of Identified Water Improvements

Improvement	Cost	Future Development Share	Impact Fee Eligible Cost
New Well and Concrete Well House	\$2,797,000	100%	\$2,797,000
New Booster Station with Concrete Building	\$462,000	39%	\$179,962
Upsize Main Street Line to 10"	\$1,298,000	39%	\$505,607
Total	\$4,557,000		\$3,482,568

3.8 Water Impact Fee Calculation

The impact fee calculation considers the allocable cost of an improvement, the number of ERCs added, and the total combined cost of these impact fees. For each of these improvements, the percentage of the project allocable to future growth was established. The number of ERCs served was calculated by dividing the capacity of each improvement by the demand per ERC. The eligible cost for the storage tank was calculated based on the discussion in **Section 3.6** with accounting for existing impact fees already spent on the tank project and the current impact fee balance that will be spent on the tank project this year. **Table 3.5** shows the maximum water impact fee calculation.

Table 3.5 Summary of Water Impact Fees

Improvement	Eligible Cost	ERCs Served	\$/ERC
New Well and Concrete Well House	\$2,797,000	305	\$9,170
New Booster Station with Concrete Building	\$179,962	305	\$590
Upsize Main Street Line to 10"	\$505,607	305	\$1,658
500,000 Gal Storage Tank	\$506,022	212	\$2,387
Total	\$3,988,590		\$13,805

Based on this analysis, the maximum water impact fee the Town may assess for each new ERC is \$13,805. For new commercial, industrial, and institutional connections, the number of ERCs can be calculated by taking the projected average day demand for the new connection and dividing it by the average day demand of 1,576 gpd/ERC from the City's 2022 Culinary Water System Study. This calculated ERC can then be multiplied by the impact fee amount per ERC to calculate the total impact fee for the new connection.

4 CONCLUSIONS

4.1 Existing Impact Fees

For reference, Mantua’s prior impact fees are shown in **Table 4.1**.

Table 4.1 Prior Water Impact Fees

Impact Fee	Amount
Indoor Water	\$1,411.83
Indoor Water Storage	\$1,053.35
Outdoor Water	\$5,748.46
Outdoor Water Storage	\$3,517.8

4.2 Proposed Impact Fees

The methodology for establishing the impact fees for culinary water facilities was discussed in **Section 2** of this analysis. Improvements and costs for these facilities were also discussed. The proposed maximum water impact fee per ERC is \$13,805. It is up to the Town Council to set the actual impact fees. The values above are recommended impact fees for improvements for the next 20 years based on engineering judgment.

4.3 Recommendations

Sunrise Engineering recommends the maximum reasonable impact fee for Mantua Town’s Culinary Water system to be no more than the per ERC fee provided in **Section 4.2**. The impact fee is to be in addition to, and separate from, connections fees.

Before enacting the actual impact fee, Mantua Town should consider the relationship between impact fees and future growth, as an impact fee can influence the growth in a community. Higher impact fees discourage growth, while lower impact fees encourage growth. However, lower fees result in reduced funds per ERC and require that growth be subsidized by user rates. The actual impact fee should be set around the calculated impact fee to comply with state law and still meet the Town’s needs.

A residential connection represents one ERC. No residential or commercial connection should pay less than the amount of impact fee charged for a residential connection. The impact fee that is adopted based on this impact fee analysis should be charged to new connections until any of the following events occur:

1. New system improvements (other than those included in the Impact Fee Capital Facilities Plan) are anticipated within six years, therefore becoming eligible for inclusion in the impact fee calculation.
2. The calculated excess capacity of the existing system facilities included in the Impact Fee Capital Facilities Plan is expended, at which time they will no longer be eligible for inclusion in the impact fee calculation.
3. The impact fee analysis is otherwise reviewed and updated. It is recommended that it be updated every five years at a minimum.

Mantua Town has experienced steady growth over the past decade, and continual growth is expected. In addition to residential growth, the Town should also anticipate commercial, institutional, and industrial

growth, which may place additional demands on the culinary water system. This impact fee analysis will help the Town apportion the costs of system improvements and expansion to the new growth that the improvements will serve.

APPENDIX A

Analysis of Banberry Factors

Banberry Factors Analysis

Utah Code Ann. 11-36a-304(2) requires that the following factors, also known as the Banberry Factors, be considered as applicable in order to verify that the proportionate share of the costs of public facilities are reasonably related to the new development activity.

