

**ORDINANCE NO. 2006-06**  
**An Ordinance Establishing a Water Utility Impact Fee**

The Common Council of the City of Cedarburg, Wisconsin, does hereby ordain as follows:

SECTION 1. Chapter 3, Section 6, of the Municipal Code of the City of Cedarburg is hereby amended, copy attached hereto.

SECTION 2. A copy of said amended ordinance to establish an impact fee for Water Supply Facilities is on file and available for public inspection in the Office of the City Clerk.

SECTION 3. This ordinance shall take effect and be in full force after its passage and publication as provided by law.

Passed and adopted by the Common Council of the City of Cedarburg this 13<sup>th</sup> day of March 2006.

\_\_\_\_\_  
Gregory P. Myers, Mayor

Attest:

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Sandra M. Ingram, City Clerk

Approved as to form:

\_\_\_\_\_  
Kaye K. Vance, City Attorney

**Ordinance No. 2006-06**  
**An Ordinance Establishing a Water Utility Impact Fee**

WHEREAS, the City of Cedarburg is a growing community and sound planning requires that there be sufficient capacity to handle increased demand that new development places upon public facilities; and

WHEREAS, the need to plan for and construct facilities for future residents and property owners occurs when those individuals may not be part of the community and therefore existing residents would be required to bear more than a proportionate share of the cost to build or expand facilities needed for new development if impact fees were not imposed; and

WHEREAS, impact fees offer communities an equitable way to charge new development for the provision of new or expanded facilities; and

WHEREAS, the intent of impact fees is to provide the financial means to insure that adequate and necessary public infrastructure is available for development in order to preserve the public health, safety, and general welfare of the community; and

WHEREAS, it is the intention of the City Council, through this ordinance to amend the City of Cedarburg's Impact Fee Ordinance; and

WHEREAS, the Cedarburg Light and Water Utility engaged the engineering firm of Ruekert/Mielke to conduct a public facilities needs assessment so as to determine whether it was appropriate to impose an impact fee on land development for Water Supply Facilities; and

WHEREAS, Ruekert/Mielke has completed a public facilities needs assessment which is entitled: "Facilities Needs Assessment and Impact Fee Study" which is on file with the City of Cedarburg City Clerk; and

WHEREAS, the City Council by enacting this ordinance has relied upon the public facilities needs assessment prepared by Ruekert/Mielke; and

WHEREAS, a public hearing was held on March 13, 2006 regarding this ordinance.

NOW THEREFORE, the City Council of the City of Cedarburg, Ozaukee County, Wisconsin, DOES ORDAIN AS FOLLOWS:

**CHAPTER 6**

**Impact Fees**

**SEC. 3-6-1 PURPOSE.**

The purpose of this section is to promote the public health, safety and general welfare of the community and to facilitate the adequate provision for certain recreational facilities, the reserve capacity at the Wastewater Treatment Plant, the Biosolids Facility, and Water Supply facilities by imposing impact fees upon developers to pay for the capital costs that are necessary to accommodate land development.

**SEC. 3-6-2 DEFINITIONS.**

- (a) "Impact Fees" means cash fees imposed upon a developer under this section.
- (b) "Developer" means a person who constructs or creates a land development.
- (c) "Land Development" means the construction or modification of improvements to real property that creates additional residential dwelling units within the City or that results in non-residential uses that create a need for new, expanded or improved public facilities within the City.
- (d) "City" means the City of Cedarburg, Wisconsin.
- (e) "Capital Costs" means the capital costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless the City can demonstrate that its legal, engineering and design costs which relate directly to the public improvement for which the impact fees were imposed exceed 10% of capital costs. "Capital Costs" does not include other noncapital costs to construct, expand or improve public facilities or the costs of equipment to construct, expand or improve public facilities.
- (f) "Residential Equivalent Connection (REC)" means a unit of measure for water related impact fees equivalent to the average amount of water capacity needed to supply one single-family residential dwelling unit. For the purpose of the water supply impact fees established under this Ordinance, a REC shall be equal to 74,825 gallons annually.

**SEC. 3-6-3 SWIMMING POOL.**

Any developer creating or constructing additional residential dwelling units within the City shall pay a fee to the City to provide for the capital costs necessary to accommodate the swimming pool expansion needs of land development except as provided in subsection (11) below.

- (a) The amount of the fee shall be Five Hundred Eighty-Five Dollars and Nine Cents (\$585.09) per single family residential dwelling unit to be constructed or created by the proposed development.

