

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: C-9
DATE: October 23, 2008
SUBJECT: Resolution No. 08-29 Transportation Impact Fee
CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue before the City Council is to authorize the Mayor to sign Resolution No. 08-29 establishing the Transportation Impact Fee Rate at \$5,727 to ensure adequate facilities are available to serve new growth and development.

STAFF RECOMMENDATION:

Authorize the Mayor to sign Resolution No. 08-29 establishing the Transportation Impact Fee at \$5,727 to ensure adequate facilities are available to serve new growth and development.

SUMMARY:

This is a housekeeping item to officially establish the Transportation Impact Fee Rate.

The City Council approved Ordinance No. 993-08 amending Chapter 16.112 of the Sultan Municipal Code (Attachment B). The formula for establishing the Transportation Impact Fee is included in the Section 16.112. However, the actual Impact Fee Rate is not set by the code or through adoption of the comprehensive plan.

Resolution 08-29 establishes the Transportation Impact Fee Rate at \$5,727 per PM Peak Hour Trip.

BACKGROUND:

Under RCW 82.02.050, the City of Sultan is authorized to impose impact fees on development activity as part of the financing for public facilities.

As part of the revision to the City's Comprehensive Plan Transportation Element, and as required by the Washington Growth Management Act, the City conducted an analysis to determine the additional transportation impacts, deficiencies and multimodal transportation improvements necessary to support the City's Comprehensive Plan.

From this analysis, revised information was provided to review and recalculate the City's traffic impact fee rate.

Using information from the adopted 2008 Transportation Element, a transportation impact fee rate per PM Peak Hour Trip (PHT) rate was calculated \$5,272 per PM Peak Hour Trip based on the following formula:

Growth-Related Costs - 15% anticipated transportation grant revenue / Projected Growth-Related Trips = **Transportation Impact Fee Rate**

$\$20,017,097 / 3,797 \text{ Additional PHT} = \mathbf{\$5,272 \text{ per PM Peak Hour Trip}}$

The Transportation Impact Fee includes a 15% discount based on the application of anticipated transportation grant revenue.

Only the costs of anticipated growth-related roadway projects are considered, not the full project costs. Growth-related projects are defined as those projects and project elements necessary to mitigate the additional transportation impacts of increased land use growth and development as projected in the City's Comprehensive Plan.

Specifically, the growth-related projects and projects elements provide for: 1) Additional vehicular capacity in order to meet the recommended City transportation level of service (LOS) concurrency standard of "D", and 2) Additional Citywide nonmotorized and transit transportation system capacity in order to meet the City's Comprehensive Plan transportation goals and policies for safety and modal balance.

In accordance with SMC 16.112.040, the Transportation Impact Fee can be recalculated as often as annually to address changes in the construction cost index, changes in the project list, and/or changes in anticipated land use and development growth forecasts.

ALTERNATIVES:

The specific impact fee used to ensure a balanced capital facilities plan in the 2008 Revisions to the 2004 Comprehensive Plan has not been officially set by the City.

Resolution No. 08-29 officially sets the Impact Fee Rate. The City could choose to adopt the Impact Fee Rate by ordinance rather than resolution. Jurisdictions use both methods. Setting the Impact Fee Rate by ordinance would require a first and second reading.

City staff recommend the Council authorize the Mayor to sign Resolution No. 08-29 establishing the Transportation Impact Fee at \$5,727 to ensure adequate facilities are available to serve new growth and development.

FISCAL IMPACT:

The Impact Fee Rate of \$5,727 is necessary to implement the capital facilities element of the 2008 Revisions to the 2004 Comprehensive Plan. A decision to decrease the rate will require the City to reevaluate the financing strategy used to develop the capital facilities plan.

RECOMMENDED ACTION:

Authorize the Mayor to sign Resolution No. 08-29 establishing the Transportation Impact Fee at \$5,727 to ensure adequate facilities are available to serve new growth and development.

ATTACHMENT

A - Resolution 08-29

B – Revisions to Section 16.112 SMC

**CITY OF SULTAN
WASHINGTON**

RESOLUTION NO. 08-29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, SETTING A TRANSPORTATION IMPACT FEE TO ENSURE ADEQUATE FACILITIES ARE AVAILABLE TO SERVE NEW GROWTH AND DEVELOPMENT.