- a) The cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity: The cost of each existing public facility that has excess capacity to serve the anticipated development resulting from new development activity is discussed in Section 3.6 for Mantua Town's culinary system.
- b) The cost of system improvements for each public facility: The costs of projected system improvements for the Mantua Town's culinary water system are discussed Section 3.7.
- 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:

Each public facility with excess capacity has been funded in part by loans, part by self-funding, and another portion by grant. This analysis only included debt and self-funding of projects in calculating the impact fees.

- 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:

Excess capacity of system improvements is financed in part by impact fees, user fees, and capital projects funds. It is again noted that this impact fee analysis should be reviewed and updated regularly to ensure that the fees remain applicable and fair.

- e) The relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future: It is not currently anticipated that development activity will contribute to the cost of existing public facilities and future system improvements outside of the allocable costs of current excess capacity and future projects as discussed within this analysis.

- 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:

New development activity should be allowed a credit against impact fees to the extent that the development activity dedicates system improvements or public facilities that offset the demand for system improvements. However, no such dedications have been proposed and none are currently planned. Mantua Town must address this issue if and when a developer proposes to dedicate new system improvements to offset the demand for the Town to provide those improvements.

- g) Extraordinary costs, if any, in servicing the newly developed properties:

This factor is not currently applicable to this impact fee analysis.

- h) The time-price differential inherent in fair comparisons of amounts paid at different times:

The time-price differential of amounts paid at different times related to the impact fee is influenced not only by inflation, but also by the amount that is paid towards the system costs through user fees over time. It is not considered feasible to update the impact fee on an annual basis to account for the time price differential of amounts paid at different times. In order to ensure that the time-price differential associated with impact fees paid at different times is limited, Mantua Town should review and update this impact fee analysis at least once every five years

APPENDIX B

Capacity Calculations

Existing Required Storage Capacity:

Residential Use:

Indoor

$$447 \text{ ERCs} \times \frac{1579 \text{ gal.}}{\text{ERC}} = 705,813 \text{ gal.}$$

Commercial Use:

$$6 \text{ ERCs} \times \frac{1579 \text{ gal.}}{\text{ERC}} = 9,474 \text{ gal.}$$

Industrial Use:

$$1 \text{ ERCs} \times \frac{1579 \text{ gal.}}{\text{ERC}} = 1,579 \text{ gal.}$$

Institutional Use:

$$24 \text{ ERCs} \times \frac{1579 \text{ gal.}}{\text{ERC}} = 37,896 \text{ gal.}$$

Fire Protection:

$$\frac{1000 \text{ gal.}}{\text{min}} \times \frac{1 \text{ hr.}}{\text{hr}} \times 60 \text{ min.} = 60,000 \text{ gal.}$$

$$\begin{aligned} \text{Total Current Required Storage Capacity} &= 814,762 \text{ gal.} \\ \text{Total Existing Storage Capacity} &= 1,150,000 \text{ gal.} \\ \text{Estimated Existing Storage Capacity Surplus} &= \underline{\underline{335,238 \text{ gal.}}} \end{aligned}$$

Projected Required Storage Capacity - 20 Yrs

Residential Use:

$$732 \text{ ERCs} \times \frac{1579 \text{ gal.}}{\text{ERC}} = 1,155,828 \text{ gal.}$$

Commercial Use:

$$10 \text{ ERCs} \times \frac{1579 \text{ gal.}}{\text{ERC}} = 15,790 \text{ gal.}$$

Industrial Use:

$$2 \text{ ERCs} \times \frac{1579 \text{ gal.}}{\text{ERC}} = 3,158 \text{ gal.}$$

Institutional Use:

$$39 \text{ ERCs} \times \frac{1579 \text{ gal.}}{\text{ERC}} = 61,581 \text{ gal.}$$

Fire Protection:

$$\frac{1000 \text{ gal.}}{\text{min}} \times \frac{1 \text{ hr.}}{\text{hr}} \times 60 \text{ min.} = 60,000 \text{ gal.}$$

$$\begin{aligned} \text{Total Projected Required Storage Capacity} &= 1,296,357 \text{ gal.} \\ \text{Total Existing Storage Capacity} &= 1,150,000 \text{ gal.} \\ \text{Estimated Projected Storage Capacity Deficit} &= \underline{\underline{(146,357) \text{ gal.}}} \end{aligned}$$

