

RESOLUTION NO. 08-03-25-01

A RESOLUTION RELATED TO THE FIXING AND PRESCRIBING OF A POLICY FOR IMPACT FEES FOR WASTEWATER FACILITIES, ADOPTING A WASTEWATER CAPITAL FACILITIES PLAN FOR THE PROVISION OF SAID SERVICES, ESTABLISHING SERVICE AREAS FOR PURPOSES OF EQUITABLE DISTRIBUTION OF WASTEWATER IMPACT FEES, AND OTHER RELATED MATTERS

WHEREAS, Sandy Suburban Improvement District (“Sandy Suburban”) is a local political subdivision (see Utah Code Annotated 11-36-102(8)(a)) of the State of Utah, authorized and organized under the provisions of Utah law;

WHEREAS, Sandy Suburban has legal authority, pursuant to Title 11, Chapter 36 Utah Code, Annotated, as amended (“Impact Fees Act” or “Act”), to impose development Impact Fees as a condition of development approval, which Impact Fees are used to defray capital infrastructure costs attributable to growth activity;

WHEREAS, Sandy Suburban has historically assessed Impact Fees as a precedent condition to development approval in order to assign capital infrastructure costs to development in an equitable and proportionate manner;

WHEREAS, Sandy Suburban Board of Trustees has directed Lewis Young Robertson & Burningham, Inc. to prepare a Written Impact Fee Analysis conducted consistent and in compliance with the Impact Fees Act (specifically 11-36-201), the Written Impact Fee Analysis is attached as Exhibit “A” and incorporated by reference into this resolution; and

WHEREAS, Sandy Suburban has completed a Wastewater Capital Facilities Plan which meets the requirements of a capital facilities plan, the Wastewater Capital Facilities Plan is attached as Exhibit “B” and incorporated by reference into this resolution; and

WHEREAS, Sandy Suburban, consulting engineers, and Lewis Young Robertson & Burningham, Inc. retained by Sandy Suburban have reviewed and evaluated the Sandy Suburban Improvement District Service Areas identified in Written Impact Fee Analysis, and have determined that it is in the Sandy Suburban’s best interest to establish two (2) service areas for purposes of assessing Wastewater Impact Fees.

NOW THEREFORE, the Sandy Suburban Board of Trustees ordains as follows:

SECTION 1 PURPOSE

This Impact Fee Resolution establishes Sandy Suburban’s wastewater Impact Fee policies and procedures and repeals certain provisions of prior Resolutions related to wastewater Impact Fees and conforms to the requirements of the Utah Impact Fees Act (§11-36). This Resolution repeals any prior Resolutions related to wastewater Impact Fees and establishes Impact Fees for wastewater facilities within the Sandy Suburban Improvement District, provides a schedule of Impact Fees for differing types of land-use development, establishes two (2) service areas, and sets forth direction for challenging, modifying and appealing Impact Fees.

SECTION 2 DEFINITIONS

Words and phrases that are defined in the Act shall have the same definition in this Impact Fee Resolution. The following words and phrases shall have the following meanings:

1. “Capital Facilities Plan” means the plan required by Section 11-36-201 of the Act.
2. “Development Activity” means any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land located within the Sandy Suburban Improvement District that creates additional demand and need for Public Facilities related to wastewater.
3. “Development Approval” means any written authorization from the Sandy Suburban that authorizes the commencement of Development Activity.
4. “Sandy Suburban” means a local political subdivision of the State of Utah and is referred to herein as Sandy Suburban Improvement District.
5. “Impact Fee” means a payment of money imposed upon Development Activity as a condition of development approval. “Impact Fee” includes development Impact Fees, but is not a tax, a special assessment, a hookup fee, a building permit fee, a fee for project improvements, or other reasonable permit or application fees. See also Utah Code Annotated 11-36-102(7).
6. “Project Improvements” means site improvements and facilities that are planned and designed to provide service for development resulting from a Development Activity and are necessary solely for the use and convenience of the occupants or users of said Development Activity. “Project improvements” do not include “System Improvements” as defined below.
7. “Proportionate Share” of the cost of public facility improvements means an amount that is roughly proportionate and reasonably related to the service demands and needs of a Development Activity.
8. “Public Facilities” means, for purposes of this Resolution, wastewater or improvements of facilities of the Sandy Suburban.
9. “Service Area 1” refers to a geographic area designated by the Sandy Suburban based on sound planning and engineering principles in which a defined set of the Sandy Suburban’s Public Facilities provides service. A map of Service Area 1 is included with Exhibit “A.”
10. “Service Area 2” refers to a geographic area designated by the Sandy Suburban based on sound planning and engineering principles in which a defined set of the Sandy Suburban’s Public Facilities provides service. A map of Service Area 2 is included with Exhibit “A.”
11. “System Improvements” refer both to existing Public Facilities designed to provide services within Sandy Suburban Improvement District and to future Public Facilities identified in the Wastewater Capital Facilities Plan adopted by Sandy Suburban that are intended to provide service to the Sandy Suburban Improvement District-Wide

Service Area. "System Improvements" do not include "Project Improvements" as defined above.