WHEREAS, the City Council and Planning Board began working together in January 2008 to make the necessary changes to the 2004 Comprehensive Plan and Transportation Element compliant with RCW 36.70A.120, which requires that a city's actions and capital budget decisions be consistent with its comprehensive plan; and

WHEREAS, the City Council and Planning Board held joint meetings to discuss proposed revisions to the 2004 City of Sultan Comprehensive Plan and implementing development regulations including proposed changes to the Transportation Impact Fee; and

WHEREAS, the City held open houses in March, April, May and July providing for early and continuous public involvement under the Growth Management Act, RCW 36.70A.140; and

WHEREAS, the City sent notification of proposed revisions to the 2004 City of Sultan Comprehensive Plan and Transportation Element to each household and post office box in the City of Sultan and unincorporated areas in the 98294 zip code; and

WHEREAS, an environmental review was conducted in accordance with the provisions of the Washington State Environmental Policy Act; and

WHEREAS, the Planning Board conducted a public hearing on proposed revisions to the 2004 Comprehensive Plan at a joint meeting of the Planning Board and City Council on September 9, 2008, and provided an opportunity for citizens to comment regarding proposed regulatory changes; and

WHEREAS, the City published notice on September 15, 2008 and September 23, 2008 in its paper of record of the opportunity to provide public comment on proposed revisions to the City of Sultan Comprehensive Plan and Final Supplemental Environmental Impact Statement, and related revisions to development regulations of the Sultan Municipal Code; and

WHEREAS, the City Council conducted a public hearing on proposed changes to the Comprehensive Plan including the Transportation Impact Fee on September 25, 2008 in accordance with Sultan Municipal Code 17.04.170, and provided an opportunity for citizens to comment regarding proposed regulatory changes; and

WHEREAS, in accordance with RCW 36.70A.130(1) the Sultan City Council took legislative action on September 25, 2008 following notice and a public hearing finding that a review and evaluation has occurred and identifying revisions to the City's 2004 Comprehensive Plan; and

WHEREAS, in accordance with RCW 82.02.050 the City of Sultan is authorized to impose impact fees on development activity as part of the financing for public facilities; and

WHEREAS, As part of the revision to the City’s Comprehensive Plan Transportation Element, and as required by the Washington Growth Management Act, an analysis was conducted to determine the additional transportation impacts, deficiencies and multimodal transportation improvements necessary to support the City’s adopted 2025 Future Land Use Plan; and

WHEREAS, from this analysis, revised information was provided to review and recalculate the City’s traffic impact fee rate;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DO RESOLVE AS FOLLOWS:

Section 1. Findings. The City Council makes the following findings with regard to the Transportation Impact Fee:

- A. Using information from the adopted 2008 Transportation Element, a transportation impact fee rate per PM Peak Hour Trip (PHT) rate was calculated \$5,272 per PM Peak Hour Trip.
- B. The Transportation Impact Fee includes a 15% discount based on the application of anticipated transportation grant revenue.
- C. Only the costs of anticipated growth-related roadway projects are considered, not the full project costs. Growth-related projects are defined as those projects and project elements necessary to mitigate the additional transportation impacts of increased land use growth and development as projected in the City’s Comprehensive Plan.
- D. Specifically, the growth-related projects and projects elements provide for: 1) Additional vehicular capacity in order to meet the recommended City transportation level of service (LOS) concurrency standard of “D”, and 2) Additional Citywide nonmotorized and transit transportation system capacity in order to meet the City’s Comprehensive Plan transportation goals and policies for safety and modal balance.
- E. In accordance with SMC 16.112.040, the Transportation Impact Fee can be recalculated as often as annually to address changes in the construction cost index, changes in the project list, and/or changes in anticipated land use and development growth forecasts.

Section 2. Adoption. The attached Exhibit A is adopted as the Transportation Impact Fee Rate of the City of Sultan and incorporated by reference the same as though it were fully set forth herein.

Section 3. Filing. The City Clerk is directed to file a copy of this Resolution with the Secretary of Transportation not more than thirty days after its adoption.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2008.