Existing Required Source Capacity:

Residential Use:

$$447 \text{ ERCs} \times \frac{1976 \text{ gpd}}{\text{ERC}} \times \frac{1 \text{ day}}{24 \text{ hr}} \times \frac{1 \text{ hr}}{60 \text{ min.}} = 613.38 \text{ gpm}$$

Commercial Use:

$$6 \text{ ERCs} \times \frac{1976 \text{ gpd}}{\text{ERC}} \times \frac{1 \text{ day}}{24 \text{ hr}} \times \frac{1 \text{ hr}}{60 \text{ min.}} = 8.23 \text{ gpm}$$

Industrial Use:

$$1 \text{ ERCs} \times \frac{1976 \text{ gpd}}{\text{ERC}} \times \frac{1 \text{ day}}{24 \text{ hr}} \times \frac{1 \text{ hr}}{60 \text{ min.}} = 1.37 \text{ gpm}$$

Institutional Use:

$$24 \text{ ERCs} \times \frac{1976 \text{ gpd}}{\text{ERC}} \times \frac{1 \text{ day}}{24 \text{ hr}} \times \frac{1 \text{ hr}}{60 \text{ min.}} = 32.93 \text{ gpm}$$

$$\begin{aligned} \text{Total Projected Required Source Capacity} &= 655.9 \text{ gpm} \\ \text{Estimated Projected Source Capacity Surplus} &= \underline{\underline{374.1 \text{ gpm}}} \end{aligned}$$

Projected Required Source Capacity - 20 Yrs

Residential Use:

$$732 \text{ ERCs} \times \frac{1976 \text{ gpd}}{\text{ERC}} \times \frac{1 \text{ day}}{24 \text{ hr}} \times \frac{1 \text{ hr}}{60 \text{ min.}} = 1,004.47 \text{ gpm}$$

Commercial Use:

$$10 \text{ ERCs} \times \frac{1976 \text{ gpd}}{\text{ERC}} \times \frac{1 \text{ day}}{24 \text{ hr}} \times \frac{1 \text{ hr}}{60 \text{ min.}} = 13.72 \text{ gpm}$$

Industrial Use:

$$2 \text{ ERCs} \times \frac{1976 \text{ gpd}}{\text{ERC}} \times \frac{1 \text{ day}}{24 \text{ hr}} \times \frac{1 \text{ hr}}{60 \text{ min.}} = 2.74 \text{ gpm}$$

Institutional Use:

$$39 \text{ ERCs} \times \frac{1976 \text{ gpd}}{\text{ERC}} \times \frac{1 \text{ day}}{24 \text{ hr}} \times \frac{1 \text{ hr}}{60 \text{ min.}} = 53.52 \text{ gpm}$$

$$\begin{aligned} \text{Total Projected Required Source Capacity} &= 1,074.45 \text{ gpm} \\ \text{Total Available Source Capacity} &= 1,030.00 \text{ gpm} \\ \text{Estimated Projected Source Capacity Deficit} &= \underline{\underline{(44.45) \text{ gpm}}} \end{aligned}$$

Existing Required Water Right:

Residential Use:

$$447 \text{ ERCs } \times \frac{1579 \text{ gal}}{\text{ERC day}} \times \frac{365 \text{ day}}{1 \text{ year}} \times \frac{1 \text{ ac-ft}}{325,851 \text{ gal}} = 790.61 \text{ ac-ft}$$

Commercial Use:

$$6 \text{ ERCs } \times \frac{1579 \text{ gal}}{\text{ERC day}} \times \frac{365 \text{ day}}{1 \text{ year}} \times \frac{1 \text{ ac-ft}}{325,851 \text{ gal}} = 10.61 \text{ ac-ft}$$

Industrial Use:

$$1 \text{ ERCs } \times \frac{1579 \text{ gal}}{\text{ERC day}} \times \frac{365 \text{ day}}{1 \text{ year}} \times \frac{1 \text{ ac-ft}}{325,851 \text{ gal}} = 1.77 \text{ ac-ft}$$

