

**NOTICE OF A VINEYARD REDEVELOPMENT
AGENCY BOARD MEETING
August 24, 2022, at 5:00 PM**

Public Notice is hereby given that the Vineyard Redevelopment Agency Board will hold a meeting on Wednesday, August 24, 2022, starting at 5:00 PM, in the City Council Chambers at 125 South Main Street, Vineyard, Utah. This meeting can also be viewed on our [live stream page](#).

AGENDA

1. CALL TO ORDER

2. WORK SESSION

2.1 EAST GENEVA

The RDA Board will lead a planning discussion regarding the East Geneva properties.

3. CONSENT AGENDA

3.1 [Approval of the August 10, 2022 RDA Meeting Minutes](#)

4. PRESENTATION

4.1 Annual RDA Report

Marcus Lee with Lewis Young Roberston and Burningham will present the Annual Redevelopment Agency Report.

5. BUSINESS ITEMS

5.1 PUBLIC HEARING – [Sewer Impact Fees \(Ordinance 2022-14\)](#)

City Engineer Naseem Ghandour is requesting an amendment to the Sewer Impact Fees. There will be a separate public hearing held during the City Council meeting.

6. ADJOURNMENT

RDA meetings are scheduled as necessary.

The Public is invited to participate in all Vineyard Redevelopment Agency meetings. In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the Deputy Recorder at least 24 hours before the meeting by calling (801) 226-1929.

I, Pamela Spencer, the undersigned duly appointed City Recorder for Vineyard, Utah, hereby certify that the foregoing notice and agenda was emailed to the Salt Lake Tribune, posted at the Vineyard City offices, the Vineyard City website, the Utah Public Notice website, delivered electronically to city staff and to each member of the Governing Body.

AGENDA NOTICING COMPLETED ON: August 22, 2022

CERTIFIED (NOTICED) BY: /s/Pamela Spencer

PAMELA SPENCER, CITY RECORDER



**MINUTES OF A VINEYARD REDEVELOPMENT
AGENCY BOARD MEETING**

City Council Chambers
125 South Main Street, Vineyard, Utah
August 10, 2022, at 5:41 PM

Present

Chair Julie Fullmer
Boardmember Tyce Flake
Boardmember Amber Rasmussen (via Zoom)
Boardmember Mardi Sifuentes
Boardmember Cristy Welsh

Absent

Staff Present: City Manager Ezra Nair, City Attorney Jayme Blakesley, Finance Director David Mortensen, Chief Building Official George Reid, Interim Chief Building Official Cris Johnson, City Engineer Naseem Ghandour, Public Works Director Chris Wilson, Community Development Director Morgan Brim, Utah County Sheriff's Office Lieutenant Holden Rockwell, Water Manager Sullivan Love, City Recorder Pamela Spencer

Others Speaking:

1. CALL TO ORDER

Chair Fullmer opened the meeting at 5:41PM.

2. CONSENT AGENDA

2.1 Approval of the July 13, 2022, RDA Meeting Minutes

 Chair Fullmer called for a motion.

 **Motion:** BOARDMEMBER FLAKE MOVED TO APPROVE THE CONSENT ITEM AS PRESENTED. BOARDMEMBER SIFUENTES SECONDED THE MOTION. CHAIR FULLMER, BOARDMEMBERS FLAKE, RASMUSSEN, SIFUENTES, AND WELSH VOTED YES. THE MOTION CARRIED UNANIMOUSLY.

3. BUSINESS ITEMS

3.1 DISCUSSION AND ACTION –Vineyard City Pipelines and Meter Station project

City Engineer Naseem Ghandour is requesting funding of a change order to the Vineyard Pipeline Project Construction Engineering Inspection Services agreement approved during the August 10, 2022 City Council Meeting. The RDA Board will take appropriate action.

 Chair Fullmer turned the time over to City Engineer Naseem Ghandour.

 Mr. Ghandour reviewed the funding request.

 Chair Fullmer called for questions.

 **Motion:** BOARDMEMBER WELSH MOVED TO APPROVE FUNDING FOR THE ADDENDUM TO THE VINEYARD CITY PIPELINES AND METER STATION CONSTRUCTION CONTRACTS AS PRESENTED. BOARDMEMBER FLAKE SECONDED THE MOTION. ROLL CALL WENT AS FOLLOWS: CHAIR FULLMER, BOARDMEMBERS FLAKE, RASMUSSEN, SIFUENTES, AND WELSH VOTED YES. THE MOTION CARRIED UNANIMOUSLY.

 Chair Fullmer asked Interim Chief Building Official Cris Johnson to say a few words.

 Mr. Johnson gave a brief overview of his experience with the city and working with current Chief Building Official George Reid.

4. ADJOURNMENT

 Chair Fullmer called for a motion to adjourn the meeting.

 **Motion:** BOARDMEMBER FLAKE MOVED TO ADJOURN THE MEETING AT 5:44 PM. BOARDMEMBER SIFUENTES SECONDED THE MOTION. CHAIR FULLMER, BOARDMEMBERS FLAKE, RASMUSSEN, SIFUENTES, AND WELSH VOTED YES. THE MOTION CARRIED UNANIMOUSLY.

MINUTES APPROVED ON: _____

CERTIFIED CORRECT BY: /s/ Pamela Spencer
PAMELA SPENCER, CITY RECORDER



VINEYARD RDA STAFF REPORT

Meeting Date: 8-24-2022

Agenda Item: 5.1 Sewer Impact Fees (Ordinance 2022-14)

Department: Engineering

Presenter: Naseem Ghandour, P.E.

Background/Discussion:

The city staff wishes to revise the existing sewer impact fee for the Redevelopment Agency (RDA) area (**Attachment 1**) as shown in the current Consolidated Fee Schedule (**Attachment 2**). The Vineyard City's Impact Fee Facilities Plan (IFFP) and subsequently the sewer impact fee was last updated in 2017. The Sewer Master Plan is scheduled to be updated this fiscal year, per the current approved budget.

Much of the analysis forming the basis of the city's IFFP, prepared by the Mountainland Association of Governments (MAG) (**Attachment 3**) and has been taken from the City's Sewer Master Plan, prepared by the then City Engineer and approved by Ordinance No. 2003-10 (**Attachment 4**).

The City has historically had four different service areas for planning purposes. These areas have been known as Area A, Area B, Area C, and Area RDA. The primary reason for a division between the Service Areas was the existence of sewer treatment operators, Timpanogos Special Service District (TSSD) in the north and the City of Orem in the south.

This leaves two service areas, Area C and Area RDA, both within the area of the decommissioned Geneva Steel Mill site and experiencing environmental mitigation prior to development. While future improvements were expected in these sewer service areas, no improvements existed, and no improvements were planned within the 10-yr planning window at the time of the City's IFFP. Due to this, the RDA area sewer impact fee had been set to \$0.

As infrastructure development of the RDA area has begun in the RDA service area and the sewer backbone has been placed, the need to adjust the sewer impact fee from \$0 per ERU to \$539 per Equivalent Residential Unit (ERU), in addition to the pass-thru rate at the current Timpanogos Special Service District (TSSD) rate. The rate reflects the 2017 study prepared in accordance with Utah Code Title 11, Chapter 36a (the "Impact Fees Act").

It is recommended that impact fees be used to fund growth-related capital projects as they help to maintain the proposed level of service and prevent existing users from subsidizing the capital needs for new growth.

According to State statute, impact fees cannot be used to correct deficiencies in the City's system and must be necessary to maintain the proposed level of service established for all users.

Impact fee adjustments will be in effect ninety (90) days after the approval of an ordinance.



VINEYARD
STAY CONNECTED

VINEYARD CITY COUNCIL STAFF REPORT

Fiscal Impact:

NONE, if passed

Recommendation:

Staff Recommends Approval of Ordinance 2022-14 adjusting the RDA service area Sewer Impact Fee from \$0 to \$539 per ERU, in addition to the pass-thru rate at the current TSSD rate.

Sample Motion:

I move to approve ordinance 2022-14, adjusting the Sewer Impact Fee as presented by city staff.

Attachments:

1. Ordinance 2022-14
2. Consolidated Fee Schedule 2022-2023 Excerpt, Impact Fees
3. Vineyard City Sewer Impact Fee Service Area Map 2012
4. Vineyard Town Sewer Impact Fee Written Analysis & Methodology, 2003
5. Ordinance No. 2003-10

Ordinance 2022-14
AN ORDINANCE OF VINEYARD UTAH AMENDING
THE SEWER IMPACT FEE

WHEREAS, the city of Vineyard, Utah is authorized pursuant to the Impact Fee Act, Utah Code § 11-36a-101 et seq. to adopt Sewer facilities impact fees; and

WHEREAS, the Vineyard adopted properly adopted sewer impact fees by Ordinance 2003-10 on November 26, 2003; and

WHEREAS, the city now wished to ament those sewer impact fees; and

WHEREAS, on July 7, 2022 the city properly noticed its intent to amend the sewer impact fees; and

WHEREAS, on August 3, 2022 the city properly noticed its intent to hold a public hearing and possibly adopt this ordinance on August 24, 2022.

WHEREAS, after careful consideration and review of the comments at the public hearings and the comments of the participants, the City Council has determined that it is in the best interest of the health, safety, and welfare of the inhabitants of Vineyard, Utah to adopt the amended Sewer Impact Fees; and

NOW THEREFORE be it ordained by the City Council of Vineyard, Utah as follows:

SECTION 1. IMPACT SEWER FEES ARE AMENDED AS FOLLOWS:

See exhibit A: Consolidated Fee Schedule excerpt
See exhibit B: 2012 Sewer Impact Area Map

SECTION 2. CHALLENGES AND APPEALS Any challenges or appeals of this impact fee must comply with Section 11-36-401 of the Utah Code Annotated 1953.

SECTION 3. SEVERABILITY

Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4. EFFECTIVE DATE

Subject to Utah Code § 11-36a-401(2), this ordinance will be effective November 22, 2022, ninety (90) days after the day from which the impact fee amendment is approved.

Passed and adopted this 24th day of August 2022.