SECTION 3 WRITTEN IMPACT FEE ANALYSIS

1. Executive Summary. A summary of the findings of the Written Impact Fee Analysis that is designed to be understood by a lay person is included in Wastewater Impact Fee Analysis and demonstrates the need for Impact Fees to be assessed on Development Activity. The Executive Summary has been available for public inspection at least fourteen (14) days prior to the adoption of this Resolution.
2. Written Impact Fee Analysis. Sandy Suburban has commissioned the Written Wastewater Impact Fee Analysis for the Wastewater Impact Fees that identifies the impacts upon the wastewater system and the facilities required by Development Activity, demonstrates how those impacts on System Improvements are reasonably related to Development Activity, estimates the proportionate share of the costs of impacts on System Improvements that are reasonably related to the Development Activity and identifies how the Impact Fees are calculated. A copy of Written Wastewater Impact Fee Analysis has been available for public inspection at least fourteen (14) days prior to the adoption of this Resolution.
3. Proportionate Share Analysis. Sandy Suburban has prepared a Proportionate Share Analysis which analyzes whether or not the proportionate share of the costs of future Public Facilities is reasonably related to new Development Activity. The Proportionate Share Analysis identifies the costs of existing Public Facilities, the manner of financing existing Public Facilities, the relative extent to which new development will contribute to the cost of existing facilities and the extent to which new development is entitled to a credit for payment towards the costs of new facilities from general taxation or other means apart from user charges in other parts of Sandy Suburban. A copy of the Proportionate Share Analysis is included in the Written Wastewater Impact Fee Analysis and has been available for public inspection at least fourteen (14) days prior to the adoption of this Resolution.

SECTION 4 IMPACT FEE CALCULATIONS

1. Resolution Enacting Impact Fees. The Sandy Suburban Board of Trustees will, by this Resolution, approve Impact Fees in accordance with the Written Impact Fee Analysis.
 - a. Elements. In calculating the Impact Fee, Sandy Suburban has included the construction costs, land acquisition costs, costs of improvements, fees for planning, surveying, and engineering services provided for and directly related to the construction of System Improvements, and outstanding or future debt service charges if Sandy Suburban might use Impact Fees as a revenue stream to pay principal and interest on bonds or other obligations to finance the cost of System Improvements.
 - b. Notice and Hearing. In conjunction with the approval of this, Sandy Suburban held a public hearing on **March 25, 2008**, and made a copy of the Resolution available to the public, at least fourteen (14) days before the date

of the hearing. After the public hearing, Sandy Suburban Board of Trustees adopted this Impact Fee Resolution as presented herein.

- c. Contents of the Resolution. The Resolution adopting or modifying an Impact Fee contains such detail and elements as deemed appropriate by the Sandy Suburban Board of Trustees, including a designation of the Sandy Suburban Improvement District Service Areas 1 and 2, within which the Impact Fees are to be calculated and imposed. The Resolution includes (i) a schedule of Impact Fees to be imposed for wastewater and (ii) the formula to be used by Sandy Suburban in calculating the Impact Fee.
 - d. Adjustments. The standard Impact Fee may be adjusted at the time the fee is charged in response to unusual circumstances or to fairly allocate costs associated with impacts created by a Development Activity or project. The standard Impact Fee may also be adjusted to ensure that Impact Fees are imposed fairly for affordable housing projects, and other development activities with broad public purposes. The Impact Fee assessed to a particular development may also be adjusted should the developer supply sufficient written information and/or data to the Sandy Suburban showing a discrepancy between the fee being assessed and the actual impact on the system.
 - e. Previously Incurred Costs. To the extent that new growth and development will be served by previously constructed improvements, Sandy Suburban's Impact Fees may include public facility costs and outstanding bond costs related to the wastewater improvements previously incurred by the Sandy Suburban. These costs may include all projects included in the Capital Facilities Plan which are under construction or completed. Any future debt obligations determined to be necessitated by growth activity will also be included to offset the costs of future capital projects.
2. Developer Credits. A developer may be allowed a credit against Impact Fees for any dedication or improvement to land or new construction of System Improvements provided by the developer provided that it is (i) identified in Sandy Suburban's Capital Facilities Plan and (ii) required by Sandy Suburban as a condition of approving the Development Activity. Otherwise, no credit may be given.
 3. Impact Fees Accounting. Sandy Suburban will establish a separate interest-bearing ledger account for the Impact Fees collected pursuant to this Resolution and will conform to the accounting requirements provided in the Impact Fees Act. All interest earned on the collection of Wastewater Impact Fees shall accrue to the benefit of the segregated account. Impact Fees collected prior to the effective date of this Resolution need not meet the requirements of this section.
 - a. Reporting. At the end of each fiscal year, Sandy Suburban shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned and received by the fund or account and each expenditure from the fund or account.
 - b. Impact Fee Expenditures. Sandy Suburban may expend Impact Fees covered by the Impact Fees Policy only for System Improvements that are