- (b) The amount of the fee shall be Four Hundred Seventeen Dollars and Sixty-Four Cents (\$417.64) per residential unit for a two-to four-family residential dwelling unit to be constructed or created by the proposed development.
- (c) The amount of the fee shall be Three Hundred Forty-Two Dollars and Ninety-Nine Cents (\$342.99) per residential unit for a multi-family residential dwelling unit to be constructed or created by the proposed development.
- (d) The fee shall be imposed at the time of final platting and prior to the approval of the development agreement. For lots not subject to land division or plat approval, the fee shall be imposed as a condition of the issuance of the building permit.
- (e) Such fees collected by the City shall be placed in a special fund which shall be separate from the General Fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the swimming pool and recreational facilities within the City.
- (f) Such fees shall be expended by the City for the aforesaid purpose within fifteen (15) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

**SEC. 3-6-4 RESERVE CAPACITY AT THE WASTEWATER TREATMENT PLANT.**

Any developer creating or constructing additional residential dwelling units, or any commercial, industrial or institutional land development within the City shall pay a fee to the City to provide for the capital costs necessary to accommodate the reserve capacity at the Wastewater Treatment Plant except as provided in subsection (11) below.

- (a) The amount of the fee shall be Four Hundred Sixteen Dollars and Twenty-One Cents (\$416.21) per single family residential dwelling unit to be constructed or created by the proposed development.
- (b) The amount of the fee shall be Two Hundred Ninety-Five Dollars and Eighty-Six Cents (\$295.86) per two- to four-family residential dwelling unit to be constructed or created by the proposed development.
- (c) The amount of the fee shall be Two Hundred Forty-Three Dollars and Ninety-Nine Cents (\$243.99) per multi-family residential dwelling unit to be constructed or created by the proposed development.
- (d) The amount of the fee shall be Four Hundred Sixteen Dollars and Twenty-One Cents (\$416.21) per the number of residential equivalent flow of each industrial, commercial and institutional unit to be constructed or created by the proposed development.
- (e) The fee shall be imposed at the time of final platting and prior to the approval of the development agreement. For lots not subject to land division or plat approval, the fee shall be imposed as a condition of the issuance of the building permit.
- (f) Such fees collected by the City shall be placed in a special fund which shall be separate from the general fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the reserve capacity of the Wastewater Treatment Plant.

- (g) Such fees shall be expended by the City for the aforesaid purpose within ten (10) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

**SEC. 3-6-5 BIOSOLIDS MANAGEMENT FACILITY.**

Any developer creating or constructing additional residential dwelling units or any commercial, industrial, or institutional land development within the City shall pay a fee to the City to provide for the capital costs necessary for expansion of the proposed biosolids management facility except as provided in subsection (11) below.

- (a) The amount of the fee shall be One Hundred Three Dollars and Four Cents (\$103.04) per single family residential dwelling unit to be constructed or created by the proposed development.
- (b) The amount of the fee shall be Seventy-Three Dollars and Fifty-Four Cents (\$73.54) per residential unit for a two-to four-family residential dwelling unit to be constructed or created by the proposed development.
- (c) The amount of the fee shall be Sixty Dollars and Forty Cents (\$60.40) per residential unit for a multi-family residential dwelling unit to be constructed or created by the proposed development.
- (d) The amount of the fee shall be One Hundred Three Dollars and Four Cents (\$103.04) per the number of residential equivalent flow of each industrial, commercial and institutional unit to be constructed or created by the proposed development.
- (e) The fee shall be imposed at the time of final platting and prior to the approval of the development agreement. For lots not subject to land division or plat approval, the fee shall be imposed as a condition of the issuance of the building permit.
- (f) Such fees collected by the City shall be placed in a special fund which shall be separate from the general fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the biosolids management facility.
- (g) Such fees shall be expended by the City for the aforesaid purpose within twenty (20) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

**SECTION 3-6-6 LIBRARY FACILITY**

Any developer creating or constructing additional residential units within the City shall pay a fee to the city to provide for the capital costs necessary to accommodate the Library expansion needs of land development except as provided in subsection (11) below.

- (a) The amount of the fee shall be Six Hundred Forty-Six Dollars and Twenty-Five Cents (\$646.25) per single-family residential dwelling unit to be constructed or created by the proposed development.
- (b) The amount of the fee shall be Three Hundred Seventy-Eight Dollars and Eighty Four Cents (\$378.84) per residential unit for a two- to four-family residential dwelling unit to be constructed or created by the proposed development.