Institutional Use:

$$24 \text{ ERCs } \times \frac{1579 \text{ gal}}{\text{ERC day}} \times \frac{365 \text{ day}}{1 \text{ year}} \times \frac{1 \text{ ac-ft}}{325,851 \text{ gal}} = 42.45 \text{ ac-ft}$$

$$\begin{aligned} \text{Total Existing Required Water Right} &= 845 \text{ ac-ft} \\ \text{Total Existing Water Right} &= 1,227 \text{ ac-ft} \\ \text{Estimated Existing Water Right Surplus} &= \underline{\underline{382 \text{ ac-ft}}} \end{aligned}$$

Projected Required Water Right - 20 Yrs

Residential Use:

$$732 \text{ ERCs } \times \frac{1579 \text{ gal}}{\text{ERC day}} \times \frac{365 \text{ day}}{1 \text{ year}} \times \frac{1 \text{ ac-ft}}{325,851 \text{ gal}} = 1294.69 \text{ ac-ft}$$

Commercial Use:

$$10 \text{ ERCs } \times \frac{1579 \text{ gal}}{\text{ERC day}} \times \frac{365 \text{ day}}{1 \text{ year}} \times \frac{1 \text{ ac-ft}}{325,851 \text{ gal}} = 17.69 \text{ ac-ft}$$

Industrial Use:

$$2 \text{ ERCs } \times \frac{1579 \text{ gal}}{\text{ERC day}} \times \frac{365 \text{ day}}{1 \text{ year}} \times \frac{1 \text{ ac-ft}}{325,851 \text{ gal}} = 3.54 \text{ ac-ft}$$

Institutional Use:

$$39 \text{ ERCs } \times \frac{1579 \text{ gal}}{\text{ERC day}} \times \frac{365 \text{ day}}{1 \text{ year}} \times \frac{1 \text{ ac-ft}}{325,851 \text{ gal}} = 68.98 \text{ ac-ft}$$

$$\begin{aligned} \text{Total Projected Required Water Right} &= 1,385 \text{ ac-ft} \\ \text{Total Existing Water Right} &= 1,227 \text{ ac-ft} \\ \text{Estimated Projected Water Right Deficit} &= \underline{\underline{(158) \text{ ac-ft}}} \end{aligned}$$

APPENDIX C

Water Impact Fee Opinion of Probable Costs

SUNRISE ENGINEERING, INC.
CONSULTING ENGINEERS AND SURVEYORS
Engineer's Opinion of Costs



Project: Mantua Impact Fee Analysis
New Culinary Well

Date: 12/10/2025

Owner: Mantua

By: JH

ITEM NO.	ITEM	QUANTITY	UNIT	UNIT PRICE	TOTAL PROJECT AMOUNT
Test Well		QUANTITY			
1	Mobilization	1	L.S.	\$ 14,000.00	\$ 14,000.00
2	Site Preparation	1	L.F.	\$ 12,500.00	\$ 12,500.00
3	8-inch Test Borehole Drilling	100	L.F.	\$ 150.00	\$ 15,000.00
4	8-inch Test Borehole Drilling	100	L.F.	\$ 128.00	\$ 12,800.00
5	6-inch Test Borehole Drilling	300	L.F.	\$ 123.00	\$ 36,900.00
6	6-inch Test Borehole Drilling	300	L.F.	\$ 40.00	\$ 12,000.00
7	Geophysical Logging	1	L.S.	\$ 21,000.00	\$ 21,000.00
8	Zone Test	2	EA	\$ 20,000.00	\$ 40,000.00
9	Water Sampling	1	EA	\$ 3,000.00	\$ 3,000.00
10	Stand By	10	HR.	\$ 550.00	\$ 5,500.00
11	Test Well Abandonment	1	L.S.	\$ 29,300.00	\$ 29,300.00
Subtotal					\$ 202,000.00
Production Well					
12	Mobilization	1	L.S.	\$ 50,550.00	\$ 50,550.00
13	Conductor Hole Drilling	100	L.F.	\$ 275.00	\$ 27,500.00
14	Conductor Casing	100	L.F.	\$ 225.00	\$ 22,500.00
15	Drill 20-inch well	300	L.F.	\$ 615.00	\$ 184,500.00
16	12-inch Casing	280	L.F.	\$ 175.00	\$ 49,000.00
17	12-inch Screen (stainless steel)	120	L.F.	\$ 350.00	\$ 42,000.00
18	2-inch Tremie Pipe	375	L.F.	\$ 52.00	\$ 19,500.00
19	Gravel Packing (silica sand)	21	C.Y.	\$ 1,450.00	\$ 30,450.00
20	1.5-inch Water Level Tube	300	L.F.	\$ 43.00	\$ 13,000.00
21	8-inch Temporary Discharge Line	1	L.S.	\$ 8,000.00	\$ 8,000.00
22	Grout	100	L.F.	\$ 465.00	\$ 46,500.00
23	Swabbing and Developing Aquifer	120	HR.	\$ 1,200.00	\$ 144,000.00
24	Test Pumping (step test & 24 hour test)	48	HR.	\$ 1,000.00	\$ 48,000.00
25	Water Sampling	1	EA	\$ 3,000.00	\$ 3,000.00
26	Disinfection and Capping	1	L.S.	\$ 15,000.00	\$ 15,000.00
27	Stand By	10	HR.	\$ 550.00	\$ 5,500.00
Subtotal					\$ 709,000.00