- (i) Public Facilities identified in the Sandy Suburban's Capital Facilities Plans and (ii) of the specific public facility type for which the fee was collected. Impact Fees will be expended on a First-In First-Out ("FIFO") basis.
- c. Time of Expenditure. Impact Fees collected pursuant to the requirements of this Impact Fees Resolution are to be expended, dedicated or encumbered for a permissible use within six years of the receipt of those funds by Sandy Suburban, unless the Sandy Suburban Board of Trustees directs otherwise. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.
- d. Extension of Time. Sandy Suburban may hold previously dedicated or unencumbered fees for longer than six years if it identifies in writing (i) an extraordinary and compelling reason why the fees should be held longer than six years and (ii) an absolute date by which the fees will be expended.
4. Refunds. Sandy Suburban shall refund any Impact Fees paid by a developer plus interest actually earned when (i) the developer does not proceed with the Development Activity and files a written request for a refund; (ii) the fees have not been spent or encumbered; and (iii) no impact has resulted.
5. Other Impact Fees. To the extent allowed by law, the Sandy Suburban Board of Trustees may negotiate or otherwise impose Impact Fees and other fees different from those currently charged. Those charges may, at the discretion of the Sandy Suburban Board of Trustees, include but not be limited to reductions or increases in Impact Fees, all or part of which may be reimbursed to the developer who installed improvements that service the land to be connected with the Sandy Suburban's system.
6. Additional Fees and Costs. The Impact Fees authorized hereby are separate from and in addition to user fees and other charges lawfully imposed by Sandy Suburban and other fees and costs that may not be included as itemized component parts of the Impact Fee Schedule. In charging any such fees as a condition of development approval, Sandy Suburban recognizes that the fees must be a reasonable charge for the service provided.
7. Fees Effective at Time of Payment. Unless Sandy Suburban is otherwise bound by a contractual requirement, the Impact Fee shall be determined from the fee schedule in effect at the time of payment in accordance with the provisions of Section 6 below.
8. Imposition of Additional Fee or Refund After Development Activity. Should any developer undertake Development Activities such that the ultimate density or other impact of the Development Activity is not revealed to Sandy Suburban, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the Impact Fee is not initially charged against all units or the total density within the development, Sandy Suburban shall be entitled to charge an additional Impact Fee to the developer or other appropriate person covering the density for which an Impact Fee was not previously paid.

SECTION 5 CAPITAL FACILITIES PLAN

1. Capital Facilities Plan. Sandy Suburban has developed a Wastewater Capital Facilities Plan for the Sandy Suburban’s wastewater system. See Exhibit “B.” The Wastewater Capital Facilities Plan has been prepared based on reasonable growth assumptions for the Sandy Suburban Improvement District, and analyzes the general demand characteristics of current and future users of each system. Furthermore, the Capital Facilities Plan identifies the impact on System Improvements created by Development Activity and estimates the proportionate share of the costs of impacts on System Improvements that are reasonably related to new Development Activity.

SECTION 6 IMPACT FEE SCHEDULE AND FORMULA¹

1. Maximum Supportable Impact Fees. The fee schedule included herein represents the maximum Impact Fees which Sandy Suburban may impose on development within the defined Sandy Suburban Improvement District and are based upon general demand characteristics and potential demand that can be created by each class of user. Sandy Suburban reserves the right under the Impact Fees Act (Utah Code 11-36-202(2)(c,d)) to assess an adjusted fee to respond to unusual circumstances to ensure that fees are equitably assessed.

This adjustment may result in a higher Impact Fee if Sandy Suburban determines that a user would create a greater than normal impact on any of the systems. Sandy Suburban may also decrease the Impact Fee if the developer can provide documentation that the proposed impact will be less than what could be expected given the type of user (Utah Code 11-36-202(3)(a)).

