



**CLINTON CITY PLANNING COMMISSION
CITY HALL
2267 North 1500 W Clinton UT 84015**

Planning Commission Members

*Chair – Jacob Briggs
Vice Chair – Gary Tyler
Tony Thompson
Jolene Cressall
Andy Hale
Dereck Bauer
Dan Evans*

Date of Meeting	October 2, 2018	Call to Order	7:00 p.m.
Staff Present	Lisa Titensor		
Citizens Present	There were none.		
Pledge of Allegiance	Commissioner Tyler		
Prayer or Thought	Commissioner Evans		
Roll Call & Attendance	Present were: Commissioner's Jacob Briggs, Tony Thompson, Dereck Bauer, Dan Evans, Gary Tyler and Jolene Cressall arrived at 7:12 p.m. Excused was: Andy Hale		
City Council Report	Lisa Titensor reported that the September 25, 2018 CC meeting was cancelled.		
Declaration of Conflicts	There were none.		
Approval of Minutes	Commissioner Thompson moved to approve the September 18, 2018 Planning Commission minutes as amended. Commissioner Bauer seconded the motion. Commissioners' Cressall, Bauer, Tyler, Thompson and Briggs voted in favor.		
WORK SESSION: CONTINUE REVIEW AND UPDATE EFFORT ON THE CITY'S SUBDIVISION ORDINANCE REVIEWING CHAPTERS 6 AND 7.			
Petitioner	Community Development.		
Discussion	<p>26-6-7 Exemptions:</p> <p>(1) <u>Categories:</u> The following shall be exempted from the payment of all impact fees:</p> <p>(a) Replacement of a structure with a new structure of the same size and use at the same site or lot when a building permit for such replacement is obtained within twelve (12) months after the demolition or destruction of the prior structure or mobile home and the replacement is completed within twenty-four (24) months after the granting of the building permit.</p> <p>(b) Alterations, expansion, enlargement, remodeling, rehabilitation, or conversion of an existing unit where no additional units are created and the use is not materially changed.</p> <p>(c) Construction of accessory structures that will not create significant impacts on the planned facilities.</p> <p>(d) Miscellaneous accessory improvements to use, including but not limited to fences, walls, swimming pools, and signs.</p> <p>(e) Demolition or moving of a structure currently located on an existing lot.</p> <p>(f) Placing on a lot in the City a temporary construction trailer or office, but only for the life of the building permit issued for the construction served by the trailer or office.</p> <p>(g) Any development activity not involving the construction or placement of a structure or building, including but not limited to the mere subdivision of land, installation of utilities, or the use of land for limited recreational, agricultural, filling or dredging purposes, which, as demonstrated by the developer in writing to the Community Development Director, will</p>		

not result in a net increase in demand on facilities covered by impact fees.

(2) Nonresidential Construction: Nonresidential construction shall be exempted from the payment of the park impact fees.

(3) Determination of Exemption: The Community Development Director shall determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the Community Development Director shall be in writing and shall be subject to the appeals procedures set forth in this Section.

(4) City Subsidy of Fees: Upon the determination of the Council, after review and recommendation by the Community Development Director, following the filing with the Community Development Director of a petition of the developer, if any portion of a development activity is funded or subsidized in whole or in part with City funds or funds of the City's Redevelopment Agency (research current law), the impact fee allocable to such funded or subsidized portion of the development activity shall be reduced by the amount of such funding or subsidy. The City or Redevelopment Agency shall use moneys in its general fund to pay for any planned facilities necessitated by the exempted development activity.

26-6-8 Offsets to Impact Fees:

(1) The Council upon recommendation of the Community Development Director may approve offsets against the impact fee that would otherwise be due for a development activity in accordance with the following provisions.

(a) Qualified Improvements: An offset shall be granted for qualifying improvements that are required to be made by a developer as a condition of development approval.