SUNRISE ENGINEERING, INC.
CONSULTING ENGINEERS AND SURVEYORS
Engineer's Opinion of Costs



Project: Mantua Impact Fee Analysis
Upsize Main Street for Fireflow

Date: 1/14/2026

Owner: Mantua

By: JH

ITEM NO.	ITEM		QUANTITY	UNIT	UNIT PRICE	TOTAL PROJECT AMOUNT
Fireflow Improvements						
1	Mobilization		1	L.S.	\$ 66,000.00	\$ 66,000.00
2	Traffic Control		1	L.S.	\$ 10,000.00	\$ 10,000.00
3	Subsurface Investigation		20	HR.	\$ 400.00	\$ 8,000.00
4	10" C-900 PVC Pipe Material		7600	LN.FT.	\$ 35.00	\$ 266,000.00
5	12" Pipe Installation Along Road		7600	LN.FT.	\$ 55.00	\$ 418,000.00
6	Connection to Existing System		8	L.S.	\$ 8,000.00	\$ 64,000.00
7	10" Gate Valve		11	EA	\$ 8,000.00	\$ 88,000.00
8	Reconnect Existing Service Connection		65	EA	\$ 1,200.00	\$ 78,000.00
Construction Subtotal						\$ 998,000
9	Contingency (15%)	15%	1	L.S.		\$ 150,000.00
Total Construction						\$ 1,148,000
Professional Services & Project Incidentals						
10	Engineering Services & Incidentals		1	L.S.	\$ 200,000	\$ 150,000
Subtotal						\$ 150,000
TOTAL PROJECT COST ESTIMATE						\$ 1,298,000.00

SUNRISE ENGINEERING, INC.
CONSULTING ENGINEERS AND SURVEYORS
Engineer's Opinion of Costs



Project: Mantua Impact Fee Analysis
Booster Station Connection to
Brigham City's Line
Owner: Mantua

Date: 1/14/2026

By: JH

ITEM NO.	ITEM		QUANTITY	UNIT	UNIT PRICE	TOTAL PROJECT AMOUNT
	Booster Station		QUANTITY			
1	Mobilization		1	L.S.	\$ 26,000.00	\$ 26,000.00
2	Site Preparation		1	L.S.	\$ 12,000.00	\$ 12,000.00
3	Booster Station Building and Appurtenances		1	L.S.	\$ 161,000.00	\$ 161,000.00
4	Booster Station Electrical		1	L.S.	\$ 75,000.00	\$ 75,000.00
5	Booster Station Chlorination System		1	L.S.	\$ 40,000.00	\$ 40,000.00
6	Piping Interconnect		1	L.S.	\$ 20,000.00	\$ 20,000.00
	Construction Subtotal					\$ 334,000
7	Contingency (15%)	15%	1	L.S.		\$ 51,000.00
	Total Construction					\$ 385,000
	Professional Services & Project Incidentals					
8	Engineering Services & Incidentals		1	L.S.	\$ 77,000	\$ 77,000
	Subtotal					\$ 77,000
	TOTAL PROJECT COST ESTIMATE					\$ 462,000.00