CITY OF SULTAN

By: _____

Carolyn Eslick, Mayor

ATTEST:

By: _____
Laura Koenig, City Clerk

APPROVED AS TO FORM:

By _____
Margaret King, City Attorney

City of Sultan Transportation Impact Fee Rate

Introduction

As part of a project to revise the City's Comprehensive Plan Transportation Element, the City requested a review of their transportation impact mitigation fee. The Sultan transportation impact fee was established in 1995 by City Ordinance SMC 16.112. The amount of the impact fee rate was \$1,837 per additional PM peak hour trip generated from new development. That amount had not been changed since implementation in 1995.

As part of the revision to the City's Comprehensive Plan Transportation Element, and as required by the Washington Growth Management Act, an analysis was conducted to determine the additional transportation impacts, deficiencies and multimodal transportation improvements necessary to support the City's adopted 2025 Future Land Use Plan. From this analysis, revised information was provided to review and recalculate the City's transportation impact fee rate.

Using information from the adopted 2008 Transportation Element, a transportation impact fee rate per PM Peak Hour Trip (PHT) rate was calculated based on the following formula:

Growth-Related Costs - 15% anticipated transportation grant revenue / Projected Growth-Related Trips
= **Transportation Impact Fee Rate**

\$20,017,097 / 3,797 Additional PHT = **\$5,272 per PM Peak Hour Trip**

Background

Impact fees are one-time charges paid by new development to reimburse local governments for the capital costs of public facilities (such as parks, schools, roads, etc.) needed to serve new development and the people who occupy or use the new development.

The Revised Code of Washington ([RCW 82.02.050](#)) defines impact fee programs as intended to:

- Ensure that adequate facilities are available to serve new growth;
- Establish standards by which new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development; and
- Ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact.

Local Governments charge impact fees for several reasons:

- To obtain revenue to pay for some of the cost of new public facilities;
- To implement public policy that new development should pay a portion of the cost of facilities that it requires, and that existing development should not pay all of the cost of such facilities; and
- To assure that adequate public facilities will be constructed to serve new development.

There are important differences between impact fees and the mitigations authorized under SEPA. Two important aspects of impacts fees that are particularly noteworthy are:

- 1) The ability to charge for the cost of public facilities that are "system improvements" (i.e., that provide service to the community at large) as opposed to "project improvements" (which are "on-site" and provide service for a particular development); and

- 2) The ability to charge small scale development their proportionate share, whereas SEPA exempts small developments.

Growth Related Transportation Costs

Only the costs of anticipated growth-related roadway projects can be considered, not the full project costs. Growth-related projects are defined as those projects and project elements necessary to mitigate the additional transportation impacts of increased land use growth and development as projected in the City's Comprehensive Plan.

What is excluded from the growth-related project cost share are:

- Existing transportation deficiencies costs for transportation projects that address current deficiencies identified in the City's transportation system,
- Project costs associated with property street frontage improvements, according necessary to provide for basic urban style property access (a two-lane local access street with two 10 foot travel lanes, parking on both sides, curb, gutter, and sidewalks), and
- Other partner agency/entity costs such as the share of state project costs for projects identified on US 2.

Table 1 provides a cost breakdown of the transportation projects in the Transportation Element of 2008 Revisions to the 2004 Comprehensive Plan:

Table 1 Transportation Project Cost Breakdown

Growth Related Transportation Costs	\$ 37,508,577
Frontage Improvement Costs	\$101,333,127
Other Agency/Entity Costs	\$ 12,256,800
Existing Deficiency Costs	\$ 4,381,320
Total Recommended Transportation Improvement Costs	\$155,479,824

Specifically, the growth-related projects and projects elements provide for:

1. Additional vehicular capacity in order to meet the recommended City transportation level of service (LOS) concurrency standard of “D”, and
2. Additional Citywide nonmotorized and transit transportation system capacity in order to meet the City’s Comprehensive Plan transportation goals and policies for safety and modal balance.

As defined, the growth-related transportation projects and projects elements include:

- Construction of higher order arterial streets in order to provide greater transportation carrying capacity and increased circulation demands;
- Construction of two-way-left-turn-lanes in order to provide for greater transportation capacity and safer property access;
- Construction of three transportation signals to provide for increased intersection transportation capacity and safety;
- Construction of connected Citywide bike lanes and transportation-related multipurpose trails to provide for safe nonmotorized travel; and
- Construction of enhanced bus stops to provide for improved transit service citywide.