Mayor Julie Fullmer

Attested

City Recorder Pamela Spencer



Fire Inspection	Included in Business License Fee
Work Without a Permit*	\$100 per infraction
Working Beyond a Stop Work Order*	\$200 per infraction

*Fines doubled for each subsequent infraction

IMPACT FEES

(Impact Fee Area Maps ~~may beare~~ found on the City's Website)

Sewer Facilities <u>Per Equivalent Residential Unit (ERU)^{1,2}</u>	- Area A - \$539 - Area B - \$2,391 - Area C / ~~—~~ RDA - <u>\$539</u>
Culinary and Irrigation Water Systems <u>Per ERU^{1,3}</u>	- Area A - \$873 - Area B (RDA) - \$521
Roadway Facilities <u>Per Trip End Unit based on ITE</u>	- Area A - \$3,586 - Area B (RDA) - \$1,286
Storm and Ground Water <u>Per ERU^{1,4}</u>	- Area A - \$222 - Area B - \$337 - Area C - \$237

¹ ¾ inch water connection is 1 ERU

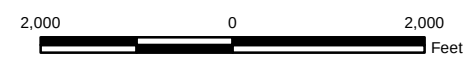
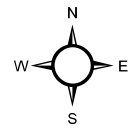
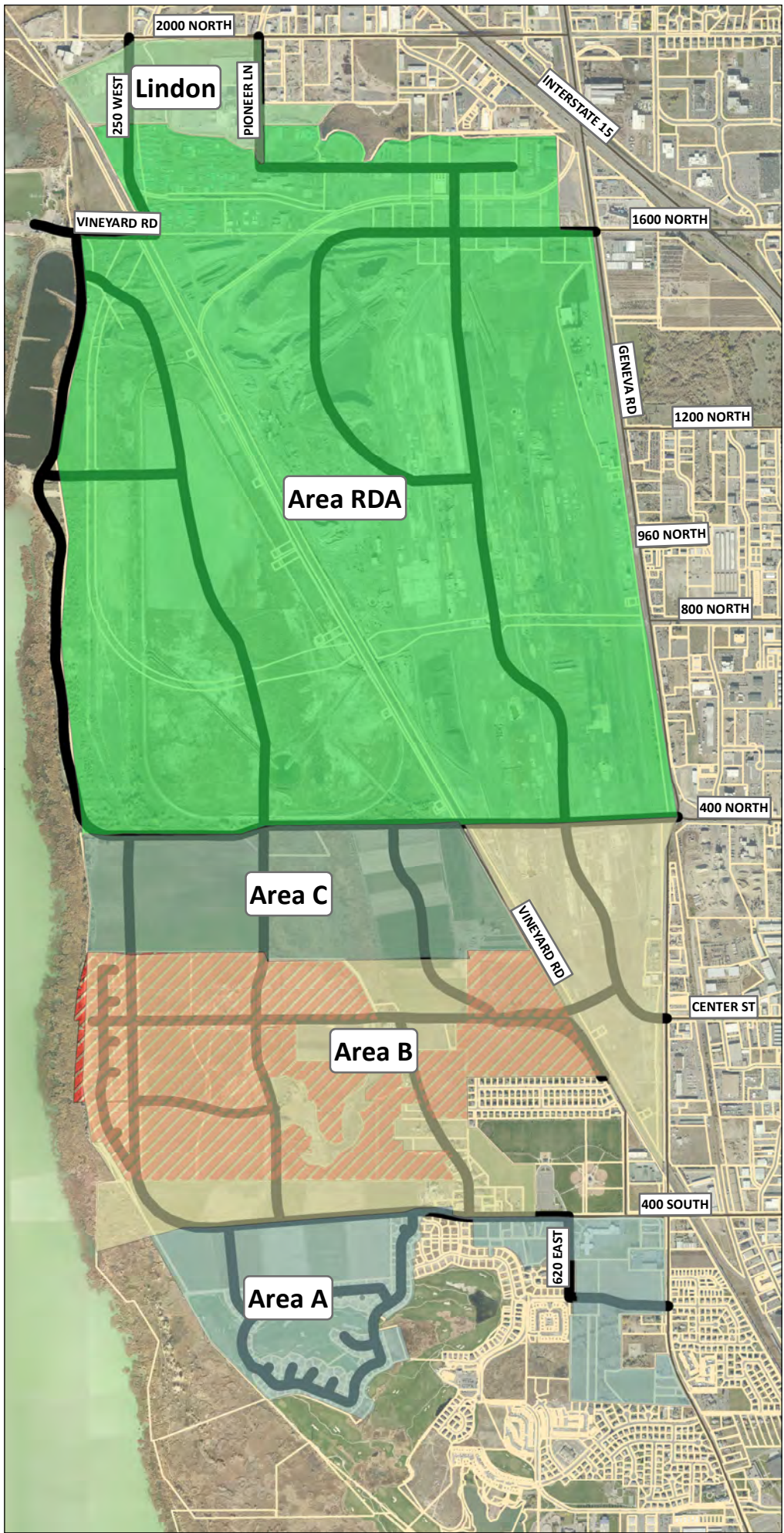
² Additional fees may apply to units with more than 5 bathroom equivalent drains

³ Additional fee may apply to certain high water uses (e.g., Car Wash) without water reduction measures in place

⁴ Additional fee may apply to certain sites if above city's maximum impervious area requirement

PASS THROUGH FEES

Timpanogos Special Service District	Equal to ~~TSSD's District's~~ impact fee as dictated by their ~~current up-to-date~~ Impact Fee Facilities Plan/ <u>Schedule</u> .
Orem Water Reclamation	Equal to Orem City's ~~Water Reclamation~~ impact fee as dictated <u>by the current Impact Fee Facilities Plan/Schedule in their up-to-date Consolidated Fee Schedule</u> .



SEWER IMPACT FEE SERVICE AREA

LEGEND

-  HOMESTEADS
- SEWER SERVICE AREA
 -  Area A
 -  Area B
 -  Area C
 -  Area RDA
 -  Lindon
-  MASTER PLAN ROADS



TOWN OF VINEYARD

30JUNE12



VINEYARD TOWN
SEWER IMPACT FEE WRITTEN ANALYSIS
& METHODOLOGY

November 26, 2003

Prepared by



MOUNTAINLAND
ASSOCIATION OF GOVERNMENTS
Serving Summit, Utah and Wasatch Cities & Counties
586 East 800 North, Orem, Utah 84097-4146

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Executive Summary

The following report is the Vineyard Town Sewer Impact Fee Written Analysis and Methodology. The report includes the analysis required by both sound planning practice and State Law. This report constitutes the Impact Fees for Vineyard Town.

The following table represents the fees associated with each capital facility that Vineyard Town has chosen to charge for. The fees have been rounded to the nearest whole dollar.

Impact Fees per Residential Dwelling Unit (RDU)

Type	Total Cost	Impact Fee RDU	Adjusted Impact Fee
Sewer System	\$5,432,740	\$3,674	\$3,674
Total	\$5,432,740	\$3,674	\$3,674

Impact Fee RDU cost is the total cost of infrastructure divided by the new units. Adjusted Impact Fee is the Impact Fee RDU cost minus credits. The impact fees are in current (2003) dollars. The base data should be reviewed at least every two (2) years to stay current with increasing costs. The Town may elect to review the base data more often than every two (2) years if circumstances, such as rapid growth, make it necessary.

Introduction

Definitions

The following definitions related to Impact Fees are adapted from 11-36-102 of the Utah Code Annotated.

Building Permit Fee: means the fees charged to enforce the uniform codes adopted pursuant to Title 58, Chapter 56, Uniform Building Standards Act.

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.

Hookup fees: means reasonable fees, not in excess of the approximate average costs to the political subdivision, for services provided for and directly attributable to the connection to utility services, including gas, water, sewer, power, or other municipal, county, or independent special district utility services.

Impact fee: means a payment of money imposed upon development activity as a condition of development approval. Impact fee does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other permit or application fee.

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.

Public Facilities: mean only the following capital facilities that have a life expectancy of ten (10+) or more years and are owned or operated by or on behalf of a local political subdivision:

- (a) Water rights and water supply, treatment, and distribution facilities;
- (b) Wastewater collection and treatment facilities;
- (c) Storm water, drainage, and flood control facilities;
- (d) Municipal power facilities;
- (e) Roadway facilities (not funded by the state or federal government);
- (f) Parks, recreation facilities, open space, and trails; and
- (g) Public safety facilities (not a jail or prison, etc).

History

For years municipalities have known that development costs communities money. Rules of thumb have stated that residential development pays, through taxes and user fees, about 80% of its demand on public services. Assuming that less than 20% of property tax revenues actually go toward capital facilities, it could take over 100 years of taxation for a single-family dwelling to pay for its capital demands on a community.

In the past, communities have attempted to off-set the burden of providing capital facilities to new residents by charging "Hookup" or "Off-site" fees. These hookup fees amounted to a one-time buy-in to the system. A 1995 survey of 45 Utah communities conducted by Utah Foundation showed that the average combined hookup and impact fee charge on a 2,000 sq. ft. house on a 1/4 acre lot (exclusive of school impact fees and building permit and plan check charges) amounted to \$3,187, with a high of \$7,768 and a low of \$1,648. For the most part these fees were not out of line with actual costs associated with providing services. However, detailed calculations were not usually performed to come up with the charge. Often the terms "hookup fee" and "impact fee" have been used interchangeably. The two terms are different. As defined above, a hookup fee is the actual cost (parts + time) to physically connect to the system. Whereas an impact fee is a charge to pay for a development's share of the costs of public capital facilities.

The basis and rationale behind impact fees have been developed mainly through court cases or case law. Utah Courts have been dealing with impact fees for over 20 years. The most notable cases include *Call v. City of West Jordan* (1979), *Banberry Development Corporation v. South Jordan City* (1981), and *Lafferty v. Payson City* (1981). The courts have upheld a community's right to charge impact fees, but the courts also require that new development pay only its "proportionate share" of improvement costs. Proportionate share, which is defined above, has two parts. First, one must consider the cost of the public facility divided by the total number of users (i.e. rough proportionality) and second, there must be a reasonable connection between the development and the public facility (i.e. rational nexus). In other words, an impact fee that charges a disproportionate amount to a use or is not reasonably related to the use (e.g. parkland impact fee assessed to a storage unit development) may be determined to be invalid. In the above mentioned *Banberry* case, the Utah State Supreme Court gave seven (7) guidelines that must be followed to assure that impact fees meet the proportionate share test. These guidelines or requirements will be discussed later in this analysis.

Impact fees are assessed to cover the capital costs associated with servicing new development. Since impact fees are charged for new development, the courts have stated that existing deficiencies in system improvements cannot be paid for from impact fees. The courts have also stated that impact fees can only be used to pay for public capital facilities, not operations and maintenance. Cities, towns and counties must use general fund monies and user fees to pay for operations and maintenance. Public capital facilities are defined above in the definitions section,

which basically states that public capital facilities are facilities with a life expectancy of at least ten (10) years and are owned or operated by or on behalf of the municipality.

