

 **ORDINANCE NO. 98-1-8**

AN ORDINANCE ENTITLED MUNICIPAL IMPACT FEES, WHICH IMPOSES IMPACT FEES FOR THE CULINARY WATER SYSTEM AND THE WASTE WATER (SEWER) SYSTEM.

WHEREAS, Mantua Town ("Town" hereafter) has been experiencing growth and development which creates a demand for adequate public facilities and infrastructure which are reasonably related to and necessary in order to service anticipated future growth; and

WHEREAS, the Town is authorized to enact impact fees for public facilities in accordance with the provisions of the Utah Impact Fees Act, Utah Code Ann. § 11-36-101, et seq.; and

WHEREAS, the Town has previously caused reasonable facilities plans relating to the water and sewer systems to be prepared upon which the impact fees are based, as required by law; and

WHEREAS, the Town has caused a written analysis to be prepared by LarWEST Engineering, for each impact fee which identified and analyzed the proportionate share of the costs of the impacts on public facilities which are reasonably related to and necessary to service anticipated future growth; and

WHEREAS, the written analysis prepared by LarWEST Engineering, considered the sources for financing the existing and future system improvements necessary to accommodate future growth and established that impact fees are necessary in order to achieve an equitable allocation of the costs of providing existing and future adequate public facilities and system improvements which are reasonably related to and necessary to service anticipated future growth; and identifies a methodology establishing how the proposed impact fees for such public facilities was calculated; and

WHEREAS, the Town has identified and analyzed through the impact fee analysis the statutory criteria as to whether a proportionate share of the cost of such existing and new facilities is reasonably related to new development activity as set forth in the Utah Impact Fees Act; and

WHEREAS, the Town has complied with all applicable notice and public hearing requirements as established under the Utah Impact Fees Act and related statutes; and

WHEREAS, a public hearing was held before the Mantua Town Council on Thursday, January 8, 1998, to receive public input and comment on the proposed adoption of the impact fees enactment; and

WHEREAS, the impact fees established by this ordinance are reasonably related to the cost of providing such public facilities necessitated by anticipated future growth within the Town or are reasonably related to public facility costs previously incurred by the Town to the extent that new growth and development will be

served by the previously constructed improvements and said fees do not exceed the highest fee justified by the written analysis; and

WHEREAS, after a consideration of all the relevant factors, the Mantua Town Council finds and determines that it is in the best interests of the health, safety and general welfare of its current and future residents to adopt this ordinance in order to provide for adequate public facilities to service anticipated future growth and development, the need for which is reasonably related to and created by the anticipated future growth;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF MANTUA, UTAH, as follows:

SECTION I:

The Town Council hereby approves and adopts the report from LarWEST Engineering, entitled "Town of Mantua Water and Sewer Impact Fee Analysis", dated December, 1997, and the analysis reflected therein for each of the impact fees in question.

SECTION II:

Addition of Municipal Impact Fees to the Ordinances of the Town of Mantua.

The Ordinances of the Town of Mantua are hereby amended and all previous Titles, Chapters, Resolutions and Ordinances, regarding existing impact fees are hereby repealed and this Ordinance No. 98-1-8, entitled Municipal Impact Fees is hereby adopted and shall read as follows:

Municipal Impact Fees.

1. Impact Fees Imposed.

Impact fees are hereby imposed as a condition of the issuance of a building permit by the Town for any Development Activity which creates additional demand and need for public facilities for the culinary water system and the waste water (sewer) system, as set forth in Exhibit A which is attached hereto and incorporated herein by this reference. The impact fees hereby imposed for the referenced public facilities and as set forth in Exhibit A, specifically include impact fees for public facility costs previously incurred by the City to the extent that new growth and development will be served by the previously constructed improvements.

2. Service Areas.

The entire area of the Town and any areas outside the Town serviced by such systems are hereby designated and established as one service area with respect to the culinary water system and the waste water (sewer) system.

3. Time of Collection.

Unless otherwise provided by the Town Council, impact fees shall be paid to the Town prior to the issuance of a building permit by the Town.

4. Adjustment of Impact Fees.

A. The Town may adjust the impact fees imposed pursuant to this ordinance as necessary in order to:

1. Respond to unusual circumstances in specific cases;
2. Ensure that the impact fees are imposed fairly;
3. Permit the adjustment of the amount of the fee based upon studies and data submitted by an applicant or developer, as approved by the Town Council; and
4. Allow a credit against impact fees, as approved by the Town Council, for dedication of land for, improvement to, or new construction of, any system improvements by the applicant or developer if the facilities are identified in the Town's Facilities or other reasonable Plans and are required by the Town as a condition of approving the development activity. No credits shall be given for project improvements as defined by the Utah Impact Fees Act.

