

## CHAPTER 9

### DEVELOPMENT FEES

- 12-9-010**      **Definitions.**
- 12-9-020**      **Findings and Purposes.**
- 12-9-030**      **Service Areas Established.**
- 12-9-040**      **Impact Fees Levied.**
- 12-9-050**      **Time of Collection.**
- 12-9-060**      **Use of Fees.**
- 12-9-070**      **Adjustments.**
- 12-9-080**      **Accounting, Expenditures and Refund.**
- 12-9-090**      **Impact Fee Challenges and Appeals.**

#### **12-9-010**      **Definitions.**

(A) "Capital Facilities Plan" means the Capital Facility Plan most recently adopted by Resolution of the City Council.

(B) "City" means Farmington City, a Utah municipal corporation.

(C) "Development activity" means an 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.

(D) "Development approval" means any written authorization from the City that authorizes the commencement of development activity.

(E) "Impact fee" means a payment of money imposed upon development activity as a condition of development approval.

(F) "Service area" means the geographic area designated by the City which a defined set of public facilities provides service within the area.

#### **12-9-020**      **Findings and Purposes.**

The City Council hereby finds and determines:

- (A) There is a need for public facilities for new developments which have not been constructed and are required to be consistent with the City's General Plan and to protect the public's health, safety, and welfare.

- (B) The rapid and continuing growth of Farmington City necessitates the imposition and collection of impact fees pursuant to law that require development to pay its fair share of the cost of providing public facilities occasioned by the demands and needs of the development project at service levels necessary to promote and preserve the public health, safety, and welfare.
- (C) Except as otherwise provided in this section, the City Council hereby re-adopts the reports from Tischler & Associates, Inc., dated April 25, 2003, entitled "Impact Fees and Capital Facilities Plan" which establishes the costs for providing public facilities occasioned by development projects within the City and certain credits allowable against impact fees in the City.

The City Council hereby adopts the report from Rosenthal & Associates, Inc., dated October 27, 2005, entitled "Impact Fee Analysis and New Development Capital Facilities Plan, Transportation Facilities" which establishes the costs for providing public transportation facilities occasioned by development projects within the City and certain credits allowable against such impact fees in the City.

- (D) The impact fees established by this Ordinance are based upon the cost which are generated through the need for new facilities and other capital acquisition costs required, incrementally, by new development within the City.
- (E) The impact fees established by this Ordinance do not exceed the reasonable cost of providing public facilities occasioned by development projects within the City.

**12-9-030 Service Areas Established.**

Except for storm water facilities, the City shall constitute a single service area and all real property located within the corporate boundaries of the City shall be included within such service area. There shall be two (2) service areas for storm water facilities.

**12-9-040 Impact Fees Levied.**

The impact fees for the City's service areas are hereby established and/or levied and are contained in Exhibit "A" attached hereto and by this reference made a part hereof.

**12-9-050 Time of Collection.**

Unless otherwise provided by the City Council, impact fees shall be payable prior to the issuance of a building permit by the City except for impact fees for parks, storm sewer, and water which shall be payable prior to recordation of a final subdivision plat for new subdivisions.

**12-9-060 Use of Fees.**

The fees shall be used solely to:

- (A) Pay for the described public facilities to be constructed by the City;
- (B) For reimbursing the City for the development's share of those capital improvements already constructed by the City; or
- (C) To reimburse developers who have constructed public facilities where those facilities were beyond that needed to mitigate the impacts of the developer's project(s).

**12-9-070 Adjustments.**

The City may, upon a proper showing, adjust the standard impact fee at the time the fee is charged to:

- (A) Respond to unusual circumstances in specific cases; and
- (B) Ensure that the impact fees are imposed fairly; and
- (C) Allow credits as specified in the Impact Fee report for the City of Farmington, Utah.
- (D) Adjust the amount of the fee based upon studies and data submitted by the Developer which are approved by the City after review of the same; and
- (E) Allow credits as approved by the City for dedication of land for, improvement to, or new construction of, public facilities providing services to the community at large, provided such facilities are identified in the capital facilities plan and are required by the City as a condition of approving the development activity. No credit shall be given for project improvements as defined in the Act.

**12-9-080 Accounting, Expenditure and Refund.**

The City shall account for, expend, and refund impact fees in accordance with the provisions of the Act.

**12-9-090 Impact Fee Challenges and Appeals.**

A. Any person or entity residing in or owning property within a service area, and any organization, association, or corporation representing the interests of persons or entities owning property within a service area, may file a declaratory judgment action challenging the validity of the fee.

B. Any person or entity required to pay an impact fee imposed by the City who believes the fee does not meet the requirements of law may file a written request for information with the City as provided by law.

C. Within two (2) weeks of the receipt of the request for information, the City shall provide the person or entity with the written analysis required by the Act and with any other relevant information relating to the impact fee.

D. Within thirty (30) days after paying an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall:

1. File a written appeal with the Farmington City Council by delivering a copy of such appeal to the Farmington City Administrator setting forth in detail all grounds for the appeal and all facts relied upon by the appealing party with respect to the fees appealed. Upon receipt of appeal the City Council shall thereafter schedule a public hearing on the appeal at which time all interested persons will be given an opportunity to be heard. The City Council shall schedule the appeal hearing and thereafter render its decision on the appeal no later than thirty (30) days after the challenge to the impact fee is filed. Any person or entity who has failed to comply with the administrative appeal remedies established by this section may not file or join an action challenging the validity of any impact fee.
2. Within ninety (90) days of a decision upholding an impact fee by the City or within one hundred twenty (120) days after the date the challenge to the impact fee was filed, whichever is earlier, any party to the appeal that is adversely affected by the City Council's decision may petition the Second Judicial District Court in and for Davis County for review of the decision.
3. In the event of a petition to the Second Judicial District Court, the City shall transmit to the reviewing Court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.
4. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for purposes of Subsection 3. above.
5. If there is a record:
  - i. the District Court's review is limited to the record provided by the City; and
  - ii. the District Court may not accept or consider any evidence outside the City's record unless that evidence was offered to the City and the Court

determines that it was improperly excluded by the City.