As stated earlier, much of the impact fee policy was determined through court cases.

Unfortunately, the courtroom is often not the best place to establish public policy. In the legal process, a community must first establish what it feels is a fair fee, then be sued by someone who feels the fee is not fair. After much time and expense, the court determines whether or not the community or the fee was fair. The Utah State Legislature saw the need to better define public policy relating to impact fees and after a veto by the Governor, worked out what is now Title 11, Chapter 36 *Impact Fees Act*, in the First Special Session of the Legislature in 1995.

The *Impact Fees Act* has four (4) parts. They are: 1. General Provisions, including Title and Definitions; 2. Impact Fee — Process, including Analysis, Capital facilities plan, Exemptions, Enactment and Required provision; 3. Accounting For, Expenditure of, and Refund of Impact Fees; and 4. Challenging Impact Fees.

Among other things, the Act requires that municipalities by July 1, 1997 "...review any impact fee in existence as of the effective date of [the] act, and prepare and approve the analysis required by [the act] for each of those impact fees; and ... ensure that the impact fees comply with the requirements of [the act]. This means that communities who are charging hookup fees in excess of the actual cost of tapping into the system must change their hookup fees to reflect actual cost. For example, if a water meter costs \$100.00 and it takes a public works employee, at a rate of \$25.00 per hour (man + machine time), one hour to install the meter, then a Town may charge a maximum of \$125.00 for a water hookup fee¹. It also means that communities must complete a mathematical analysis to justify current impact fee charges. Municipalities must also ensure that all new impact fees conform to the act.

The Seven Banberry Requirements

As mentioned previously in this analysis, the Utah Supreme Court, in the *Banberry* case, memorialized the seven requirements that must be reviewed to assure that impact fees meet the proportionate share test. The Banberry requirements were also reiterated in the Impact Fees Act by the Utah State Legislature. The following are the Banberry requirements as stated in the Impact Fees Act, with an accompanying explanation.

1. The cost of existing public facilities;

Simply put—The first Banberry requirement is to determine the cost of existing public facilities.

¹ The hookup fee cost used in this example is for demonstration purposes only and has no relation to any actual costs or hookup fee and should not be used to justify or protest any existing or future hookup fee charge.

2. The manner of financing existing public facilities such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;

After determining the cost, the community must then determine how the facilities were paid for. This is important to assure that new development will not pay twice for public facilities. If a development pays once through impact fees, then again through taxation to pay off a bond, then the development has paid twice.

3. The relative extent to which newly developed property and other properties in the municipality have already contributed to the cost of existing public facilities, by such means as user charges, special assessments, or payment from the proceeds of general taxes;

There are two methods of adjusting impact fees for past payments. One is to determine the percentage that vacant land contributes to the capital fund, the other is to determine an actual dollar amount that vacant land has contributed over a period of time and the present value of those past contributions.

Again, this is necessary to assure that developments being assessed an impact fee have not already paid for the capital facility through past taxes or user charges.

4. The relative extent to which newly developed properties and other properties in the municipality will contribute to the cost of existing public facilities in the future;

When new development is completed, it will go on the tax rolls as developed property and the occupants will pay property taxes and/or user fees (e.g. monthly utility payment). To the extent that property taxes and/or user fees have been pledged to provide existing facilities (i.e. bonded for.), new development will pay toward those facilities in amounts equivalent to existing development. These payments are payments toward existing facilities and should be given fair consideration.

5. The relative extent to which newly developed properties are entitled to a credit because the municipality is requiring their developers or owners, by contractual agreement or otherwise, to provide common facilities, inside or outside the proposed development, that have been provided by the municipality and financed through general taxation or other means, apart from user charges, in other parts of the municipality;

Obviously, if a developer is required by the community to provide for public facilities that an impact fee is charged for and the facility has traditionally been provided for by the community, then a credit toward the impact fee is required. The credit should be limited to the extent that the impact on the facility is mitigated by the provision of the common facility. An example would be the donation of park land may be credited toward the park land portion of the park, recreation facility, open space and trails impact fee. A couple of

important points to be remembered are that the donation must be required by the municipality, be needed and be used by the community. In other words, a developer could not receive a credit toward the wastewater impact fee by giving the community surplus sewer pipe the community does not want nor need.

6. The extraordinary costs, if any, in servicing the newly developed properties; and

Improvement cost estimates for facilities scheduled for future construction will change over time due to inflation, rising property value, and rising material and labor rates. These factors should be taken into account by requiring that the impact fee be reviewed at least once each fiscal biennium (i.e. every two years) and adjusted for any changes in costs. There should also be a review of the extra costs associated with serving leap-frog versus in-fill development.

7. The time-price differential inherent in a fair comparison of amounts paid at different times;

Three impact fee adjustments are required to consider the time-price differential inherent in a fair comparison of amounts paid at different times. They are: past payments; future payments; and present value of future payments for future facilities. The first two adjustments are described above and typically provide a credit in the net impact fee. The third issue is addressed in state law which requires the expenditure of collected impact fees within 6 years of their receipt, unless a written reason is given for extending the expenditure deadline including a date when the funds will be expended.

Written Analysis

State law requires a written analysis for each impact fee adopted. The written analysis covers four issues: 1. the impact on system improvements required by the development activity; 2. how those impacts on the system improvements are reasonably related to the development activity; 3. the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and 4. how the impact fee was calculated.

1. The impact on system improvements required by the development activity;

In this issue, the impact on the capital facility must be determined for each development type.

2. How the impact on the system improvements are reasonably related to the development activity;

This issue deals with the rational nexus between the impact and the development. In other words, there needs to be a connection between the capital facility and the development.

3. The proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and

Issue three deals with rough proportionality or determining the fair amount that should be charged to each unit of development.

4. How the impact fee was calculated.

This issue usually deals with a mathematical formula that takes in to consideration all of the other issues including the Banberry requirements and determines what the final impact fee charge should be.

Legal Authority

Vineyard Town has prepared this **Impact Fee Methodology and Written Analysis** pursuant to Title 11, Chapter 36 *Impact Fees Act* of the *Utah Code Annotated*. The methodology was determined keeping fairness, equity and proportionality as the goal and to provide assurance that the impact fees established a rational nexus. It is important to keep in mind that the criterion is that impact fees not exceed a proportionate share of Vineyard's costs in accommodating new development. In the vast majority of cases, these costs will occur in the future. Because the future is at issue, exact amounts are likely to be unknown. However, exactitude is not the standard—reasonableness is.



Sewer Facilities Impact Fee

Sewer Facilities Impact Fee

Written Analysis

The written analysis covers four issues: 1. the impact on system improvements required by the development activity; 2. how those impacts on the system improvements are reasonably related to the development activity; 3. the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and 4. how the impact fee was calculated.

The impact on system improvements required by the development activity.

Traditionally, Cities protect the health, safety, and welfare of the community. Cities protect the health, safety and general welfare of residents through Sewer facilities and other related facilities. Vineyard Town engineers in conjunction with Orem City have determined the minimum sewer facilities required to serve the current and future residents of Vineyard.

How the impacts on the system improvements are reasonably related to the development activity.

The Sewer facilities are used by people. As residential and commercial development continues, additional people will reside, shop and work in the Town. There are currently no sewer facilities in the Town. As more people move into Vineyard there will be a greater demand for sewer facilities.

The proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity.

New development should pay its share of new capital facilities. The Town currently has no sewer facilities. The Town residents rely on private septic systems. The attached information provides the costs associated with serving new development. Based on a good faith engineering estimate the cost to serve Vineyard is \$5,432,740. Of this amount it is expected that developers will provide \$1,164,503 worth of improvements. The Town will be responsible for about \$4,268,237 of improvements related to the cost of upgrading the developer installed lines.

How the impact fee was calculated

The impact fee was calculated using the Vineyard Sewer Facilities Impact Fee Methodology as stated below.

Vineyard Sewer Facilities Impact Fee Methodology

The impact fee calculation is based on the magnitude of Sewer facilities demand generated by a unit of development. This fee represents an equitable proportion of Sewer facilities costs less credits for assumptions inherent in the Seven Banberry Requirements as reviewed by the Vineyard Town Council with its adoption of this Analysis and the Impact Fee Ordinance. The formulas for calculating Sewer facilities impact fees are summarized as follows:

SEWER FACILITIES IMPACT FEE FORMULA

a.	Development Cost for Sewer Improvements related to new growth	\$4,268,237
b.	Units of existing and new growth to 2020	1162
c.	Credit for future payments (i.e. bond) and past grants	\$0

$$\begin{aligned} a \sim b &= \text{Total Cost (Impact Fee Per Residential Unit)} \\ \text{Total Cost} - c &= \text{Impact Fee (Adjusted)} \end{aligned}$$

$$\$4,268,237 \sim 1162 = \$3,674$$

$$\text{Impact fee: Sewer Facilities} = \$3,674 \text{ per residential unit}$$

$$\$3,674 - \$0 = \$3,674$$

$$\text{Adjusted Impact fee: Sewer Facilities} = \$3,674 \text{ per equivalent residential unit}$$

The Seven Banberry Requirements

1. The cost of existing Sewer facilities related capital facilities;

All current residents of Vineyard are served by private septic systems.

2. The manner of financing existing public capital facilities for those services;

There are no existing public services.

3. The relative extent to which newly developed property and other properties in Vineyard have already contributed to the cost of existing public capital facilities.

There are two methods of adjusting impact fees for past payments. One is to determine the percentage that vacant land contributes to the capital fund, the other is to determine an actual dollar amount that vacant land has contributed over a period of time and the present value of those past contributions.

The Town does not currently have a sewer system and no Town funds have been used in the past. Because the Sewer Fund is an enterprise fund, no property taxes have been used to pay for capital facilities in the past. In the future in the rare case when a vacant property has paid a monthly user fee to the Town, the Town will need to review any credit for past payments on an individual basis.

No adjustment for past payments is needed.

4. The relative extent to which newly developed properties and other properties in Vineyard will contribute to the cost of existing public capital facilities in the future;

When new development is completed, it will go on the tax rolls as developed property and the occupants will pay property taxes and/or user fees (e.g. a monthly sewer bill). No property taxes have been pledged to pay for existing facilities. Newly developed property and existing residents will pay equally on their monthly sewer bills toward amortization and operations and maintenance.