Impact Fee Calculation

Using information from the Transportation Element, a transportation impact fee rate per PM Peak Hour Trip (PHT) rate was calculated based on the following formula:

Growth-Related Costs / Projected Growth-Related Trips = **Transportation Impact Fee Rate**

$\$37,508,577 / 3757 \text{ Additional PHT} = \mathbf{\$9,878 \text{ per PM Peak Hour Trip}}$

This transportation impact fee is discounted by anticipated grant funding. A conservative estimate of 15% of total project costs obtained through grant funding would yield approximately \$23,321,974. Based on the application of 15% anticipated transportation grant revenue, the City transportation impact fee rate is:

Growth-Related Costs / Projected Growth-Related Trips = **Transportation Impact Fee Rate**

$\$20,017,097 / 3,797 \text{ Additional PHT} = \mathbf{\$5,272 \text{ per PM Peak Hour Trip}}$

These comparisons and resulting transportation impact fee rate are shown in **Table 2**.

Table 2 Transportation Project Cost Breakdown and Proposed Transportation Impact Fee Rate

	Transportation Project Costs	Application of Anticipated 15% Grant Revenues	Revised Project Cost Breakdown @ 15% Grants
Growth Related Transportation Costs	\$37,508,577	\$17,491,480	\$20,017,097
Frontage Improvement Costs	\$101,333,127	\$3,498,296	\$97,834,831
Other Agency/Entity Costs	\$12,256,800		\$12,256,800
Existing Deficiency Costs	\$4,381,320	\$2,332,197	\$2,049,123
Total	\$155,479,824	\$23,321,974	\$132,157,850
Proposed Impact Fee	\$9,878		\$5,272

Annual Fee Rate Revisions

The fee rate can be recalculated as often as annually in order to changes in the construction cost index, changes in the project list, and/or changes in anticipated land use and development growth forecasts. According to SMC 16.112.040:

B... Such rates shall be adjusted periodically, but not more often than once every year, to reflect changes in the prevailing construction cost index, facility plan projects, and anticipated growth.

Impact Fee Credit

A developer may be entitled to a credit against the transportation impact fee in accordance with 16.112.085 of the Sultan Municipal Code

Appeals

Any person aggrieved by the amount of the impact fee calculated and imposed upon a particular development activity may appeal such determination pursuant to the provisions of 16.120.100 SMC.

Section 7. New Section. A new section, 16.112.015 SMC – Development Impact Fees –Definitions, is added to Chapter 16.112 to read as follows:

16.112.015 Definitions

The following definitions apply to this chapter 16.112:

A. System Improvements – transportation capital improvements that are identified in the city’s latest adopted 20 year comprehensive plan and are designed to provide services to the community at large.

B. Project Improvements – site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements.

C. Frontage – that portion of the development property adjacent to an existing or future roadway where access to the site or individual properties is permitted by the city.

D. Frontage Improvements – shall include all improvements as designed in the city comprehensive plan, city standards, or other adopted plan that can include roadway surfacing, curb & gutter, sidewalk, drainage, lighting, landscaping, and signs.

E. Designated City Official – shall be the public works director or their designee.

F. Local Access Classified Roadway – the designate roadway cross section as included in the city’s adopted standards, comprehensive plan, or a city area master plan.

G. Developer – any representative of a development that is the designated traffic impact fee payer.

Section 8. SMC 16.112.020, Amended. Sultan Municipal Code Section 16.112.020 (Development Impact Fees – Imposition of impact fees) is hereby amended to read as follows:

16.112.020 Imposition of impact fees.

A. After the effective date of this code, any person who seeks to develop land within the city of Sultan by applying for a building permit ~~for a residential building or manufactured home installation~~, shall be obligated to pay an impact fee in the manner and amount set forth in this chapter.

B. The fee shall be determined and paid to the designated city of Sultan official at the time of issuance of a building permit for the development. For manufactured homes, the fee shall be determined and paid at the time of issuance of an installation permit.