(b) Offsets for Like Improvements: Offsets shall be allowable and payable only to offset impact fees otherwise due for the same category of improvements. Unless otherwise expressly agreed to in writing by the City, offsets shall not result in reimbursement from the City or constitute a credit against future fees, and shall not constitute a liability of the City for any deficiency in the offset.

(c) Equal Value: Offsets shall be given only for the value of any construction of improvements or contribution or dedication of land or money by a developer or his predecessor in title or interest for qualifying improvements of the same category for which an impact fee was imposed.

(d) Appraisals:

(i) The person applying for an offset shall be responsible for providing and paying for appraisals of land and improvements, construction cost figures, and documentation of all contributions and dedications necessary to the computation of the offset claimed. The Council shall not grant offsets to any person who cannot provide such documentation in such form as the Community Development Director may reasonably require.

(ii) The value of land dedicated or donated shall be based on the appraised land value of the parent parcel on the date of transfer of ownership to the City, as determined by a MAI-certified appraiser approved by the City and paid for by the applicant, who used generally accepted appraisal techniques. The City maintains the right to challenge any appraisal based upon an appraisal of its own.

(e) Expiration of Claim: Offsets provided for qualifying improvements meeting the requirements of this section shall be valid from the date of approval of the offset until six (6) years after the date of approval or until the last date of construction of the project, whichever occurs first.

(f) Claim Shall Run With the Land: The right to claim offsets shall run with the land and may be claimed only by owners of property within the development area for which the qualifying improvement was required.

(g) Time of Application: Any claim for offsets must be made in writing, not later than the time of submittal of a building permit application or an application for another permit subsequent to development approval that is subject to impact fees. Any claim not so made

shall be deemed waived.

26-6-9 Developer Payback Agreements for Impact Fees: Where a development activity includes or requires a qualifying improvement, the City and the developer may agree in writing to have the developer participate in the financing or construction of part or all of the qualifying improvements. Such agreement may provide for cash reimbursements, for the developer's participation in the financing or construction of the qualifying improvements. The agreement shall include:

- (1) Estimated Costs: The estimated cost of the qualifying improvements, using the lowest responsive bid by a qualified bidder, which bid is approved by the Community Development Director; or, if no bid is available, the estimated cost certified by a licensed Utah Engineer and approved by the Community Development Director, which approval will be based upon recommendations from the City Engineer;
- (2) Schedule: A schedule for initiation and completion of the qualifying improvement;
- (3) Standards: A requirement that the qualifying improvement be designed and completed in compliance with any applicable City and State laws and regulations;
- (4) Method of Payment: The method of payment is to be set by the Council and may be either up-front lump sum, partial lump sum and payments, or payments but is not to be in lieu of payment of impact fees; and
- (5) Other Requirements: Such other terms and conditions as deemed necessary by the City.

26-6-10 Challenges and Appeals:

- (1) Procedure: A challenge to an impact fee may be made as outlined in Utah Code §11-36a-part 7 01 and 402.
- (2) Payment Under Protest: Any fee payer may pay the impact fees imposed by this Section under protest in order to obtain a building permit, and thereafter may appeal the validity or amount of such payment to the Council as outlined in 6.16 below. ~~Appeals regarding the impact fees imposed on any development activity may only be taken from the fee payer of the property where such development activity will occur. No appeal shall be permitted unless and until the impact fees at issue have been paid.~~
- (3) Arbitration: If, pursuant to Utah Code Section 11-36a-705, as amended, a person submits an impact fee challenge to arbitration, the City shall not agree to participate in binding arbitration.