2. Impact Fees, Service Area 1.

Service Area #1 Wastewater Impact Fee Per ERU

Zoning Category	Water Demand	Equivalent ERUs	Impact Fee per ERU ¹	Recommended Impact Fee
Residential	Per Unit			Per Lot:
Single Family Dwelling Unit	400	1.00	\$ 2,611	\$ 2,611
All Other Residential Unit	277.3	0.69	2,611	1,810
Non-Residential Users*	Per 1,000 Sf			Per 1,000 Sf
Church	18.7	0.05	\$ 2,611	\$ 139
Auto Dealer/Repair	90.6	0.26	2,611	675
Car Wash	996.5	2.85	2,611	7,433
Grocery	68.4	0.20	2,611	510
Laundry	1,067.9	3.05	2,611	7,966
Lodging/Care Facilities	161.9	0.46	2,611	1,208
Manufacturing/Industrial	149.6	0.43	2,611	1,116
Office/Financial Institution	74.9	0.21	2,611	559
Recreation	100.3	0.29	2,611	748
Restaurant	620.1	1.77	2,611	4,625
Retail	44.5	0.13	2,611	332
Daycare/Pre-School	116.0	0.33	2,611	865
Warehouse	41.0	0.12	2,611	306
Schools	33.3	0.10	2,611	249

*Impact fee calculation is based upon building floorspace

¹ Fees included in Section 6 are the maximum supportable Impact Fees which can be assessed. Adjustment to these fees may be made with adequate documentation from the developer that the true impact differs from that shown.

Service Area 1, Formulas for the Calculation of Non-Standard Impact Fees

Impact Fee per Thousand Gallons per Day	
Cost per Gallon per Day	\$ 6.53

3. Impact Fees, Service Area 2.

Service Area #2 Wastewater Cost per ERU

Zoning Category	Water Demand Per Unit	Equivalent ERUs	Impact Fee per ERU	Recommended Impact Fee Per Lot:
Residential				
Low Density Residential	400	1.00	\$ 2.213	\$ 2.213
All Other Residential Unit	277.3	0.69	2.213	1.527
Non-Residential Users*	Per 1,000 Sf			Per 1,000 Sf
Church	18.7	0.05	\$ 2.213	\$ 103
Auto Dealer/Repair	90.6	0.23	2.213	501
Car Wash	996.5	2.49	2.213	5,512
Grocery	68.4	0.17	2.213	378
Laundry	1,067.9	2.67	2.213	5,907
Lodging-Care Facilities	161.9	0.40	2.213	896
Manufacturing Industrial	149.6	0.37	2.213	827
Office Financial Institution	74.9	0.19	2.213	414
Recreation	100.3	0.25	2.213	555
Restaurant	620.1	1.55	2.213	3,430
Retail	44.5	0.11	2.213	246
Daycare/Pre-School	116.0	0.29	2.213	642
Warehouse	41.0	0.10	2.213	227
Schools	33.3	0.08	2.213	184

*Impact fee calculation is based upon building floorpace

Service Area 2, Formulas for the Calculation of Non-Standard Impact Fees

Impact Fee per Thousand Gallons per Day	
All Land Uses	\$ 6.32

SECTION 7 APPEAL PROCEDURE

1. Sandy Suburban shall not have an administrative appeals procedure. Any person or entity that has paid an Impact Fee pursuant to this Resolution may challenge the Impact Fee by filing:
 - a. A request for arbitration as provided in Utah Code Ann. § 11-36-402(1), as amended; or
 - b. An action in state district court as provided in Utah Code Ann. § 11-36-401(4)(c)(iii), as amended; or
 - c. Other procedural methods authorized under Utah.

SECTION 8 MISCELLANEOUS

1. Severability. If any section, subsection, paragraph, clause or phrase of this Impact Fee Policy shall be declared invalid for any reason, such decision shall not affect the remaining portions of this Impact Fee Policy, which shall remain in full force and effect, and for this purpose, the provisions of this Impact Fee Resolution are declared to be severable.
2. Interpretation. This Impact Fee Resolution has been divided into sections, subsections, paragraphs and clauses for convenience only and the interpretation of this Impact Fee Resolution shall not be affected by such division or by any heading contained herein.
3. Direction. All officers and employees of Sandy Suburban are hereby directed to take all actions necessary and appropriate to effectuate the provisions of this Resolution and the intent expressed herein.
4. Effective Date. This Resolution shall take effect immediately upon its passage.

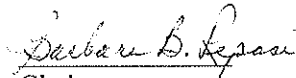
[Signatures and attestation on the following page.]

APPROVED AND ADOPTED this 25th day of March, 2008.

SANDY SUBURBAN IMPROVEMENT DISTRICT

By 
JERRY E. SIMONS, BOARD CHAIRMAN

Attest:


Clerk

Record of Voting

Sandy Suburban Board of Trustees Members	Yes	No
Jerry E. Simons	✓	
Renee Christensen	✓	
Scott Harrington	✓	
Totals	3	