5. The relative extent to which newly developed properties are entitled to a credit because the Town may be requiring owners or developers to provide common facilities that have historically been provided by the Town and financed through general taxation or other charges in other parts of the Town;

Section XII of The Vineyard Impact Fee Ordinance allows the Town to credit developers for providing public facilities, if the facility is required by the Development Code and if the Town needs and can use the facilities.

6. The extraordinary costs, if any, in servicing newly developed properties;

Improvement cost estimates for facilities scheduled for future construction will change over time due to inflation, rising property value, and rising material and labor rates. Section XIII of The Vineyard Sewer Impact Fee Ordinance takes these factors into account by requiring that the impact fee be reviewed at least once each fiscal biennium (i.e. every two years).

7. The time-price differential inherent in a fair comparison of amounts paid at different times;

Three impact fee adjustments are required to consider the time price differential inherent in a fair comparison of amounts paid at different times. They are: past payments; future payments; and present payments for future facilities. The first two adjustments are described above and do not provide for a credit at this time. The third issue is addressed in state law and Section XI of The Vineyard Impact Fee Ordinance which requires the expenditure of collected impact fees within 6 years of their receipt, unless a written reason is given for extending the expenditure deadline including a date when the funds will be expended.

ORDINANCE NO. 2003-10

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN THE INCORPORATED AREAS OF VINEYARD, IMPOSING A SEWER IMPACT FEE ON NEW AND EXISTING LAND DEVELOPMENT IN VINEYARD TOWN FOR PROVIDING CAPITAL FACILITIES NECESSITATED BY SUCH NEW AND EXISTING DEVELOPMENT, STATING THE AUTHORITY FOR ADOPTION OF THE ORDINANCE, PROVIDING DEFINITIONS, PROVIDING FINDINGS AND DECLARATIONS OF THE TOWN COUNCIL, PROVIDING FOR THE PAYMENT AND TIME OF PAYMENT OF THE SEWER IMPACT FEE, PROVIDING FOR REVIEW OF THE SEWER IMPACT FEES AND THE FEE SCHEDULES, PROVIDING FOR THE ESTABLISHMENT OF SEWER IMPACT FEE DISTRICTS, PROVIDING FOR THE PLACEMENT OF REVENUE COLLECTED FROM SEWER IMPACT FEES INTO SEWER IMPACT FEE TRUST FUNDS ESTABLISHED FOR THAT PURPOSE, PROVIDING FOR EXEMPTIONS AND CREDITS, PROVIDING FOR REFUND OF UNEXPENDED FUNDS, PROVIDING FOR USE OF FUNDS DERIVED FROM SEWER IMPACT FEES, PROVIDING THAT SEWER IMPACT FEES MAY BE PLEDGED TOWARD PAYMENT OF BOND ISSUES AND SIMILAR DEBT INSTRUMENTS, PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION, INCLUSION IN CODE, AND SCRIVENER'S ERRORS, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Utah State Legislature through the enactment of Title 11 Chapter 36 Impact Fees Act, of the Utah Code Annotated (UCA) 1953, has sought to encourage Vineyard Town to enact impact fees; and

WHEREAS, Vineyard Town has been experiencing increased growth and a dramatic increase in the number of new applications for building permits and subdivision plat approvals which have put a significant burden on the Town's ability to provide adequate public facilities which are available at the time of anticipated growth for essential services; and

WHEREAS, Vineyard Town must expand its public facilities systems in order to maintain current public facilities standards if new development is to be accommodated without decreasing current standards. This must be done to promote and protect the public health, safety, and welfare; and

WHEREAS, the imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to protect the public health, safety, and welfare; and

WHEREAS, impact fees are a reasonable and legally permissible means of generating the revenue necessary to provide funding to construct adequate public facilities which are necessary to service new development; and

WHEREAS, each type of land development described in section VI hereof will create demand for the acquisition or expansion of public facilities and the construction of capital improvements; and

WHEREAS, the fees established by section VI are derived from, based upon, and do not exceed the costs of providing additional public facilities improvements necessitated by the new land developments for which the fees are levied; and

WHEREAS, this Sewer Impact Fee ordinance is supported by adequate studies and analysis justifying the need for additional funding in order to assure that Vineyard Town can provide adequate public facilities, the need for which is created by proposed new development; and

WHEREAS, the Town Council in reviewing this proposed Sewer Impact Fee ordinance has considered a number of factors including, but not limited to the following:

1. The cost of existing public capital facilities;
2. The manner of financing existing public capital facilities;
3. The relative extent to which newly developed property and other properties in Vineyard Town have already contributed to the cost of existing public capital facilities;
4. The relative extent to which newly developed properties and other properties in Vineyard Town will contribute to the cost of existing public capital facilities in the future;
5. The relative extent to which newly developed properties are entitled to a credit because the Town may be requiring owners or developers to provide common facilities that have historically been provided by the Town and financed through general taxation or other charges in other parts of the Town;
6. The extraordinary costs, if any, in servicing newly developed properties; and
7. The time-price differential inherent in fair comparison of amounts paid at different times; and

WHEREAS, after consideration of all the factors outlined above, the Town Council finds the Sewer Impact Fees imposed pursuant to this ordinance to be reasonable and equitable; and

WHEREAS, the report entitled "Vineyard Town, Sewer Impact Fee Written Analysis & Methodology," sets forth a reasonable methodology and analysis for the determination of the impact

of new development on the need for and the costs of additional public facilities improvements in Vineyard Town; and

WHEREAS, the Vineyard Town Council held a public hearing on the 26th day of November, 2003, to consider this Ordinance, which public hearing was preceded by the posting of a notice of public hearing in at least three (3) public places within the Town limits of Vineyard Town, and which notice of public hearing was published in the *Orem Geneva Times*, a newspaper of general circulation within the Town; and

WHEREAS, the notice of hearing which was posted and published by the Town Council contains specific advance notice that the proposed ordinance, as set forth herein, would be considered and that copies of thereof were available for inspection in the Town Offices; and

WHEREAS, the Vineyard Town Council has determined that the adoption of this ordinance is necessary for the general welfare of the Town and its inhabitants;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF VINEYARD TOWN, UTAH, AS FOLLOWS:

SECTION I. Short Title

This ordinance shall be known and may be cited as the “**Vineyard Town Sewer Impact Fee Ordinance.**”

SECTION II. Intents and Purposes

- (A) This ordinance is intended to assist in the implementation of the Vineyard Town Capital Facilities Plan and Development Code.
- (B) The purpose of this ordinance is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary for public facility improvements in Vineyard Town.

SECTION III. Rules of Construction

- (A) The provisions of this ordinance shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety, and welfare.
- (B) For the purpose of administration and enforcement, unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:
- (1) In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
 - (2) The word *shall* is always mandatory and not discretionary; the word *may* is permissive.
 - (3) Words used in the present tense shall include the future; words used in the singular shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
 - (4) The phrase *used for* includes *arranged for, designed for, maintained for, or occupied for*.
 - (5) The word *person* includes individual, a corporation, a partnership, an association, or any other similar entity.
 - (6) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions or events connected by the conjunction *and, or* or *either . . . or*, the conjunction shall be interpreted as follows:
 - a. *And* indicates that all the connected terms, conditions, provisions or events shall apply.
 - b. *Or* indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. *Either . . . or* indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
 - (7) The word *includes* shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

- (8) *Mayor* means the Mayor or the Town officials he/she may designate to carry out the administration of this ordinance.

SECTION IV. Definitions

- (1) A *fee payer* is a person applying for the issuance of a building permit or mobile or manufactured home installation.
- (2) A *capital improvement* includes public facility planning and engineering, land acquisition, site improvements, buildings, and equipment but excludes maintenance and operation.
- (3) *Development order* means a regulatory approval by Vineyard Town.

SECTION V. Imposition of Impact Fee

- (1) Any person who, after the effective date of this ordinance, seeks to develop land within Vineyard Town, Utah, by applying for a development approval or building permit for a building or for a mobile or manufactured home installation, or any current homeowner is hereby required to pay an impact fee in the manner and amount set forth in this ordinance.
- (2) No new building permit for any activity requiring payment of an impact fee pursuant to Section VII of this ordinance shall be issued unless and until the impact fee hereby required has been paid.
- (3) No extension of a building permit issued prior to the effective date of this ordinance for any activity requiring payment of an impact fee pursuant to Section VII of this ordinance shall be granted unless and until the impact fee hereby required has been paid.

SECTION VI. Computation of the Amount of Impact Fee

- (A) The amount of the impact fee shall be determined by the following formula:

FORMULA SEWER FACILITIES IMPACT FEE FORMULA

- a. Development Cost for Sewer Improvements related to new growth
- b. Units of existing and new growth to 2020
- c. Credit for future payments (i.e. bond) and past grants

$$\begin{aligned} a \sim b &= \text{Total Cost} \\ \text{Total Cost} - c &= \text{Impact Fee} \end{aligned}$$

1. If a land use application or building permit is requested for mixed uses, then the fee shall be determined using the above schedule by apportioning the space committed to uses specified on the schedule.
2. If the type of development activity that a land use application or building permit is applied for is not specified on the above fee schedule, the Town shall use the fee applicable to the most comparable type of land use on the above fee schedules. The Town shall be guided in the selection of a comparable type by the Vineyard Town General Plan, supporting documents of the Vineyard Town General Plan, and the Vineyard Town Development Code. If the Town determines that there is no comparable type of land use on the above fee schedule then the Town shall determine the appropriately discounted fee by considering demographic or other documentation which is available from state, local, and regional authorities.
3. In the case of change of use, redevelopment, or expansion or modification of an existing use which required development approval or building permit, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use.

- (B) If a fee payer opts not to have the impact fee determined according to Paragraph (A) of this section, then the fee payer shall prepare and submit to the Town an independent fee calculation study for the land development activity for which development approval or building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The Town shall consider the documentation submitted by the fee payer but is not required to accept such documentation as the Town shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the fee payer to submit additional or different

documentation for consideration. If an acceptable independent fee calculation study is not presented, the fee payer shall pay impact fees based upon the schedule shown in Paragraph (A) of this section. If an acceptable independent fee calculation study is presented, the Town may adjust the fee to that appropriate to the particular development. Determinations made by the Town pursuant to this paragraph may be appealed to the Town Council by filing a written appeal request with the Town Recorder within ten (10) days of the determination.