B. The Town Planning Commission shall have the authority to make such adjustments based upon information submitted by an applicant or developer and any recommendations from other appropriate Town officials or employees, including the Town Engineer. The standards applied should be clear and rationally based, treating like cases similarly.

C. The Town may adopt policies consistent with this ordinance and any resolutions passed by the Town Council to assist in the implementation, administration and interpretation of this ordinance related to Municipal Impact Fees.

D. If the applicant, developer, person or entity is not satisfied with the Town Planning Commission's decision, an

appeal may be made to the Town Council under the procedures set forth in Paragraph 6, below.

5. Accounting, Expenditure and Refund of Impact Fees.

The Town shall account for, expend and refund impact fees collected pursuant to this Ordinance in accordance with the provisions of the Utah Impact Fees Act. The Town may reimburse itself for public facility costs previously incurred by the Town to the extent that new growth and development will be served by the previously constructed public facilities.

6. Administrative Challenges and Appeals Procedure.

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

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

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

1. File a written appeal with the Mantua Town Recorder setting forth in detail all factual and legal grounds in support of the appeal and challenge to the impact fee, and which is relied upon by the appealing party with respect to the fees challenged. Upon receipt of the written appeal, the Town Recorder shall forward the appeal, together with any recommendations from the Town Engineer, to the Town Council and shall schedule a public hearing before the Town Council on the appeal for the purpose of receiving input from all interested persons. The Town Council shall thereafter render its decision on the appeal no later than 30 days after the date the appeal was filed with the Town Recorder. Any person or entity who has failed to comply with the administrative remedies established by this section, may not file or join an action challenging the validity of any impact fee.

D. Any person or entity who was a party to an appeal under this section who is adversely affected by the decision of the Town Council may petition the District Court for a review of the decision within 90 days of a decision upholding an impact fee by the Town Council or within 120 days after the date the challenge to the impact fee was filed, whichever is earlier.

The petition for review of the decision shall be filed in the First District Court for Box Elder County.

E. In the event a petition is filed with the District Court, the Town shall transmit to the reviewing Court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

F. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for the purposes of subparagraph E above.

G. If there is a record:

1. the District Court's review is limited to the record provided by the Town; and
2. the District Court may not accept or consider any evidence outside the Town's record unless that evidence was offered to the Town and the Court determines that it was improperly excluded by the Town.

H. If there is an inadequate record, the Court may call witnesses and take evidence.

I. The District Court shall affirm the decision of the Town if the decision is supported by substantial evidence in the record.

J. The judge may award reasonable attorney's fees and costs to the prevailing party in an action brought under this section.

SECTION III: SEVERABILITY

If any section, paragraph, sentence, clause or phrase of this ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

SECTION IV: EFFECTIVE DATE

The Mantua Town Council specifically finds that it is necessary for the immediate preservation of the health, safety and welfare of the present and future inhabitants of the Town that this ordinance take effect immediately, and therefore this ordinance shall take effect immediately after passage by the Town Council and subsequent posting as required by law.

ADOPTED and PASSED by the Town Council of the Town of Mantua, Utah, this 8th day of January, 1998.

MANTUA TOWN

By: Virgil Cliff Allred, Mayor

ATTEST:

Adriana Forsgren
Town Recorder

POSTING DATE: 1/8/98

CERTIFICATE OF DUE POSTING

I, ADRIANA FORSGREN, Town Recorder of Mantua, Box Elder County, Utah, hereby certify that I, on the 8th day of January, 1998, in the Town of Mantua, County of Box Elder, State of Utah, posted the foregoing Ordinance No. 98-2-8 in a likely manner, a copy of which is hereto attached, in each of three public places in the said Town of Mantua; to-wit:

1. Mantua Town Hall
2. Country Store
3. Mantua Fire Station

WITNESS my hand this 8th day of January, 1998.

Adriana Forsgren
Adriana Forsgren
Mantua Town Recorder

ORDINANCE NO. 98-2-8

WHEREAS, the Town of Mantua, Utah, as authorized by law, operates and maintains Town water and sewer systems, whereby culinary water service and sewer service are made available and provided to the residents of Mantua; and

WHEREAS, pursuant to State law, the Town of Mantua is empowered to establish connection fees (to be known hereafter as hookup fees) for water and sewer service from the City's systems; and

WHEREAS, there is a need to formally update and establish a current schedule of hookup fees levied by the City; and

NOW, THEREFORE, the Town Council of the Town of Mantua, Utah, hereby adopts, passes, and publishes the following:

ORDINANCE ESTABLISHING HOOKUP FEES FOR CONNECTION TO THE MUNICIPAL WATER AND SEWER SYSTEMS.

BE IT ORDAINED BY THE TOWN COUNCIL OF MANTUA, UTAH, AS FOLLOWS:

1. Effective January 8, 1998, the following schedule of hookup fees relating to the municipal water and sewer systems are hereby established:

a. Water System Hookup:

See Exhibit A attached hereto and incorporated herein by reference.

b. Sewer System Hookup Fees:

See Exhibit A attached hereto and incorporated herein by reference.