- (c) The amount of the fee shall be Three Hundred Seventy-Eight Dollars and Eighty-Four Cents (\$378.84) per residential unit for a multi-family residential dwelling unit to be constructed or created by the proposed development. Multi-family includes Community Based Residential Treatment facilities.
- (d) The fee shall be imposed at the time of final platting and prior to the approval of the development agreement. For lots not subject to land division or plat approval, the fee shall be imposed as a condition of the issuance of the building permit.
- (e) Such fees collected by the City shall be placed in a special fund which shall be separate from the General Fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the library facilities within the City.
- (f) Such fees shall be expended by the City for the aforesaid purpose within fifteen (15) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

### **SECTION 3-6-7 POLICE DEPARTMENT FACILITY**

Any developer creating or constructing additional residential dwelling units or any commercial, industrial or institutional land development within the City shall pay a fee to the city to provide for the capital costs necessary to accommodate the Police Department Facility expansion needs of land development except as provided in subsection (11) below.

- (a) The amount of the fee shall be \$770.88 for single-family residential; \$550.25 for two- to four-family residential; \$451.89 for multifamily residential and CBRF and \$1.96 per \$1,000 valuation for commercial, industrial or institutional development.
- (b) The fee shall be imposed at the time of final platting and prior to approval of the Developers Agreement. For lots not subject to land division or plat approval, the fee shall be imposed as a condition of issuance of the building permit.
- (c) Such fees collected by the City shall be placed in a special fund which shall be separate from the General Fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the police facilities within the City.
- (d) Such fees shall be expended by the City for the aforesaid purpose within fifteen (15) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

### **SECTION 3-6-8 PARK FACILITIES**

Any developer creating or constructing additional residential units within the City shall pay a fee to the city to provide for the capital costs necessary to accommodate the Park facility expansion needs of land development except as provided in subsection (11) below.

- (a) The amount of the fee shall be One Thousand Five Hundred Sixty-One Dollars and Fifty-Eight Cents (\$1,561.58) per single-family residential dwelling unit to be constructed or created by the proposed development.
- (b) The amount of the fee shall be Nine Hundred Fifteen Dollars and Forty-One Cents (\$915.41) per residential unit for a two- to four-family residential dwelling unit to be constructed or created by the proposed development.
- (c) The amount of the fee shall be Nine Hundred Fifteen Dollars and Forty-One Cents (\$915.41) per residential unit for a multi-family residential dwelling unit to be constructed or created by the proposed development. Multi-family includes Community Based Residential Treatment facilities.
- (d) The fee shall be imposed at the time of final platting and prior to the approval of the development agreement. For lots not subject to land division or plat approval, the fee shall be imposed as a condition of the issuance of the building permit.
- (e) Such fees collected by the City shall be placed in a special fund which shall be separate from the General Fund of the City, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of the park facilities within the City.
- (f) Such fees shall be expended by the City for the aforesaid purpose within fifteen (15) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

**SEC 3-6-9 WATER SUPPLY FACILITIES**

Any developer creating or constructing additional residential dwelling units or commercial, industrial, or institutional land development within the City or any owner of property in the City that has a change in use that results in the use of additional water capacity shall pay a fee to the City to provide for the capital costs necessary to accommodate water supply expansion needs of land development except as provided in subsection (11) below.

- (a) The water supply facilities impact fee shall be One Thousand Two Hundred Fifty Nine Dollars \$1,259 per residential equivalent connection (REC).
- (b) For all residential users of the water system, the following table shall be used to determine the number of residential equivalent connections (REC) per dwelling unit or building.

<b>Residential Users</b>	<b>REC</b>
Condominium	1.00
Single-family home	1.00
Duplex	2.00
Multiple-family (2 bedrooms or more)	1.00/unit
Multiple-family (1 bedroom or less)	0.75/unit

- (c) For all nonresidential users of the water system, anticipated water consumption shall be estimated from the following table for purposes of computing the water impact fee unless the General Manager of the Cedarburg Light and Water Utility

determines that the information in the table does not accurately reflect the user’s anticipated water consumption, in which case the General Manager will estimate water consumption. The RECs will be determined by dividing the estimated water consumption by the water consumption for 1.00 REC. The minimum REC for any property shall not be less than 1.00 REC. Upon completion of the REC computations, all RECs will be rounded up to the nearest 0.5 REC and an impact fee of One Thousand Two Hundred Fifty Nine Dollars \$1,259 per REC will be calculated.