SECTION VII. Payment of Fee

- (A) The fee payer shall pay the Sewer Impact Fee required by this ordinance to the Town prior to the issuance of a development approval or building permit or mobile and manufactured home installation ad applicable.
- (B) All funds collected shall be properly identified by impact fee type and district and promptly transferred for deposit in the appropriate impact fee trust fund to be held in separate accounts as determined by Section IX of this ordinance and used solely for the purposes specified in this ordinance.

SECTION VIII. Sewer Impact Fee Districts

There is hereby established a Sewer Impact Fee district as shown in the Written Analysis as adopted by resolution of the Town Council and incorporated herein by reference. The entire Town is one district

SECTION IX. Impact Fee Trust Funds Established

- (A) There are hereby established a separate impact fee trust fund for Sewer.
- (B) Funds withdrawn from these accounts must be used in accordance with the provisions of Section X of this Ordinance.

SECTION X. Use of Funds

- (A) Funds collected from impact fees shall be used solely for the purpose of acquiring and/or making capital improvements and their related costs to public facilities under the jurisdiction of Vineyard Town.
- (B) Funds shall be used exclusively for acquisitions, expansions, or capital improvements within the impact fee districts as identified in the Written Analysis, from which the funds were collected or for projects in other impact fee districts which are of benefit to the impact fee district from which the funds were collected. Funds shall be expended in the order in which they are collected.

- (C) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in Paragraph (A) above and are located within the appropriate impact fee districts created by Section VIII of this ordinance or as provided in Paragraph (B) of this section.
- (D) At least once each fiscal period the Mayor shall present to the Town Council a proposed capital improvements program for public facilities, assigning funds, including any accrued interest, from the several impact fee trust funds to specific public improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same impact fee trust funds until the next fiscal period, except as provided by the refund provisions of this ordinance.
- (E) Funds may be used to provide refunds as described in Section XI.

SECTION XI. Refund of Fees Paid

- (A) If a development approval or, building permit expires without commencement of construction, the fees have not been spent or encumbered, and no impact has resulted, then the fee payer shall be entitled to a refund, with interest at the rate the Town receives per annum, of the impact fee paid as a condition for its issuance. The fee payer must submit an application for such a refund to the Town within thirty (30) days of the expiration of the permit.
- (B) Except as provided in Subsection (b) 11-36-302 of the UCA 1953. Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the impact fee was paid shall, upon application of the then current landowner, be returned to such landowner with interest at the rate of six percent (6%) per annum, provided that the landowner submits an application for a refund to the Town within 180 days of the expiration of the six-year period.

SECTION XII. Exemptions and Credits

(A) The following may be exempted from payment of the impact fee:

1. Alterations or expansion of an existing building where no additional residential dwelling units are created and where the use is not changed.
2. The construction of accessory buildings or structures where no additional residential dwelling units are created and where the use is not changed.
3. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same number of units and use.
4. The installation of a replacement mobile or manufactured home on a lot or other such site when an impact fee for such mobile or manufactured home site has previously been paid pursuant to this ordinance or where a mobile or manufactured home legally existed on such site on or prior to the effective date of this ordinance.
5. The construction of buildings by a government agency or other development activities with a broad public purpose as determined by the Town. In the event that an exemption is granted, the Town Council shall establish the source of funding to pay for the impact of the development activity.

Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

(B) Credits:

1. Public capital improvements may be offered by the fee payer as total or partial payment of the required impact fee. The offer must specifically request or provide for an impact fee credit. If the Town accepts such an offer, whether the acceptance is before or after the effective date of this ordinance, the credit shall be determined and provided in the following manner:
 - a. Credit for the dedication of land shall be valued at 100 percent of the most recent assessed value by the Utah County Property Appraiser; by such other appropriate method as the Town Council may have accepted prior to the effective date of this ordinance for particular public improvements; or by fair market value established by private appraisers acceptable to the Town.

- b. Applicants for credit for construction of public improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the Town. The Town shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Town determines that such estimates submitted by the applicant are either unreliable or inaccurate. The Town shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the Town before credit will be given. The failure of the applicant to sign, date, and return such document within sixty (60) days shall nullify the credit.
- c. Except as provided in Subparagraph (d) below, credit against impact fees otherwise due will not be provided until:
 - i). the construction is completed and accepted by the Town; or
 - ii). a suitable assurance for completion and maintenance of improvements is received and approved by the Town, when applicable.
- d. Credit may be provided before completion of specified public improvements if adequate assurances are given by the applicant that the requirements set out in Subparagraph (c) above will be met and if the fee payer posts security as provided below for the costs of such construction. Security in the form of a cash escrow agreement shall be posted with and approved by the Town at one hundred and twenty-five percent (125%) of the estimated cost of the public improvements as determined by the Town engineer. Twenty-five percent (25%) of the cash escrow account shall remain for two years after completion of the project, as a guarantee of the work. If the public improvement construction project will not be constructed within one (1) year of the acceptance of the offer by the Town, the amount of the security shall be increased by ten percent (10%) compounded for each year of the life of the security. The security shall be reviewed and approved by the Town prior to acceptance of the security. If the public improvement construction project is not to be completed within five (5) years of the date of the fee payer's offer, the Town Council must approve the public improvement construction project and its scheduled completion date prior to the acceptance of the offer by the Town.

2. Any claim for credit must be made no later than the time of application for development approval or building permit. Any claim not so made shall be deemed waived.
3. Credits shall not be transferable from one project or development to another without the approval of the Town Council and may only be transferred to a development within a different impact fee district upon a finding by the Town Council that the dedication for which the credit was given benefits such different impact fee district.
4. Determinations made by the Town pursuant to this paragraph may be appealed to the Town Council by filing a written appeal with the Town Recorder within ten (10) days of the determination.

SECTION XIII. Review

The impact fee determined as provided for in Section VI (A) shall be fixed by resolution of the Town Council and shall be reviewed by the Town Council at least once each fiscal biennium (i.e. every two years) and may be revised from time to time, by resolution of the Town Council to reflect changes in costs or other base data pertinent to the formula.

SECTION XIV. Enforcement

The Town may enforce the provisions of this ordinance by an action at law or inequity in any court having jurisdiction.

SECTION XV. Challenges and Appeals

Any challenges or appeals of this impact fee must comply with Section 11-36-401 of the Utah Code Annotated 1953.

SECTION XVI. Severability

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION XVII. Codification, Inclusion in Code, and Scrivener's Errors

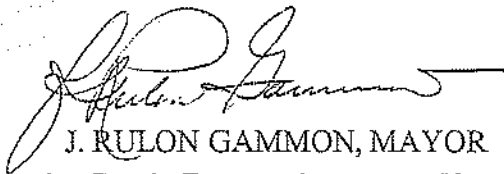
It is the intent of the Town Council that the provisions of this ordinance may become and be made part of a Town Code as adopted; and that sections of this ordinance may be re-numbered or re-lettered and the word *ordinance* may be changed to *section*, *chapter*, or other such appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in a code is accomplished, sections of the ordinance may be re-numbered or re-lettered and typographical errors which do not effect the intent may be authorized by the Town without need of public hearing by filing a corrected or re-codified copy of the same with the Town Recorder.

SECTION XVIII. Effective Date

This ordinance shall become effective immediately upon publication in one issue of a newspaper of general circulation in the Town.

Passed and duly adopted this 26th day of November, 2003.

Effective date December 5th, 2003


J. RULON GAMMON, MAYOR

Council member Randy Farnworth

Voted absent

Council member Sean Fernandez

Voted yes

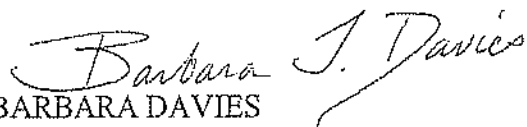
Council member Grant Holdaway

Voted yes

Council member David Robins

Voted yes

ATTEST:


BARBARA DAVIES
Vineyard Town Clerk



ORDINANCE NO. 2003-10

AN ORDINANCE RELATING TO THE REGULATION OF THE USE AND DEVELOPMENT OF LAND IN THE INCORPORATED AREAS OF VINEYARD, IMPOSING A SEWER IMPACT FEE ON NEW AND EXISTING LAND DEVELOPMENT IN VINEYARD TOWN FOR PROVIDING CAPITAL FACILITIES NECESSITATED BY SUCH NEW AND EXISTING DEVELOPMENT, STATING THE AUTHORITY FOR ADOPTION OF THE ORDINANCE, PROVIDING DEFINITIONS, PROVIDING FINDINGS AND DECLARATIONS OF THE TOWN COUNCIL, PROVIDING FOR THE PAYMENT AND TIME OF PAYMENT OF THE SEWER IMPACT FEE, PROVIDING FOR REVIEW OF THE SEWER IMPACT FEES AND THE FEE SCHEDULES, PROVIDING FOR THE ESTABLISHMENT OF SEWER IMPACT FEE DISTRICTS, PROVIDING FOR THE PLACEMENT OF REVENUE COLLECTED FROM SEWER IMPACT FEES INTO SEWER IMPACT FEE TRUST FUNDS ESTABLISHED FOR THAT PURPOSE, PROVIDING FOR EXEMPTIONS AND CREDITS, PROVIDING FOR REFUND OF UNEXPENDED FUNDS, PROVIDING FOR USE OF FUNDS DERIVED FROM SEWER IMPACT FEES, PROVIDING THAT SEWER IMPACT FEES MAY BE PLEDGED TOWARD PAYMENT OF BOND ISSUES AND SIMILAR DEBT INSTRUMENTS, PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION, INCLUSION IN CODE, AND SCRIVENER'S ERRORS, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Utah State Legislature through the enactment of Title 11 Chapter 36 Impact Fees Act, of the Utah Code Annotated (UCA) 1953, has sought to encourage Vineyard Town to enact impact fees; and

WHEREAS, Vineyard Town has been experiencing increased growth and a dramatic increase in the number of new applications for building permits and subdivision plat approvals which have put a significant burden on the Town's ability to provide adequate public facilities which are available at the time of anticipated growth for essential services; and

WHEREAS, Vineyard Town must expand its public facilities systems in order to maintain current public facilities standards if new development is to be accommodated without decreasing current standards. This must be done to promote and protect the public health, safety, and welfare; and

WHEREAS, the imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to protect the public health, safety, and welfare; and

WHEREAS, impact fees are a reasonable and legally permissible means of generating the revenue necessary to provide funding to construct adequate public facilities which are necessary to service new development; and

WHEREAS, each type of land development described in section VI hereof will create demand for the acquisition or expansion of public facilities and the construction of capital improvements; and

