

Ordinance No. 98-12

**An Ordinance of the Town of Eagle Mountain, Utah
Adopting an Impact Fee Analysis and Requiring
the Payment of Impact Fees
for Certain Services and Infrastructure Funding**

The Town Council of the Town of Eagle Mountain, Utah ordains:

**SECTION 1.0
DEFINITIONS**

The following definitions are applicable to this Ordinance:

1.1 “Allowable credits”: the financial value of Town approved and accepted property, facilities, or other tangible capital items paid for or provided at no cost to the Town by an applicant required to pay an impact fee to the Town under this Ordinance. “Allowable credits” include[s] consideration for facilities constructed under Special Improvement Districts sponsored by property owners, facilities defined in the Capital Facilities Plan and constructed by applicants for dedication to the Town at no cost to the Town and other credits permitted or required by Utah law.

1.2 “Town Council”: the Town Council of the Town of Eagle Mountain.

1.3 “Gross Impact Fee”: the stated initial impact fee payable to the Town based on the requirements of this Ordinance.

1.4 “Impact Fee Agent” or “Agent”: an agent of the Town authorized and designated by the Town Council to evaluate Impact Fee applications and to calculate and determine the amount of net Impact Fee required from an applicant and payable to the Town.

1.5 “Impact Fee Applicant” or “Applicant”: a person(s) or entity required to pay a Impact fee prior to obtaining subdivision recordation approval or a building permit from the Eagle Mountain Town Building Official under the terms of this Ordinance.

1.6 “Ordinance”: the Impact Fee Ordinance of the Town of Eagle Mountain.



1.7 "Net Impact Fee": the Impact Fee calculated by the Town after considering studies and data submitted by the Applicant and after making all the credit adjustments required by this Ordinance.

1.8 "Single Family Residential Unit": a detached dwelling unit intended for the use and occupancy of a single family with no restriction on time of use.

SECTION 2.0 PREAMBLE

2.1 The Town of Eagle Mountain, which is referred to herein as "the Town" is a municipal corporation of the state of Utah authorized and organized under the provisions of Utah law.

2.2 The Town has caused a capital facilities plan, economic analysis and recommended impact fees analysis to be completed for the Town and finds that it is in the public interest for the Town to plan for the orderly and economical construction of public facilities and utilities and to finance such facilities to meet the needs of the public.

2.3 The capital facilities plan for the Town which was heard and approved by the Town Council on May 29, 1998, be, and the same hereby is, approved and adopted as the capital facilities plan for future facilities of the Town until revised and amended.

2.4 Based on the capital facilities plan and the impact fee analysis and on the requirements of Utah law, the Town Council hereby adopts and enacts the following requirements for the payment of impact fees for the benefit of the Town, its inhabitants, and for the future construction of public facilities to be owned by the Town for the use of the public in the Town.

2.5 The Town Council finds that it is in the best interest of the Town to require an impact fee for payment by subdivision, commercial and by building permit applicants within the Town as a condition of development approval.

2.6 The published notice for the public hearing on the Town capital facilities plan is incorporated herein by reference and the published notice for the hearing on the Impact Fee Analysis ("Impact Fee Analysis") by Lewis, Young, Robertson and Burningham and on the enactment of this Ordinance is incorporated herein by reference as though fully set forth. The Town finds that all required notices have been given and made and the Town is entitled to and hereby adopts and incorporates as though fully set

forth herein, the Impact Fee Analysis dated November, 1998 by Lewis, Young, Robertson and Burningham.

2.7 In the enactment of the capital facilities plan, fee analysis and this Ordinance, the Town has taken into consideration, and in certain cases will consider on a case by case basis in the future, the future capital facilities needs of the Town, the capital financial needs of the Town which are the result of the future facilities needs of the Town, the distribution of the burden of costs based on the use of the Town facilities by the public, the financial contribution of properties similarly situated in the Town now and in the future, all revenue sources available to the Town and the future new improvements which will be required as a result of new development activities.

2.8 The Town Council finds that future development activities will increase population and the increased population will cause additional use of the capital facilities of the Town; that the capital facility improvements which are analyzed in the Impact Fee Analysis are the direct result of demands for and additional use of facilities caused by the population growth which results from commercial and residential development activities.