26-6-11 Fund Accounting for Impact Fees:

- (1) Separate Accounts: The City shall establish a separate interest bearing accounting fund for each type of planned facility for which an impact fee is collected. Such fees shall be invested by the City and the yield on such fees, at the actual rate of return to the City, shall be credited to such accounting fund periodically in accordance with the accounting policies of the City, subject to a deduction by the City of a reasonable cash management fee. Cash management fees shall be as adopted, by resolution, from time to time by the Council.
- (2) Yield on Funds: Any yield on such accounting fund into which the fees are deposited shall accrue to that fund and shall be used for the purposes specified for such fund.
- (3) Record Keeping: The City shall maintain and keep financial records for each such accounting fund, showing the source and amount of all monies collected, earned and received by the fund, and each expenditure from such fund, in accordance with normal City accounting practices, and at the end of each fiscal year shall prepare a report on each such fund showing such information. The records of such fund shall be open to public inspection in the same manner as other financial records of the City.
- (4) Expenditure: Impact fees shall be expended or encumbered within six (6) years after their receipt, unless the Council identifies, in writing, an extraordinary and compelling reason to hold the impact fees longer than six (6) years. Under such circumstances, the Council shall establish an absolute date by which the impact fees shall be expended.

26-6-12 Refunds:

	<p>(1) <u>Failure to Expend Funds</u>: If the City fails to expend or encumber the impact fees as required by Section 6.11.4, all current owners of the property on which impact fees have been paid shall receive a pro rata refund of such impact fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first in, first out basis.</p> <p>(2) <u>Notification of Property Owners</u>: The City shall notify the owner or owners of property for which such a refund may be made, by first class mail deposited with the United States Postal Service, at the last known address of such property owners.</p> <p>(3) <u>Application for Funds</u>: In order to receive such a refund, the owner or owners of the subject property must, within twelve (12) months after the mailing of such notice by the City, make a written request for a refund to the Community Development Director, including a certification that such person is a record owner of the property and that he or she is entitled to the refund. The Community Development Director may rely on such certification, in the absence of a written certification by another person asserting that the proposed payee is not the proper payee. If in doubt as to whom to pay such funds, the Community Development Director may deposit the funds with an appropriate court for disposition as the court may determine. In that event, the City may deduct from the funds deposited an amount equal to the reasonable costs, including attorney's fees, of causing the funds to be deposited with the court.</p> <p>(4) <u>Unclaimed Funds</u>: Any impact fees for which no application for a refund has been made within such one-year period shall be retained by the City and expended on appropriate planned facilities.</p> <p>(5) <u>Yield on Returned Funds</u>: Refunds of impact fees under this section shall include any interest earned on the impact fees by the City.</p> <p>(6) <u>Terminated Fees</u>: When the City seeks to terminate any or all components of the impact fee program, all unexpended or unencumbered impact fees from any terminated component or components, including interest earned, shall be refunded pursuant to this section. The City shall publish notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all owners of property for which a refund may be made by first class mail at the last known address of such property owners. All funds available for refund shall be retained for a period of twelve (12) months following the second publication. At the end of that period, any remaining funds shall be retained by the City, but must be expended for appropriate planned facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within the impact fee account(s) being terminated.</p> <p>(7) <u>Refunds to Developers</u>: The City shall refund to a developer any impact fees paid by that developer, plus interest earned on the impact fees, if:</p> <ul style="list-style-type: none"> (a) The developer does not proceed with the development activity for which the impact fees were imposed; (b) The developer files with the Community Development Director a written request for the refund not later than thirty (30) calendar days after the expiration of the building permit (or any extension thereof) in connection with which the impact fees were assessed; (c) The fees have not been spent or encumbered; and (d) The Community Development Director determines that no impact has resulted from the contemplated development activity. <p>(8) <u>Administrative Fee for Refunds</u>: The City shall charge an administrative fee for verifying and computing the refund equal to the lesser of three percent (3%) of the amount of the refund or the City's actual cost of such verification and computing.</p>
OTHER ISSUES	Commissioner Hale has asked to be replaced.
ADJOURNMENT	Commissioner Tyler moved to adjourn. Commissioner Bauer seconded the motion. Commissioners' Cressall, Tyler, Bauer, Thompson and Briggs voted in favor. The meeting adjourned at 8:34 p.m.