Section 9. SMC 16.112.030, Amended. Sultan Municipal Code Section 16.112.030 (Development Impact Fees – Recreation facility impact fee formula) is hereby amended to read as follows:

16.112.030 Recreation facility impact fee formula.

A. Findings and Authority. The demand for parks and recreation facilities is proportionate to the size of the user population. The larger a population grows the greater the demand for city parks and recreation facilities. In order to offset the impacts of new residential development on the city’s park system, the city has determined to adjust the current park impact fee consistent with city standards as new development occurs. Impact fees are authorized under the State Environmental Policy Act (SEPA) and the Growth Management Act (GMA) to help offset the cost of capital facilities brought about by new growth and development. Impact fees imposed will be used to acquire and/or develop parks, open space and recreation facilities that are consistent with the capital facilities and park and recreation elements of the Sultan comprehensive plan.

B. The impact fee component for recreation facilities shall be calculated using the following formula:

$$\text{Fee} = (\text{T/P} \times \text{U}) - \text{A}$$

1. "Fee" means the recreation impact fee.
2. "T" means the total development cost of new facilities. Such costs shall be adjusted periodically, but not more than once every year.
3. "P" means the new population to be served.
4. "U" means the average number of occupants per dwelling unit.
5. "A" means an adjustment for the portion of anticipated additional tax revenues resulting from a development that is prorable to facility improvements contained in the capital facilities plan. ~~Such adjustment for a recreation facility impact fee will be established by city council ordinance and at this time is established at \$130.00. Such adjustment rates shall be updated periodically, but not more than once every year.~~

~~C. Park Impact Fees Imposed. The amended park impact fee based on the parks and recreation needs and impact fee analysis and recreation facility impact fee ordinance, calculated in accordance with this section, is \$3,415 for each single family, duplex and multifamily residential dwelling unit.~~

Section 10. SMC 16.112.040, Amended. Sultan Municipal Code Section 16.112.040 (Development Impact Fees – Traffic impact fee formula) is hereby amended to read as follows:

16.112.040 Traffic impact fee formula.

The impact fee component for roads shall be calculated using the following formula:

$$\text{TIF} = \text{F} \times \text{T} \times \text{A}$$

- A. "TIF" means the traffic impact component of the total development impact fee.
- B. "F" means the traffic impact fee rate per trip in dollar amounts. Such rate shall be established by estimating the cost of anticipated growth-related roadway projects contained in the capital facilities plan divided by the projected number of growth-related trips, as adjusted for other anticipated sources of public funds. Such rates shall be adjusted periodically, but not more often than once every year, to reflect changes in the prevailing construction cost index, facility plan projects, and anticipated growth.
- C. "T" means the trip generated by a proposed development.
- D. ~~"A" means an adjustment for the portion of anticipated additional tax revenues resulting from a development which is prorable to system improvements contained in the capital facilities plan.~~

Section 11. SMC 16.112.050, Amended. Sultan Municipal Code Section 16.112.050 (Development Impact Fees – Calculation of impact fee) is hereby amended to read as follows:

16.112.050 Calculation of impact fee.

A. The impact fee for nonresidential development shall be computed by applying the traffic impact fee formula set out in SMC 16.112.040. The impact fee for a residential development shall be computed by applying the traffic impact fee and recreation facility impact fee formulae set out in SMC 16.112.030 and 16.112.040, combining the results.

B. If development for which approval is sought contains a mix of uses, the impact fee must be separately calculated for each type of use.

~~C. The city council shall have the authority to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances peculiar to specific development activity to ensure that impact fees are imposed fairly.~~

~~D.~~ Upon application by the developer of any particular development activity, the designated city official ~~council~~ may consider studies and data submitted by the developer, and if warranted,

may adjust the amount of the impact fee. Such adjustment shall be deemed warranted if it can be demonstrated that:

1. Due to unusual circumstances, the system improvements would not ~~reasonably~~ benefit the proposed development;
2. The public facility improvements identified are not ~~reasonably~~ related to the proposed development; and
3. The formula set forth for calculating the impact fee ~~does not accurately reflect impacts~~ results in a fee that is not proportionate to the project's impacts.