WHEREAS, the fees established by section VI are derived from, based upon, and do not exceed the costs of providing additional public facilities improvements necessitated by the new land developments for which the fees are levied; and

WHEREAS, this Sewer Impact Fee ordinance is supported by adequate studies and analysis justifying the need for additional funding in order to assure that Vineyard Town can provide adequate public facilities, the need for which is created by proposed new development; and

WHEREAS, the Town Council in reviewing this proposed Sewer Impact Fee ordinance has considered a number of factors including, but not limited to the following:

1. The cost of existing public capital facilities;
2. The manner of financing existing public capital facilities;
3. The relative extent to which newly developed property and other properties in Vineyard Town have already contributed to the cost of existing public capital facilities;
4. The relative extent to which newly developed properties and other properties in Vineyard Town will contribute to the cost of existing public capital facilities in the future;
5. The relative extent to which newly developed properties are entitled to a credit because the Town may be requiring owners or developers to provide common facilities that have historically been provided by the Town and financed through general taxation or other charges in other parts of the Town;
6. The extraordinary costs, if any, in servicing newly developed properties; and
7. The time-price differential inherent in fair comparison of amounts paid at different times; and

WHEREAS, after consideration of all the factors outlined above, the Town Council finds the Sewer Impact Fees imposed pursuant to this ordinance to be reasonable and equitable; and

WHEREAS, the report entitled "Vineyard Town, Sewer Impact Fee Written Analysis & Methodology," sets forth a reasonable methodology and analysis for the determination of the impact

of new development on the need for and the costs of additional public facilities improvements in Vineyard Town; and

WHEREAS, the Vineyard Town Council held a public hearing on the 26th day of November, 2003, to consider this Ordinance, which public hearing was preceded by the posting of a notice of public hearing in at least three (3) public places within the Town limits of Vineyard Town, and which notice of public hearing was published in the *Orem Geneva Times*, a newspaper of general circulation within the Town; and

WHEREAS, the notice of hearing which was posted and published by the Town Council contains specific advance notice that the proposed ordinance, as set forth herein, would be considered and that copies of thereof were available for inspection in the Town Offices; and

WHEREAS, the Vineyard Town Council has determined that the adoption of this ordinance is necessary for the general welfare of the Town and its inhabitants;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF VINEYARD TOWN, UTAH, AS FOLLOWS:

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- (B) The purpose of this ordinance is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary for public facility improvements in Vineyard Town.

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- (B) For the purpose of administration and enforcement, unless otherwise stated in this ordinance, the following rules of construction shall apply to the text of this ordinance:
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 - (5) The word *person* includes individual, a corporation, a partnership, an association, or any other similar entity.
 - (6) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions or events connected by the conjunction *and*, *or* or *either . . . or*, the conjunction shall be interpreted as follows:
 - a. *And* indicates that all the connected terms, conditions, provisions or events shall apply.
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SECTION V. Imposition of Impact Fee

- (1) Any person who, after the effective date of this ordinance, seeks to develop land within Vineyard Town, Utah, by applying for a development approval or building permit for a building or for a mobile or manufactured home installation, or any current homeowner is hereby required to pay an impact fee in the manner and amount set forth in this ordinance.
- (2) No new building permit for any activity requiring payment of an impact fee pursuant to Section VII of this ordinance shall be issued unless and until the impact fee hereby required has been paid.
- (3) No extension of a building permit issued prior to the effective date of this ordinance for any activity requiring payment of an impact fee pursuant to Section VII of this ordinance shall be granted unless and until the impact fee hereby required has been paid.

SECTION VI. Computation of the Amount of Impact Fee

- (A) The amount of the impact fee shall be determined by the following formula:

**FORMULA
SEWER FACILITIES
IMPACT FEE FORMULA**

- | | | |
|----|---|--|
| a. | Development Cost for Sewer Improvements related to new growth | |
| b. | | Units of existing and new growth to 2020 |
| c. | | Credit for future payments (i.e. bond) and past grants |

$$\begin{aligned} a + b &= \text{Total Cost} \\ \text{Total Cost} - c &= \text{Impact Fee} \end{aligned}$$

1. If a land use application or building permit is requested for mixed uses, then the fee shall be determined using the above schedule by apportioning the space committed to uses specified on the schedule.
2. If the type of development activity that a land use application or building permit is applied for is not specified on the above fee schedule, the Town shall use the fee applicable to the most comparable type of land use on the above fee schedules. The Town shall be guided in the selection of a comparable type by the Vineyard Town General Plan, supporting documents of the Vineyard Town General Plan, and the Vineyard Town Development Code. If the Town determines that there is no comparable type of land use on the above fee schedule then the Town shall determine the appropriately discounted fee by considering demographic or other documentation which is available from state, local, and regional authorities.
3. In the case of change of use, redevelopment, or expansion or modification of an existing use which required development approval or building permit, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to the previous use.

- (B) If a fee payer opts not to have the impact fee determined according to Paragraph (A) of this section, then the fee payer shall prepare and submit to the Town an independent fee calculation study for the land development activity for which development approval or building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. The Town shall consider the documentation submitted by the fee payer but is not required to accept such documentation as the Town shall reasonably deem to be inaccurate or not reliable and may, in the alternative, require the fee payer to submit additional or different

documentation for consideration. If an acceptable independent fee calculation study is not presented, the fee payer shall pay impact fees based upon the schedule shown in Paragraph (A) of this section. If an acceptable independent fee calculation study is presented, the Town may adjust the fee to that appropriate to the particular development. Determinations made by the Town pursuant to this paragraph may be appealed to the Town Council by filing a written appeal request with the Town Recorder within ten (10) days of the determination.

SECTION VII. Payment of Fee

- (A) The fee payer shall pay the Sewer Impact Fee required by this ordinance to the Town prior to the issuance of a development approval or building permit or mobile and manufactured home installation ad applicable.
- (B) All funds collected shall be properly identified by impact fee type and district and promptly transferred for deposit in the appropriate impact fee trust fund to be held in separate accounts as determined by Section IX of this ordinance and used solely for the purposes specified in this ordinance.

SECTION VIII. Sewer Impact Fee Districts

There is hereby established a Sewer Impact Fee district as shown in the Written Analysis as adopted by resolution of the Town Council and incorporated herein by reference. The entire Town is one district

SECTION IX. Impact Fee Trust Funds Established

- (A) There are hereby established a separate impact fee trust fund for Sewer.
- (B) Funds withdrawn from these accounts must be used in accordance with the provisions of Section X of this Ordinance.

SECTION X. Use of Funds

- (A) Funds collected from impact fees shall be used solely for the purpose of acquiring and/or making capital improvements and their related costs to public facilities under the jurisdiction of Vineyard Town.
- (B) Funds shall be used exclusively for acquisitions, expansions, or capital improvements within the impact fee districts as identified in the Written Analysis, from which the funds were collected or for projects in other impact fee districts which are of benefit to the impact fee district from which the funds were collected. Funds shall be expended in the order in which they are collected.

- (C) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in Paragraph (A) above and are located within the appropriate impact fee districts created by Section VIII of this ordinance or as provided in Paragraph (B) of this section.
- (D) At least once each fiscal period the Mayor shall present to the Town Council a proposed capital improvements program for public facilities, assigning funds, including any accrued interest, from the several impact fee trust funds to specific public improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same impact fee trust funds until the next fiscal period, except as provided by the refund provisions of this ordinance.
- (E) Funds may be used to provide refunds as described in Section XI.

SECTION XI. Refund of Fees Paid

- (A) If a development approval or, building permit expires without commencement of construction, the fees have not been spent or encumbered, and no impact has resulted, then the fee payer shall be entitled to a refund, with interest at the rate the Town receives per annum, of the impact fee paid as a condition for its issuance. The fee payer must submit an application for such a refund to the Town within thirty (30) days of the expiration of the permit.
- (B) Except as provided in Subsection (b) 11-36-302 of the UCA 1953. Any funds not expended or encumbered by the end of the calendar quarter immediately following six (6) years from the date the impact fee was paid shall, upon application of the then current landowner, be returned to such landowner with interest at the rate of six percent (6%) per annum, provided that the landowner submits an application for a refund to the Town within 180 days of the expiration of the six-year period.

SECTION XII. Exemptions and Credits

(A) The following may be exempted from payment of the impact fee:

1. Alterations or expansion of an existing building where no additional residential dwelling units are created and where the use is not changed.
2. The construction of accessory buildings or structures where no additional residential dwelling units are created and where the use is not changed.
3. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same number of units and use.
4. The installation of a replacement mobile or manufactured home on a lot or other such site when an impact fee for such mobile or manufactured home site has previously been paid pursuant to this ordinance or where a mobile or manufactured home legally existed on such site on or prior to the effective date of this ordinance.
5. The construction of buildings by a government agency or other development activities with a broad public purpose as determined by the Town. In the event that an exemption is granted, the Town Council shall establish the source of funding to pay for the impact of the development activity.

Any claim of exemption must be made no later than the time of application for a building permit. Any claim not so made shall be deemed waived.

(B) Credits:

1. Public capital improvements may be offered by the fee payer as total or partial payment of the required impact fee. The offer must specifically request or provide for an impact fee credit. If the Town accepts such an offer, whether the acceptance is before or after the effective date of this ordinance, the credit shall be determined and provided in the following manner:
 - a. Credit for the dedication of land shall be valued at 100 percent of the most recent assessed value by the Utah County Property Appraiser; by such other appropriate method as the Town Council may have accepted prior to the effective date of this ordinance for particular public improvements; or by fair market value established by private appraisers acceptable to the Town.

- b. Applicants for credit for construction of public improvements shall submit acceptable engineering drawings and specifications, and construction cost estimates to the Town. The Town shall determine credit for construction based upon either these cost estimates or upon alternative engineering criteria and construction cost estimates if the Town determines that such estimates submitted by the applicant are either unreliable or inaccurate. The Town shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the Town before credit will be given. The failure of the applicant to sign, date, and return such document within sixty (60) days shall nullify the credit.
- c. Except as provided in Subparagraph (d) below, credit against impact fees otherwise due will not be provided until:
 - i). the construction is completed and accepted by the Town; or
 - ii). a suitable assurance for completion and maintenance of improvements is received and approved by the Town, when applicable.
- d. Credit may be provided before completion of specified public improvements if adequate assurances are given by the applicant that the requirements set out in Subparagraph (c) above will be met and if the fee payer posts security as provided below for the costs of such construction. Security in the form of a cash escrow agreement shall be posted with and approved by the Town at one hundred and twenty-five percent (125%) of the estimated cost of the public improvements as determined by the Town engineer. Twenty-five percent (25%) of the cash escrow account shall remain for two years after completion of the project, as a guarantee of the work. If the public improvement construction project will not be constructed within one (1) year of the acceptance of the offer by the Town, the amount of the security shall be increased by ten percent (10%) compounded for each year of the life of the security. The security shall be reviewed and approved by the Town prior to acceptance of the security. If the public improvement construction project is not to be completed within five (5) years of the date of the fee payer's offer, the Town Council must approve the public improvement construction project and its scheduled completion date prior to the acceptance of the offer by the Town.