<b>Standard Industrial Classification Code</b>	<b><u>Description</u></b>	<b>Gallons per Employee Hour</b>
0742	Veterinary services for animal specialties	20.0
0752	Animal specialty services	16.0
0782	Lawn and garden services	10.0
1446	Industrial sand	5.0
1521	General contractors – Residential	2.3
1541	General contractors – Industrial buildings and warehouses	2.3
1611	General contractors-Public Works	2.3
1711	Plumbing, heating and air conditioning	2.3
1731	Electrical work	2.3
1761	Roofing and sheet metal work	2.3
1799	Special trade contractors (not elsewhere classified)	2.3
2013	Sausage and other prepared meats	110.0
2065	Candy and other confectionery products	50.0
2087	Flavoring extracts and syrups (not elsewhere classified)	75.0
2394	Canvas and related products	2.3
2431	Millwork	5.0
2434	Wood kitchen cabinets	5.0
2522	Metal office furniture	2.3
2721	Periodicals: Publishing and printing	10.0
2731	Books: Publishing and printing	10.0
2751	Commercial printing, letterpress and screen	10.0
2752	Commercial printing, lithographic	10.0
2789	Book binding and related work	10.0
2795	Lithographic plate making and related services	25.0
2819	Industrial inorganic chemicals (not elsewhere classified)	10.0
2834	Pharmaceutical preparation	10.0
2841	Soap and other detergents	15.0
2893	Manufacturing of printing ink	30.0
2899	Chemicals and chemical preparations (not elsewhere classified)	10.0
3079	Miscellaneous plastic products	85.0
3111	Leather tanning and finishing	345.0
3272	Concrete products, except block and brick	25.0
3442	Metal doors, sash, frames, molding and trim	2.3
3444	Sheet metal work	40.0
3451	Screw machine products	10.0
3462	Iron and steel forging	5.0

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3469	Metal stampings (not elsewhere classified)	5.0
3471	Electroplating, plating, polishing, anodizing, etc.	50.0
3479	Coating, engraving and allied services (not elsewhere classified)	100.0
3495	Wire springs	2.3
3498	Fabricated pipe and fittings	2.3
3499	Fabricated metal products (not elsewhere classified)	25.0
3531	Construction machinery and equipment	5.0
3544	Spec. dies and tools, die sets, jigs and fixtures, molds	10.0
3562	Ball and roller bearings	5.0
3565	Industrial patterns	5.0
3569	General industrial machinery & equipment (not elsewhere classified)	4.0
3576	Scales and balances, except laboratory	2.3
3599	Machinery, except electrical (not elsewhere classified)	10.0
3613	Switchgear and switchboard apparatus	5.0
3632	Household refrigerators and home and farm freezers	2.3
3694	Electrical equipment for internal combustion engines	2.3
2714	Motor vehicle parts and accessories	75.0
3999	Manufacturing industries (not elsewhere classified)	2.3
4141	Local passenger transportation charter service	2.3
4151	School busses	2.3
4212	Local trucking without storage	10.0
4213	Trucking, except local	2.3
4225	General warehousing and storage	2.3
4311	U.S. Postal Service	2.3
4722	Travel agency	2.3
4811	Telephone communication	2.3
4832	Radio broadcasting	2.3
5042	Toys and hobby goods and supplies	2.3
5063	Electrical apparatus and equipment	2.3
5054	Electrical appliances	2.3
5072	Hardware – Wholesale distribution	2.3
5082	Construction and mining machinery and equipment	2.3
5084	Industrial machinery and equipment	2.3
5142	Frozen foods	10.0
5149	Wholesale groceries and related products (not elsewhere classified)	10.0
5199	Wholesale nondurable goods (not elsewhere classified)	10.0
5211	Lumber and other building materials	2.3
5231	Paint, glass, wallpaper	2.3
5251	Hardware – Retail sales	2.3
5261	Retail nurseries, lawn and garden supply stores	10.0
5271	Mobile home dealers	2.3
5311	Department stores	2.3
5331	Variety stores	2.3
5411	Grocery stores with meat and produce departments	16.0
5412	Grocery stores without meat and produce departments	6.0
5441	Candy, nut and confectionery stores	10.0
5462	Retail bakeries – Baking and selling	10.0
5499	Miscellaneous food stores	2.3
5511	Motor vehicle dealers	5.0
5531	Auto and home supply stores	2.3
5541	Gasoline service stations	15.0
5551	Boat dealers	5.0
5611	Clothing stores	2.3