Section 12. SMC 16.112.080, Amended. Sultan Municipal Code Section 16.112.080 (Development Impact Fees – Impact fee credits) is hereby amended to read as follows:

16.112.080 Impact fee credits for other than traffic impact fees.

The developer shall be entitled to a credit against the applicable impact fee component for the present value of any dedication of land for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest), to system facilities that are/were identified in the capital facilities plan and are required by the city as a condition of approval for the immediate development proposal.

The amount of credit shall be determined at the time of building permit issuance (or site plan approval where no building permit is required). A credit against the applicable impact fee shall be limited to the total amount of the applicable impact fee for the particular development. In the event the amount of the credit is calculated to be greater than the amount of the impact fee due, the developer may apply such excess credit toward impact fees imposed on other developments within the city.

Section 13. New Section. A new section, 16.112.085 SMC – Development Impact Fees –Traffic Impact Fee Credits, is added to Chapter 16.112 to read as follows:

16.112.085 Traffic Impact Fee Credits

The developer shall be entitled to a credit against the transportation impact fee component for the present value of any dedication of land for improvement to or new construction of any system improvements provided by the developer (or the developer's predecessor in interest) whenever a particular system improvement is a condition of approval or terms of a voluntary agreement. A credit shall be limited to the total amount of the transportation impact fee for the particular development.

The initial amount of credit shall be determined by the designated city official at the time of building permit issuance or site plan approval where no building permit is required. The final amount of the credit may be adjusted with the approval of the designated city official to reflect actual costs.

Calculating a transportation impact fee credit shall be determined as follows:

A. When a development frontage abuts a designated system improvement roadway, any credit for this roadway section will be reduced by the cost for the required frontage improvement. Land dedication shall be credited for any additional right-of-way dedication exceeding the local access classified roadway right-of-way standard.

B. Credit shall not be given for project improvements that are primarily for the benefit of the development users or occupants, or that are not located on the frontage when identified in a city

adopted plan. This could include access walkways to schools, centers, and parks. This could also include roadway or safety improvements not identified as system improvements.

C. Credit for land dedication shall be determined by an appraisal conducted by an independent professional appraiser chosen by the developer from a list of at least three such appraisers approved by the city. The cost of the appraisal shall be borne by the developer and is not subject to a credit. The appraisal shall only value the land dedicated and not any alleged damages to any abutting property.

D. Cost for facility construction for system and project improvements shall be based upon a construction cost worksheet provided by the city and completed by the developer, or the city may require actual costs provided by the developer's contractor.

For any residential portion of development, credit shall be determined on a per dwelling unit basis. The credit per dwelling unit shall be determined by calculating the total impact fee credit for the residential portion of generated trips and dividing by the number of dwelling units. Credit will then be applied at the time of permit issuance for each dwelling unit.

No refund or future credit will be allowed in the event that the impact fee credit calculated or actual construction costs exceed the amount of the impact fee.

Section 14. SMC 16.112.090, Amended. Sultan Municipal Code Section 16.112.090 (Development Impact Fees – Appeals) is hereby amended to read as follows:

16.112.090 Appeals.

A developer may appeal the impact fee determination to the designated city official within 20 days of the issuance of the determination of the impact fee.

The following is the process:

A. The developer shall submit a letter explaining the reason for the appeal. Any cited documents in the letter shall be included.

B. The designated city official shall review and respond to the developer within 30 calendar days of the submittal of the appeal letter. The city representative can approve, request additional information, or deny.

1. An approval will include an impact fee determination adjustment.

2. Requested additional information must be provided by the developer to the city within 20 calendar days or in a timeframe as agreed upon by the designated city official.

3. Denial of an appeal will provide an explanation of why this decision was made.

C. If a developer is not satisfied with the designated city official's determination, the developer may request a determination by the city's hearing examiner pursuant to SMC 16.120.100.

D. Impact fees must be paid at time of permit issuance. If the developer has or will be appealing the impact fees, the developer shall submit a letter of protest at the time of the impact fee payment is made.

E. When impact fees have been paid and a determination of a fee reduction is made in the appeal process, a refund or credit for future site fees will be made. No refund will be allowed to exceed the amount of the total impact fees paid for a particular development.

~~Any person aggrieved by the amount of the impact fee calculated and imposed upon a particular development activity may appeal such determination to the city council with 20 days of the issuance of the determination of the impact fee.~~