2. Any claim for credit must be made no later than the time of application for development approval or building permit. Any claim not so made shall be deemed waived.
3. Credits shall not be transferable from one project or development to another without the approval of the Town Council and may only be transferred to a development within a different impact fee district upon a finding by the Town Council that the dedication for which the credit was given benefits such different impact fee district.
4. Determinations made by the Town pursuant to this paragraph may be appealed to the Town Council by filing a written appeal with the Town Recorder within ten (10) days of the determination.

SECTION XIII. Review

The impact fee determined as provided for in Section VI (A) shall be fixed by resolution of the Town Council and shall be reviewed by the Town Council at least once each fiscal biennium (i.e. every two years) and may be revised from time to time, by resolution of the Town Council to reflect changes in costs or other base data pertinent to the formula.

SECTION XIV. Enforcement

The Town may enforce the provisions of this ordinance by an action at law or inequity in any court having jurisdiction.

SECTION XV. Challenges and Appeals

Any challenges or appeals of this impact fee must comply with Section 11-36-401 of the Utah Code Annotated 1953.

SECTION XVI. Severability

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION XVII. Codification, Inclusion in Code, and Scrivener's Errors

It is the intent of the Town Council that the provisions of this ordinance may become and be made part of a Town Code as adopted; and that sections of this ordinance may be re-numbered or re-lettered and the word *ordinance* may be changed to *section*, *chapter*, or other such appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in a code is accomplished, sections of the ordinance may be re-numbered or re-lettered and typographical errors which do not effect the intent may be authorized by the Town without need of public hearing by filing a corrected or re-codified copy of the same with the Town Recorder.

SECTION XVIII. Effective Date

This ordinance shall become effective immediately upon publication in one issue of a newspaper of general circulation in the Town.

Passed and duly adopted this 26th day of November, 2003.

Effective date December 5th, 2003


J. RULON GAMMON, MAYOR

Council member Randy Farnworth

Voted absent

Council member Sean Fernandez

Voted yes

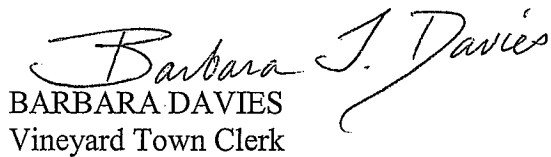
Council member Grant Holdaway

Voted yes

Council member David Robins

Voted yes

ATTEST:


BARBARA DAVIES
Vineyard Town Clerk



VINEYARD TOWN
SEWER IMPACT FEE WRITTEN ANALYSIS
& METHODOLOGY

November 26, 2003

Prepared by



MOUNTAINLAND
ASSOCIATION OF GOVERNMENTS
Serving Summit, Utah and Wasatch Cities & Counties
586 East 800 North, Orem, Utah 84097-4146

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Executive Summary

The following report is the Vineyard Town Sewer Impact Fee Written Analysis and Methodology. The report includes the analysis required by both sound planning practice and State Law. This report constitutes the Impact Fees for Vineyard Town.

The following table represents the fees associated with each capital facility that Vineyard Town has chosen to charge for. The fees have been rounded to the nearest whole dollar.

Impact Fees per Residential Dwelling Unit (RDU)

Type	Total Cost	Impact Fee RDU	Adjusted Impact Fee
Sewer System	\$5,432,740	\$3,674	\$3,674
Total	\$5,432,740	\$3,674	\$3,674

Impact Fee RDU cost is the total cost of infrastructure divided by the new units. Adjusted Impact Fee is the Impact Fee RDU cost minus credits. The impact fees are in current (2003) dollars. The base data should be reviewed at least every two (2) years to stay current with increasing costs. The Town may elect to review the base data more often than every two (2) years if circumstances, such as rapid growth, make it necessary.

Introduction

Definitions

The following definitions related to Impact Fees are adapted from 11-36-102 of the Utah Code Annotated.

Building Permit Fee: means the fees charged to enforce the uniform codes adopted pursuant to Title 58, Chapter 56, Uniform Building Standards Act.

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.

Hookup fees: means reasonable fees, not in excess of the approximate average costs to the political subdivision, for services provided for and directly attributable to the connection to utility services, including gas, water, sewer, power, or other municipal, county, or independent special district utility services.

Impact fee: means a payment of money imposed upon development activity as a condition of development approval. Impact fee does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other permit or application fee.

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.

Public Facilities: mean only the following capital facilities that have a life expectancy of ten (10+) or more years and are owned or operated by or on behalf of a local political subdivision:

- (a) Water rights and water supply, treatment, and distribution facilities;
- (b) Wastewater collection and treatment facilities;
- (c) Storm water, drainage, and flood control facilities;
- (d) Municipal power facilities;
- (e) Roadway facilities (not funded by the state or federal government);
- (f) Parks, recreation facilities, open space, and trails; and
- (g) Public safety facilities (not a jail or prison, etc).

History

For years municipalities have known that development costs communities money. Rules of thumb have stated that residential development pays, through taxes and user fees, about 80% of its demand on public services. Assuming that less than 20% of property tax revenues actually go toward capital facilities, it could take over 100 years of taxation for a single-family dwelling to pay for its capital demands on a community.

In the past, communities have attempted to off-set the burden of providing capital facilities to new residents by charging "Hookup" or "Off-site" fees. These hookup fees amounted to a one-time buy-in to the system. A 1995 survey of 45 Utah communities conducted by Utah Foundation showed that the average combined hookup and impact fee charge on a 2,000 sq. ft. house on a 1/4 acre lot (exclusive of school impact fees and building permit and plan check charges) amounted to \$3,187, with a high of \$7,768 and a low of \$1,648. For the most part these fees were not out of line with actual costs associated with providing services. However, detailed calculations were not usually performed to come up with the charge. Often the terms "hookup fee" and "impact fee" have been used interchangeably. The two terms are different. As defined above, a hookup fee is the actual cost (parts + time) to physically connect to the system. Whereas an impact fee is a charge to pay for a development's share of the costs of public capital facilities.

The basis and rationale behind impact fees have been developed mainly through court cases or case law. Utah Courts have been dealing with impact fees for over 20 years. The most notable cases include *Call v. City of West Jordan* (1979), *Banberry Development Corporation v. South Jordan City* (1981), and *Lafferty v. Payson City* (1981). The courts have upheld a community's right to charge impact fees, but the courts also require that new development pay only its "proportionate share" of improvement costs. Proportionate share, which is defined above, has two parts. First, one must consider the cost of the public facility divided by the total number of users (i.e. rough proportionality) and second, there must be a reasonable connection between the development and the public facility (i.e. rational nexus). In other words, an impact fee that charges a disproportionate amount to a use or is not reasonably related to the use (e.g. parkland impact fee assessed to a storage unit development) may be determined to be invalid. In the above mentioned *Banberry* case, the Utah State Supreme Court gave seven (7) guidelines that must be followed to assure that impact fees meet the proportionate share test. These guidelines or requirements will be discussed later in this analysis.

Impact fees are assessed to cover the capital costs associated with servicing new development. Since impact fees are charged for new development, the courts have stated that existing deficiencies in system improvements cannot be paid for from impact fees. The courts have also stated that impact fees can only be used to pay for public capital facilities, not operations and maintenance. Cities, towns and counties must use general fund monies and user fees to pay for operations and maintenance. Public capital facilities are defined above in the definitions section,

which basically states that public capital facilities are facilities with a life expectancy of at least ten (10) years and are owned or operated by or on behalf of the municipality.

As stated earlier, much of the impact fee policy was determined through court cases.

Unfortunately, the courtroom is often not the best place to establish public policy. In the legal process, a community must first establish what it feels is a fair fee, then be sued by someone who feels the fee is not fair. After much time and expense, the court determines whether or not the community or the fee was fair. The Utah State Legislature saw the need to better define public policy relating to impact fees and after a veto by the Governor, worked out what is now Title 11, Chapter 36 *Impact Fees Act*, in the First Special Session of the Legislature in 1995.

The *Impact Fees Act* has four (4) parts. They are: 1. General Provisions, including Title and Definitions; 2. Impact Fee — Process, including Analysis, Capital facilities plan, Exemptions, Enactment and Required provision; 3. Accounting For, Expenditure of, and Refund of Impact Fees; and 4. Challenging Impact Fees.

Among other things, the Act requires that municipalities by July 1, 1997 “...review any impact fee in existence as of the effective date of [the] act, and prepare and approve the analysis required by [the act] for each of those impact fees; and ... ensure that the impact fees comply with the requirements of [the act]. This means that communities who are charging hookup fees in excess of the actual cost of tapping into the system must change their hookup fees to reflect actual cost. For example, if a water meter costs \$100.00 and it takes a public works employee, at a rate of \$25.00 per hour (man + machine time), one hour to install the meter, then a Town may charge a maximum of \$125.00 for a water hookup fee¹. It also means that communities must complete a mathematical analysis to justify current impact fee charges. Municipalities must also ensure that all new impact fees conform to the act.

The Seven Banberry Requirements

As mentioned previously in this analysis, the Utah Supreme Court, in the *Banberry* case, memorialized the seven requirements that must be reviewed to assure that impact fees meet the proportionate share test. The Banberry requirements were also reiterated in the Impact Fees Act by the Utah State Legislature. The following are the Banberry requirements as stated in the Impact Fees Act, with an accompanying explanation.

1. The cost of existing public facilities;

Simply put—The first Banberry requirement is to determine the cost of existing public facilities.

¹ The hookup fee cost used in this example is for demonstration purposes only and has no relation to any actual costs or hookup fee and should not be used to justify or protest any existing or future hookup fee charge.

2. The manner of financing existing public facilities such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;

After determining the cost, the community must then determine how the facilities were paid for. This is important to assure that new development will not pay twice for public facilities. If a development pays once through impact fees, then again through taxation to pay off a bond, then the development has paid twice.