APPENDIX D

Utah Impact Fees Act Chapter 36a

Chapter 36a Impact Fees Act

Part 1 General Provisions

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, special district under Title 17B, Limited Purpose Local Government Entities - Special 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, special 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 charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; 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 special 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) "Expense for overhead" means a cost that a local political subdivision or private entity:
 - (a) incurs in connection with:
 - (i) developing an impact fee facilities plan;
 - (ii) developing an impact fee analysis; or
 - (iii) imposing an impact fee, including any related overhead expenses; and
 - (b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.
- (8) "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, special district, special service district, or private entity.
- (9)
 - (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.
- (10) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.
- (11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.
- (12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.
- (13)
 - (a) "Local political subdivision" means a county, a municipality, a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or the Point of the Mountain State Land Authority, created in Section 11-59-201.
 - (b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.
- (14) "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.
- (15)
 - (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.
- (16) "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.
- (17) "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;
 - (h) environmental mitigation as provided in Section 11-36a-205; or
 - (i) municipal natural gas facilities.
- (18)
 - (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.
- (19)
 - (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.
- (20)
 - (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.
- (21) "Specified public agency" means:
 - (a) the state;

- (b) a school district; or
 - (c) a charter school.
- (22)
- (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 16, 2023 General Session

Part 2

Impact Fees

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; or
 - (iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement;
 - (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;
 - (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;
 - (v) on development activity on state-owned land, as defined in Section 11-70-101; or
 - (vi) on development activity that consists of the construction of an internal accessory dwelling unit, as defined in Section 10-9a-530, within an existing primary dwelling.
- (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 11-36a-206.

Amended by Chapter 419, 2024 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 special 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.

Amended by Chapter 16, 2023 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-206 Prohibition of school impact fees.

- (1) As used in this section, "school impact fee" means a charge on new development in order to generate revenue for funding or recouping the costs of capital improvements for schools or school facility expansions necessitated by and attributable to the new development.
- (2) Beginning March 21, 1995, there is a moratorium prohibiting a county, city, town, local school board, or any other political subdivision from imposing or collecting a school impact fee unless hereafter authorized by the Legislature by statute.
- (3) Collection of any fees authorized before March 21, 1995, by any ordinance, resolution or rule of any county, city, town, local school board, or other political subdivision shall terminate on May 1, 1996, unless hereafter authorized by the Legislature by statute.

Renumbered and Amended by Chapter 3, 2018 General Session

Part 3 Establishing an Impact Fee

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.

Amended by Chapter 200, 2013 General Session

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-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) for services provided for and directly related to the construction of the system improvements, the cost for planning and surveying, and engineering fees;
 - (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; and
 - (e) one or more expenses for overhead.
- (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.

Amended by Chapter 35, 2021 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; or
 - 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; 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; or
 - 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;
 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 35, 2021 General Session

Part 4 Enactment of Impact Fees

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

Part 5 Notice

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 provided for the geographic area where the proposed impact fee facilities will be located, as a class A notice under Section 63G-30-102, for at least 10 days.
- (3) For a private entity required to post notice 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 and, as available, on the general purpose local government's website.

Amended by Chapter 435, 2023 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 special 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.

Amended by Chapter 16, 2023 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 provide a public notice for the local political subdivision, as a class A notice under Section 63G-30-102, for at least 10 days.
- (2) For a private entity required to post notice 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 and, as available, on the general purpose local government's website.

Amended by Chapter 435, 2023 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 regulation;
 - (ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use regulation; 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 regulation;
 - (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 regulation;
 - (ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use regulation; 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 regulation;
 - (c) a special 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) provide 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, for the local political subdivision, as a class A notice under Section 63G-30-102, for at least 10 days; 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.

Amended by Chapter 16, 2023 General Session
Amended by Chapter 435, 2023 General Session

Part 6

Impact Fee Proceeds

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 that:
 - (a) for each fund or ledger account, shows:
 - (i) the source and amount of all money collected, earned, and received by the fund or ledger account during the fiscal year; and
 - (ii) each expenditure from the fund or ledger account;
 - (b) accounts for all impact fee funds that the local political subdivision has on hand at the end of the fiscal year;
 - (c) identifies the impact fee funds described in Subsection (4)(b) by:
 - (i) the year in which the impact fee funds were received;
 - (ii) the project from which the impact fee funds were collected;
 - (iii) the project for which the impact fee funds are budgeted; and
 - (iv) the projected schedule for expenditure; and
 - (d) is:
 - (i) in a format developed by the state auditor;
 - (ii) certified by the local political subdivision's chief financial officer; and
 - (iii) transmitted to the state auditor within 180 days after the day on which the fiscal year ends.