2.9 The Town Council finds that the impact fees which are required to be paid in the future under this Ordinance are necessary to achieve an equitable financial allocation between the costs for capital facilities paid by properties in the Town in the past and the costs to be paid in the future in comparison to the benefits received by properties in the Town in the past and those properties to be developed in the Town in the future as a result of development activity.

2.10 The Town Council finds that it is logical and reasonable to designate, and the Town Council therefor hereby designates the following service areas for capital facilities and improvements caused by development activities within the Town:

2.10.1 Transportation, Electric Power, Water, Natural Gas and Telephone Service — One Service Area is designated encompassing all land within the Town.

2.10.2 Stormwater and Drainage Control, Wastewater Collection and Treatment — Two Service Areas are designated; a North Service Area and a South Service Area as depicted more specifically in the Economical Analysis by Lewis, Young, Robertson and Burningham.

SECTION 3
APPLICATION PROCEDURES AND COMPUTATION
OF IMPACT FEES

3.1 Each Applicant for a commercial site, subdivision approval or for a building permit within the geographic boundaries of the Town shall make application in writing to the Town for determination of the required Impact Fee payable on forms provided by the Town. Each Applicant shall provide all information requested by the Town to allow the Town to verify the nature of the information presented by the Applicant.

3.2 The gross Impact Fee imposed and to be collected for each category of facility use for each equivalent residential unit of service provided is as follows:

Facility:	Payable at:	
	Subdivision recordation:	Building permit :
Transportation		\$2479.00
Water	\$1063.00	
Electric Power	\$1052.00	
Telephone		\$131.00
Natural Gas		\$301.00
Stormwater South Area	\$826.00	
Stormwater North Area	\$461.00	
Wastewater South Area	\$2244.00	
Wastewater North Area	\$1943.00	Timpanogos S.S.D. fee: \$1000.00

3.3 The Agent for the Town shall inform the Applicant in writing of the Gross Impact Fee. The written notice of the gross Impact Fee shall state that the Town will consider information from the Applicant which may reduce the gross Impact Fee. The Town will allow the Applicant to submit the following information for consideration to reduce the gross Impact Fee in determining the net Impact Fee:

3.3.1 Studies and data concerning the projected capital facilities; and

3.3.2 Evidence of allowable credits to which the Applicant may be entitled.

3.4 The Agent of the Town shall consider the information presented by the Applicant and the credits data and determine the nature and extent of the credits for

property contributions and facilities contributions or economic data and deduct from the gross Impact Fee all allowable credits.

3.5 Reductions in the gross Impact Fee based on the information provided by the Applicant, including studies and data submitted by the Applicant concerning the fee shall be based solely on verifiable data.

3.6 After considering studies and data, if any, submitted by the Applicant, the Agent shall calculate the net Impact Fee, inspection fees and other required fees and security deposits and inform the Applicant in writing of the net fee charged by the Town.

3.7 After the Applicant receives the written final net fee computation from the Town the Applicant shall indicate in writing in the space provided whether or not the Applicant concurs with the net Impact Fee computed by the Town. If the Applicant concurs with the net Impact Fee, the Applicant shall pay the net Impact Fee.

3.8 No subdivision shall be approved or recorded and no building permit shall be issued until all Impact Fees required by this Ordinance are paid in full.

SECTION 4 APPEAL OF IMPACT FEE COMPUTATION

4.1 If the Applicant does not concur with the net Impact Fee, and if the Impact Fee is contested by the Applicant, the Applicant shall notify the Town and appeal the computation and imposition of the net fee to the Town Council of the Town. Appeal to the Town Council shall be considered filed by the Applicant when the Applicant executes the Notice of Appeal and provides the date of execution of the Notice of Appeal on the form provided by the Town.

4.2 No later than five (5) days after the date of the Notice of Appeal by the Applicant, the Applicant shall submit in writing all information upon which the Applicant will rely in support of the appeal of the net Impact Fee computation to the Town Council.

4.3 The appeal shall be filed by the Applicant by a written request to the Town Council for a hearing on the decision as to the net Impact Fee computed by the Town Fee Agent. A request for a hearing before the Town Council shall be accompanied by all written data and information upon which the Applicant will rely in the hearing before the Town Council.

4.3.1 No later than thirty (30) days after the Notice of Appeal and the submission of data by the Applicant, the Town Council of the Town shall hear the appeal of the Applicant.