6. If there is an inadequate record, the District Court may call witnesses and take evidence.
7. The District Court shall affirm the decision of the City if the decision is supported by substantial evidence in the record.
8. The judge may award reasonable attorney's fees and costs to the prevailing party in any action brought under this section.

Title 6 (now Title 12) Amended, 6-06-91, Ord. 91-21  
6-9-101(2) and (5) (now covered under 12-9-020) Amended, 7-07-93, Ord. 93-27  
Chapter 9 Amended and Recodified, 6-19-96, Ord. 96-24  
Chapter 9 Amended, 6-11-97, Ord. 97-32  
Amended 12-9-010(A); 12-9-020(C); & 12-9-040 5-7-03, Ord. 2003-16.  
Amended 12-9-020(C), 12/7/05, Ordinance 2005-09

**EXHIBIT "A"- Impact Fees**

**EAST**

	<b>Water System*</b>	<b>Storm Water Facilities**</b>	<b>Parks and Recreation</b>	<b>Police Facilities</b>	<b>Fire &amp; EMS Facilities</b>	<b>TOTAL</b>
<b>Residential</b> Per Housing Unit						
Single Family Detached		\$ 563	\$ 2,097	\$ 167	\$ 133	\$ 3,476
All Other Housing		306	1,371	109	87	2,187

**Nonresidential** Per 1,000 Square Feet of Floor Area

Com/Shop Ctr 50,000 SF or less	355		140	184	2,341
Com/Shop Ctr 50,001 - 100,000 SF	355		123	161	2,104
Com/Shop Ctr 100,001-200,000 SF	355		107	143	1,881
Com/Shop Ctr over 200,000 SF	355		93	129	1,680
Office/Inst 25,000 SF or less	335		145	260	2,465
Office/Inst 25,001- 50,000 SF	335		91	244	1,760
Office/Inst 50,001- 100,000 SF	335		64	230	1,397
Office/Inst over 100,000 SF	335		51	216	1,213
Business Park	335		43	203	1,099
Light Industrial	335		36	149	954
Warehousing	335		20	82	682

**All Development** Per Water Meter Size (inches)

0.75	\$ 2,156	\$ 2,156
1.00	3,665	3,665
1.50	7,114	7,114
2.00	11,426	11,426
3.00	23,716	23,716
4.00	36,652	36,652

**WEST**

	<b>Water System*</b>	<b>Storm Water Facilities**</b>	<b>Parks and Recreation</b>	<b>Police Facilities</b>	<b>Fire &amp; EMS Facilities</b>	<b>TOTAL</b>
<b>Residential</b> Per Housing Unit						
Single Family Detached	\$ 554		\$ 2,097	\$ 167	\$ 133	\$ 3,467
All Other Housing	Not Applicable		1,371	109	87	1,881

**Nonresidential** Per 1,000 Square Feet of Floor Area

Com/Shop Ctr 50,000 SF or less	327		140	184	2,313
Com/Shop Ctr 50,001-100,000 SF	327		123	161	2,076
Com/Shop Ctr 100,001-200,000 SF	327		107	143	1,853
Com/Shop Ctr over 200,000 SF	327		93	129	1,652
Office/Inst 25,000 SF or less	327		145	260	2,457
Office/Inst 25,001-50,000 SF	327		91	244	1,752
Office/Inst 50,001- 100,000 SF	327		64	230	1,389
Office/Inst over 100,000 SF	327		51	216	1,205
Business Park	327		43	203	1,091
Light Industrial	327		36	149	946
Warehousing	327		20	82	674

**All Development** Per Water Meter Size (inches)

0.75	\$2,156	2,156
1.00	3,665	3,665
1.50	7,114	7,114
2.00	11,426	11,426
3.00	23,716	23,716
4.00	36,652	36,652

(See "Water System" on page 1.) \*Impact fees for meters larger than four inches (4") will be based on annualized average day demand and the net capital cost per gallon of capacity.

(See "Storm Water Facilities" on page 1.) \*\*For ease of comparison, storm water fees are shown per housing unit and per KSF of nonresidential development. However, Farmington will impose storm water impact fees on a per-acre basis. In east Farmington, the storm water impact fee for single-family detached housing is **\$1,692** (Rural/Low Density) **\$2,449** (Medium Density); **\$3,867** (Commercial/Mixed Use); and **\$3,660** (Office/Inst/Bus/Park/Man) per acre. In west Farmington, the storm water impact fee for single family detached housing is **\$1,664** (Rural Res/Low Density) and **\$3,570** (Mixed Use/Light. Manufacturing) per acre.

<b>TRANSPORTATION IMPACT FEE BY PROPERTY TYPE</b>			
<b>All Development</b>			
Property Type	<b>Impact Fee Amount</b>		
	Impact Fee per Demand Unit	Demand Index	Net Fee Amount
Single Family (dwelling unit)		1.0	\$1,875
Multi Family (dwelling unit)		0.6	\$1,151
Hotel (rooms)		0.6	\$1,096
Commercial (1,000 SF gross leasable area)	\$1,875.46	1.9	\$3,482
Office (1,000 SF gross leasable area)		1.3	\$2,395
Industrial (1,000 SF gross leasable area)		1.0	\$1,820
Institutional (1,000 SF gross leasable area)		1.0	\$1,801