Amended by Chapter 394, 2017 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 an impact fee collected with respect to a lot:
 - (i) for a permissible use; and
 - (ii) within six years after the impact fee with respect to that lot is collected.
 - (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.

Amended by Chapter 190, 2017 General Session

11-36a-603 Refunds.

- (1) A local political subdivision shall refund any impact fee paid by a developer, plus interest earned, when:
 - (a) the developer does not proceed with the development activity and has filed a written request for a refund;
 - (b) the fee has not been spent or encumbered; and
 - (c) no impact has resulted.
- (2)
 - (a) As used in this Subsection (2):
 - (i) "Affected lot" means the lot or parcel with respect to which a local political subdivision collected an impact fee that is subject to a refund under this Subsection (2).
 - (ii) "Claimant" means:
 - (A) the original owner;
 - (B) the person who paid an impact fee; or
 - (C) another person who, under Subsection (2)(d), submits a timely notice of the person's valid legal claim to an impact fee refund.
 - (iii) "Original owner" means the record owner of an affected lot at the time the local political subdivision collected the impact fee.
 - (iv) "Unclaimed refund" means an impact fee that:
 - (A) is subject to refund under this Subsection (2); and
 - (B) the local political subdivision has not refunded after application of Subsections (2)(b) and (c).
 - (b) If an impact fee is not spent or encumbered in accordance with Section 11-36a-602, the local political subdivision shall, subject to Subsection (2)(c):
 - (i) refund the impact fee to:
 - (A) the original owner, if the original owner is the sole claimant; or
 - (B) to the claimants, as the claimants agree, if there are multiple claimants; or
 - (ii) interplead the impact fee refund to a court of competent jurisdiction for a determination of the entitlement to the refund, if there are multiple claimants who fail to agree on how the refund should be paid to the claimants.
 - (c) If the original owner's last known address is no longer valid at the time a local political subdivision attempts under Subsection (2)(b) to refund an impact fee to the original owner, the local political subdivision shall:
 - (i) post a notice on the local political subdivision's website, stating the local political subdivision's intent to refund the impact fee and identifying the original owner;
 - (ii) maintain the notice on the website for a period of one year; and
 - (iii) disqualify the original owner as a claimant unless the original owner submits a written request for the refund within one year after the first posting of the notice under Subsection (2)(c)(i).
 - (d)
 - (i) In order to be considered as a claimant for an impact fee refund under this Subsection (2), a person, other than the original owner, shall submit a written notice of the person's valid legal claim to the impact fee refund.
 - (ii) A notice under Subsection (2)(d)(i) shall:
 - (A) explain the person's valid legal claim to the refund; and

(B) be submitted to the local political subdivision no later than 30 days after expiration of the time specified in Subsection 11-36a-602(2) for the impact fee that is the subject of the refund.

(e) A local political subdivision:

- (i) may retain an unclaimed refund; and
- (ii) shall expend any unclaimed refund on capital facilities identified in the current capital facilities plan for the type of public facility for which the impact fee was collected.

Amended by Chapter 215, 2018 General Session

Part 7 Challenges

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 a local political subdivision imposed 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 local political subdivision had correctly calculated the impact fee; and
 - (ii) in accordance with Section 13-43-206, a local political subdivision 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 local political subdivision within 30 days after the day on which the court issued the final ruling on the impact fee.
- (b) A local political subdivision 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 local political subdivision had correctly calculated the impact fee.
- (c) This Subsection (4) may not be construed to create a new cause of action under land use law.
- (d) Subsection (4)(a) does not apply unless the cause of action described in Subsection (4)(a) is resolved and final.
- (5) Subject to the time limitations described in Section 11-36a-702 and procedures described in Section 11-36a-703, a claimant, as defined in Section 11-36a-603, may challenge whether a local political subdivision spent or encumbered an impact fee in accordance with Section 11-36a-602.

Amended by Chapter 215, 2018 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;
 - (c) for a challenge under Subsection 11-36a-701(5):
 - (i) if the local political subdivision has spent or encumbered the impact fee, one year after the expiration of the time specified in Subsection 11-36a-602(2); or
 - (ii) if the local political subdivision has not yet spent or encumbered the impact fee, two years after the expiration of the time specified in Subsection 11-36a-602(2); or
 - (d) 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.

Amended by Chapter 215, 2018 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