2. This Ordinance may be amended from time to time by subsequent ordinance or ordinances.

3. All ordinances, resolutions, rules, and regulations, or parts thereof, of Mantua Town which are repugnant to or inconsistent or in conflict with this resolution are hereby repealed.

4. This Ordinance shall become effective immediately upon passage by the Town Council and subsequent posting as required by law.

PASSED AND ADOPTED by the Town Council of Mantua Town, State of Utah, this 8th day of January, 1998.

MANTUA TOWN

By:

Virgil Cliff Allred
Virgil Cliff Allred, Mayor

ATTEST:

Adriana Forsgren
Town Recorder

Posting Date: Jan 8, 1998

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- 1. *Mantua Town Hall*
- 2. *Country Store*
- 3. *Mantua Fire Station*

WITNESS my hand this 8th day of January, 1998.

Adriana Forsgren
Adriana Forsgren
Mantua Town Recorder

EXHIBIT A
WATER AND SEWER IMPACT FEE SCHEDULES

SCHEDULE I.

**RESIDENTIAL/INDUSTRIAL/COMMERCIAL IMPACT FEE SCHEDULE
CULINARY WATER SYSTEM**

Size of Connection	Capacity Ratio to 1" line	Impact Fee(\$)
1"	1	1,977
1.5"	2.25	4,448
2"	4	7,908
3"	9	17,793
4"	16	31,632
* 6"	36	71,172

SCHEDULE II.

**RESIDENTIAL/INDUSTRIAL/COMMERCIAL IMPACT FEE SCHEDULE
SEWER SYSTEM**

Water Conn. Size	Capacity Ratio to 1" conn.	Impact Fee(\$)
1"	1	1,149
1.5"	2.25	2,585
2"	4	4,569
3"	9	10,341
4"	16	18,384
* 6"	36	41,364

* Water and Sewer impact fees for meters larger than six inches shall be evaluated and set by the Town Council on an individual basis. Sewer impact fee is based on water meter size.

ORDINANCE NO. 98-2-8

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3. All ordinances, resolutions, rules, and regulations, or parts thereof, of Mantua Town which are repugnant to or inconsistent or in conflict with this resolution are hereby repealed.

4. This Ordinance shall become effective immediately upon passage by the Town Council and subsequent posting as required by law.

ADOPTED and PASSED by the Town Council of the Town of Mantua, Utah, this 8th day of January, 1998.

MANTUA TOWN

ATTEST:

By: _____
Mayor

Town Recorder

POSTING DATE: _____

CERTIFICATE OF DUE POSTING

I, ADRIANA FORSGREN, Town Recorder of Mantua, Box Elder County, Utah, hereby certify that I, on the _____ day of January, 1998, in the Town of Mantua, County of Box Elder, State of Utah, posted the foregoing Ordinance No. 98-2-8 in a likely manner, a copy of which is hereto attached, in each of three public places in the said Town of Mantua; to-wit:

- 1.
- 2.
- 3.

WITNESS my hand this _____ day of January, 1998.

Adriana Forsgren
Mantua Town Recorder

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N-4817.1

SUMMARY.

The Town of Mantua is a small, rural community of approximately 750 residents. It lies in an upland mountain valley five miles east of Brigham City. Significant growth pressures are evident. For purposes of this study, it is assumed that Mantua will grow at a rate that will maintain the same population ratio to total county population as existed at the 1990 census. However, current experience suggest likelihood of a somewhat higher growth rate.

The 1995 Impact Fee Act defines impact fees. In the case of Mantua, with a population of less than 5,000, fees may be based on reasonable development plans, rather than on a capital facilities plan. The impact fees in this report are based on information previously generated and available through reports and other documentation.

In considering fixed assets, the cost of growth-related system improvements and improvements benefiting all water users, buy-in-value, and debt service credit, it is recommended that a water impact fee of \$1,977.00 and a sewer impact fee of \$1,149.00 be considered for one-inch diameter water connections.

Since the figures for this analysis were based on 1997 relative figures, adjustment for inflation, etc. should be taken into consideration for subsequent years.

BACKGROUND

This document has been prepared at the request of the Town of Mantua in response to Utah Senate Bill No. 4, which passed in a special legislative session held in April, 1995. This law codifies and firms up the authority of local governments to impose development impact fees. At this juncture in time, the Town of Mantua elected to determine only the impact fees as related to the water and sewer systems.

A development impact fee is:

“... necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the future, in comparison to the benefits already received and yet to be received.” (Utah Code).

These fees are a one-time payment to be used to pay the costs caused by new development. Other charges to the development must be justified based on actual expenditures for services rendered,