4.3.2 At the hearing, the Town Council shall admit and consider evidence presented by the Applicant upon which the Applicant may rely to show that the Town Agent failed to consider the evidence submitted by the Applicant or mis-interpreted, misconstrued or misapplied this Ordinance or Utah law.

4.3.3 No later than sixty (60) days after the date the Notice of Appeal of the net Impact Fee is filed with the Town Council, the Town Council shall decide the matter in writing and advise the Applicant of its decision. The Town Council may affirm the decision of the Town Agent, modify or re-compute the net Impact Fee, or submit the matter to the Town Agent for re-computation of the net Impact fee with such directions as the Town Council may find are appropriate under the circumstances to achieve compliance with the Town Ordinance and the provisions of Utah law.

4.3.4 No later than ten (10) days after receipt of the decision of the Town Council by the applicant, the applicant shall advise the Town that it either concurs with or accepts the decision of the Town Council and will pay the net Impact Fee determined or to be computed under the directions of the Town Council to the Town Agent or that the applicant intends to seek further review of the decision of the Town Council. In the event the applicant desires to seek further review of the decision of the Town Council, the Town Council shall cause all documents, tape recordings, evidence and information relied upon by the Town Agent and the Town Council to be collected and compiled as a record and designated as a record of the proceeding for purposes of further review.

SECTION 5.0 TRANSITION PROVISIONS

The Town Council finds that it is in the public interest to not impose financial hardships on individual bona fide resident home buyers and commercial building end use purchasers within the town. The Council recognizes that the impact fees imposed and collected under this ordinance may increase the cost of homes and other building development within the Town and it is not the intent of the Council to interfere with the legitimate contractual expectations of home buyers and commercial building purchasers and users. The purpose of this section is to provide a process to exempt qualifying properties from the payment of impact fees where the property meets the requirements set forth in this section.

5.1 Whenever a Class II permit applicant for subdivision approval has a written enforceable contract which is in force as of the date of this ordinance to sell a home or other building on a lot proposed for approval, to a bona fide resident user the Class II applicant may request a determination that the lot or property is exempt from the payment of the impact fees enacted by this ordinance.

5.2 Every request for exemption shall be in writing and shall contain the name of the applicant, a description of the property and the name of the prospective purchaser. Each request shall include a copy of the contract of sale and such other information as the Town may require to establish that the exemption request is made in good faith by the applicant and should be granted.

5.3 Whenever a building permit applicant has a written enforceable contract which is in force as of the date of this ordinance to construct or sell a home or other building to a bona fide resident or commercial user for which an impact fee is required under the provisions of this ordinance, the building permit applicant may apply for exemption from the payment of the impact fee requirement enacted by this ordinance.

5.4 Every request for exemption shall be in writing and shall contain the name of the applicant, a description of the property and the name of the prospective purchaser. Each request shall include a copy of the contract of sale and such other information as the Town may require to establish that the exemption request is made in good faith by the applicant and should be granted.

5.5 Each request for exemption shall be received by the Town Clerk and shall be presented to the Mayor for consideration. The Mayor shall review the exemption request or provide for such review by an agent of the Mayor as the circumstances of the request may require. The Mayor may approve the exemption request if the request includes all the information required by this section and demonstrates that the denial of the exemption would impose additional costs and increase the price of the home or other commercial structure to the contract buyer.

5.6 An application for a impact fee exemption under the terms of this section must be filed not more than ninety days after the effective date of this Ordinance.

5.7 No exemption shall be granted to the payment of impact fees under this Ordinance or more than ninety days after the effective date of this Ordinance.

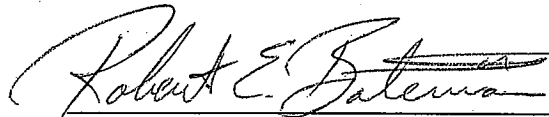
Buildings and improvements constructed by the Town of Eagle Mountain or for immediate transfer to the Town of Eagle Mountain shall be exempt from the development impact fee provisions of this Ordinance.

**SECTION 6.0
EFFECTIVE DATE**

This Ordinance is effective immediately and shall be effective as of midnight November 9, 1998.

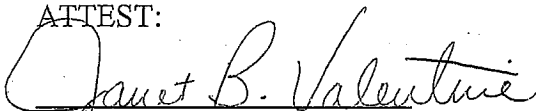
DATED this 10TH day of NOVEMBER, 1998.

TOWN OF EAGLE MOUNTAIN



Mayor

ATTEST:



Clerk