3. The relative extent to which newly developed property and other properties in the municipality have already contributed to the cost of existing public facilities, by such means as user charges, special assessments, or payment from the proceeds of general taxes;

There are two methods of adjusting impact fees for past payments. One is to determine the percentage that vacant land contributes to the capital fund, the other is to determine an actual dollar amount that vacant land has contributed over a period of time and the present value of those past contributions.

Again, this is necessary to assure that developments being assessed an impact fee have not already paid for the capital facility through past taxes or user charges.

4. The relative extent to which newly developed properties and other properties in the municipality will contribute to the cost of existing public facilities in the future;

When new development is completed, it will go on the tax rolls as developed property and the occupants will pay property taxes and/or user fees (e.g. monthly utility payment). To the extent that property taxes and/or user fees have been pledged to provide existing facilities (i.e. bonded for.), new development will pay toward those facilities in amounts equivalent to existing development. These payments are payments toward existing facilities and should be given fair consideration.

5. The relative extent to which newly developed properties are entitled to a credit because the municipality is requiring their developers or owners, by contractual agreement or otherwise, to provide common facilities, inside or outside the proposed development, that have been provided by the municipality and financed through general taxation or other means, apart from user charges, in other parts of the municipality;

Obviously, if a developer is required by the community to provide for public facilities that an impact fee is charged for and the facility has traditionally been provided for by the community, then a credit toward the impact fee is required. The credit should be limited to the extent that the impact on the facility is mitigated by the provision of the common facility. An example would be the donation of park land may be credited toward the park land portion of the park, recreation facility, open space and trails impact fee. A couple of

important points to be remembered are that the donation must be required by the municipality, be needed and be used by the community. In other words, a developer could not receive a credit toward the wastewater impact fee by giving the community surplus sewer pipe the community does not want nor need.

6. The extraordinary costs, if any, in servicing the newly developed properties; and

Improvement cost estimates for facilities scheduled for future construction will change over time due to inflation, rising property value, and rising material and labor rates. These factors should be taken into account by requiring that the impact fee be reviewed at least once each fiscal biennium (i.e. every two years) and adjusted for any changes in costs. There should also be a review of the extra costs associated with serving leap-frog versus in-fill development.

7. The time-price differential inherent in a fair comparison of amounts paid at different times;

Three impact fee adjustments are required to consider the time-price differential inherent in a fair comparison of amounts paid at different times. They are: past payments; future payments; and present value of future payments for future facilities. The first two adjustments are described above and typically provide a credit in the net impact fee. The third issue is addressed in state law which requires the expenditure of collected impact fees within 6 years of their receipt, unless a written reason is given for extending the expenditure deadline including a date when the funds will be expended.

Written Analysis

State law requires a written analysis for each impact fee adopted. The written analysis covers four issues: 1. the impact on system improvements required by the development activity; 2. how those impacts on the system improvements are reasonably related to the development activity; 3. the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and 4. how the impact fee was calculated.

1. The impact on system improvements required by the development activity;

In this issue, the impact on the capital facility must be determined for each development type.

2. How the impact on the system improvements are reasonably related to the development activity;

This issue deals with the rational nexus between the impact and the development. In other words, there needs to be a connection between the capital facility and the development.

3. The proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and

Issue three deals with rough proportionality or determining the fair amount that should be charged to each unit of development.

4. How the impact fee was calculated.

This issue usually deals with a mathematical formula that takes in to consideration all of the other issues including the Banberry requirements and determines what the final impact fee charge should be.

Legal Authority

Vineyard Town has prepared this **Impact Fee Methodology and Written Analysis** pursuant to Title 11, Chapter 36 *Impact Fees Act* of the *Utah Code Annotated*. The methodology was determined keeping fairness, equity and proportionality as the goal and to provide assurance that the impact fees established a rational nexus. It is important to keep in mind that the criterion is that impact fees not exceed a proportionate share of Vineyard's costs in accommodating new development. In the vast majority of cases, these costs will occur in the future. Because the future is at issue, exact amounts are likely to be unknown. However, exactitude is not the standard—reasonableness is.

Sewer Facilities Impact Fee

Sewer Facilities Impact Fee

Written Analysis

The written analysis covers four issues: 1. the impact on system improvements required by the development activity; 2. how those impacts on the system improvements are reasonably related to the development activity; 3. the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and 4. how the impact fee was calculated.

The impact on system improvements required by the development activity.

Traditionally, Cities protect the health, safety, and welfare of the community. Cities protect the health, safety and general welfare of residents through Sewer facilities and other related facilities. Vineyard Town engineers in conjunction with Orem City have determined the minimum sewer facilities required to serve the current and future residents of Vineyard.

How the impacts on the system improvements are reasonably related to the development activity.

The Sewer facilities are used by people. As residential and commercial development continues, additional people will reside, shop and work in the Town. There are currently no sewer facilities in the Town. As more people move into Vineyard there will be a greater demand for sewer facilities.

The proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity.

New development should pay its share of new capital facilities. The Town currently has no sewer facilities. The Town residents rely on private septic systems. The attached information provides the costs associated with serving new development. Based on a good faith engineering estimate the cost to serve Vineyard is \$5,432,740. Of this amount it is expected that developers will provide \$1,164,503 worth of improvements. The Town will be responsible for about \$4,268,237 of improvements related to the cost of upgrading the developer installed lines.

How the impact fee was calculated

The impact fee was calculated using the Vineyard Sewer Facilities Impact Fee Methodology as stated below.

Vineyard Sewer Facilities Impact Fee Methodology

The impact fee calculation is based on the magnitude of Sewer facilities demand generated by a unit of development. This fee represents an equitable proportion of Sewer facilities costs less credits for assumptions inherent in the Seven Banberry Requirements as reviewed by the Vineyard Town Council with its adoption of this Analysis and the Impact Fee Ordinance. The formulas for calculating Sewer facilities impact fees are summarized as follows:

SEWER FACILITIES IMPACT FEE FORMULA

a.	Development Cost for Sewer Improvements related to new growth	\$4,268,237
b.	Units of existing and new growth to 2020	1162
c.	Credit for future payments (i.e. bond) and past grants	\$0

$$\begin{aligned} a \sim b &= \text{Total Cost (Impact Fee Per Residential Unit)} \\ \text{Total Cost} - c &= \text{Impact Fee (Adjusted)} \end{aligned}$$

$$\$4,268,237 \sim 1162 = \$3,674$$

$$\text{Impact fee: Sewer Facilities} = \$3,674 \text{ per residential unit}$$

$$\$3,674 - \$0 = \$3,674$$

$$\text{Adjusted Impact fee: Sewer Facilities} = \$3,674 \text{ per equivalent residential unit}$$

The Seven Banberry Requirements

1. The cost of existing Sewer facilities related capital facilities;

All current residents of Vineyard are served by private septic systems.

2. The manner of financing existing public capital facilities for those services;

There are no existing public services.

3. The relative extent to which newly developed property and other properties in Vineyard have already contributed to the cost of existing public capital facilities.

There are two methods of adjusting impact fees for past payments. One is to determine the percentage that vacant land contributes to the capital fund, the other is to determine an actual dollar amount that vacant land has contributed over a period of time and the present value of those past contributions.

The Town does not currently have a sewer system and no Town funds have been used in the past. Because the Sewer Fund is an enterprise fund, no property taxes have been used to pay for capital facilities in the past. In the future in the rare case when a vacant property has paid a monthly user fee to the Town, the Town will need to review any credit for past payments on an individual basis.

No adjustment for past payments is needed.

4. The relative extent to which newly developed properties and other properties in Vineyard will contribute to the cost of existing public capital facilities in the future;

When new development is completed, it will go on the tax rolls as developed property and the occupants will pay property taxes and/or user fees (e.g. a monthly sewer bill). No property taxes have been pledged to pay for existing facilities. Newly developed property and existing residents will pay equally on their monthly sewer bills toward amortization and operations and maintenance.

5. The relative extent to which newly developed properties are entitled to a credit because the Town may be requiring owners or developers to provide common facilities that have historically been provided by the Town and financed through general taxation or other charges in other parts of the Town;

Section XII of The Vineyard Impact Fee Ordinance allows the Town to credit developers for providing public facilities, if the facility is required by the Development Code and if the Town needs and can use the facilities.

6. The extraordinary costs, if any, in servicing newly developed properties;

Improvement cost estimates for facilities scheduled for future construction will change over time due to inflation, rising property value, and rising material and labor rates. Section XIII of The Vineyard Sewer Impact Fee Ordinance takes these factors into account by requiring that the impact fee be reviewed at least once each fiscal biennium (i.e. every two years).

7. The time-price differential inherent in a fair comparison of amounts paid at different times;

Three impact fee adjustments are required to consider the time price differential inherent in a fair comparison of amounts paid at different times. They are: past payments; future payments; and present payments for future facilities. The first two adjustments are described above and do not provide for a credit at this time. The third issue is addressed in state law and Section XI of The Vineyard Impact Fee Ordinance which requires the expenditure of collected impact fees within 6 years of their receipt, unless a written reason is given for extending the expenditure deadline including a date when the funds will be expended.

I
PASSAGE BY MUNICIPAL COUNCIL
ROLL CALL VOTE

ORDINANCE NO. 2003-10

SHORT TITLE: Sewer Impact Fees

ROLL CALL VOTE:

MAYOR J RULON GAMMON

COUNCILMEMBER RANDY FARNWORTH

COUNCILMEMBER SEAN FERNANDEZ

COUNCILMEMBER GRANT HOLDAWAY

COUNCILMEMBER DAVID ROBINS

TOTALS

MOTION	SECOND	AYES	NAYS	ABSENT
		✓		
				✓
	✓	✓		
		✓		
✓		✓		
		4		1

This Ordinance was passed by the Municipal Council of Vineyard Utah on the 26th day of November, 2003, on a roll call vote as described above.

II
MAYOR'S ACTION

Mayor's Action: ☒ Approved ☐ Disapproved

III
TOWN RECORDER'S CERTIFICATE AND ATTEST

This ordinance was recorded in the office of the Vineyard Town Recorder on the 5th day of December, 2003, with a short summary published on the 11th day of March, 2004 in the Orem & Geneva Times a newspaper published in Orem Utah, and/or complete copies placed on three separate posting boards throughout the Town and at the Vineyard Town Hall on the 5th day of December, 2003.

I hereby certify and attest that the foregoing constitute a true and accurate record of proceedings with respect to Ordinance No. 2003-10.

ATTEST:

Barbara J. Davies
Vineyard Town Recorder