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5651	Shoe stores	2.3
5681	Furriers and fur shops	5.0
5711	Furniture, floor coverings, appliances	2.3
5812	Eating places (restaurants)	20.0
5813	Drinking places (taverns)	45.0
5912	Drugstores and proprietary stores	2.3
5921	Liquor stores	2.3
5931	Used merchandise stores	2.3
5941	Sporting goods stores and bicycle shops	2.3
5942-9	Miscellaneous stores	2.3
5992	Florists	10.0
5999	All other retail stores	2.3
6022-9	Banks	2.3
6122-63	Savings and loans	2.3
6311	Insurance companies	2.3
6411	Insurance agents	2.3
6512	Operators of nonresidential buildings	2.3
6515	Operators of residential mobile home sites	2.3
6531	Real estate agents and managers	2.3
6553	Cemetery sub-dividers and developers	2.3
6722	Management investment offices	2.3
7011	Hotels, motels, tourist courts	0.5 REC p/unit
7211	Power laundries, family and commercial	105.0
7212	Cleaning and laundry pickup stations	2.3
7215	Fac. Coin-op laundries and dry cleaning	910.0
7221	Photographic studios	2.3
7231	Beauty shops	16.0
7241	Barber shops	10.0
7261	Funeral service and crematories	15.0
7299	Miscellaneous services (not elsewhere classified)	2.3
7311	Advertising agencies, employment services	2.3
7332	Blueprinting and photocopying services	2.3
7351	Employment agencies	2.3
7391	Research and development laboratories	10.0
7395	Photofinishing labs	10.0
7512	Passenger car rental and leasing, w/o drivers	10.0
7531	Top and body repair shop	5.0
7534	Tire re-treading and repair shops	20.0
7538	General automotive repair shops	5.0
7542	Car washes	115.0
7622	Radio and television repair	2.3
7699	Repair shops and related services (not elsewhere classified)	20.0
7832	Motion picture theaters, not drive-ins	20.0
7911	Dance halls, studios and schools	20.0
7922	Theatrical producers	20.0
7933	Bowling alleys	50.0
7992	Public golf courses	45.0
7997	Membership sports and recreation clubs	75.0
7999	Roller rinks, gymnasiums, museums	20.0
8011	Offices of physicians	10.0
8021	Offices of dentists	10.0
8031	Offices of osteopaths	10.0
8041	Offices of chiropractors	10.0

8051	Skilled nursing care facilities	20.0
8091	Health and allied services (not elsewhere classified)	10.0
8111	Attorneys	2.3
8211	Elementary and secondary schools	20.0
8221	Colleges, universities and professional schools	25.0
8231	Libraries and information centers	20.0
8249	Vocational schools (not elsewhere classified)	20.0
8421	Arboreta, botanical and zoological gardens	45.0
8621	Professional membership organizations	2.3
8641	Civic, social and fraternal associations	15.0
8661	Religious organizations (hours occupied only)	20.0
8699	Membership organizations (not elsewhere classified)	2.3
38911	Engineering, architectural and surveying services	2.3
8931	Accountants	2.3
9199	General government (not elsewhere classified)	2.3
9221	Police protection	2.3
9224	Fire protection	2.3
9451	Administration of veteran's affairs	2.3
9999	All offices (not elsewhere classified)	2.3

SIC Code Source: Office of Management and Budget, Executive Office of the President

- (d) The fee shall be imposed at the time of final platting and prior to the approval of the development agreement. For lots not subject to land division or plat approval and existing properties that will have a change in use, the fee shall be imposed as a condition of the issuance of the building permit.
- (e) Such fees collected by the Water Utility shall be placed in a special fund which shall be separate from the general fund of the Water Utility, and the special fund and all interest earned thereon shall be used exclusively for the capital costs of water supply facilities.
- (f) Such fees shall be expended by the Water Utility for the aforesaid purpose within twenty (20) years of the date of payment, or such fee amount paid shall be refunded to the then owner(s) of the property upon which such fee was collected.

**SEC.3-6-10 FEE REDUCTION.**

Any impact fee imposed under this section shall be reduced to compensate for capital costs otherwise imposed by the City, upon the land development subject to this section, for the same public facilities for which an impact fee has been imposed under this section, including by way of special assessments, special charges, land dedications or fees in lieu of land dedications under Ch. 236, Wis. Stats. or any ordinance adopted thereunder or any other items of value. Impact fees imposed under this section shall also be reduced to compensate for monies received from the federal or state government, specifically to provide or pay for the public facilities for which the impact fees under this section are imposed.

**SEC.3-6-11 ADMINISTRATION AND REVIEW.**

All fees collected and special accounts maintained under this section, shall be subject to administration by the City Treasurer. Commencing with the calendar year subsequent to

the effective date of this section, the City Treasurer shall report annually to the Common Council with information necessary to determine that all funds collected are spent within the time required, for the purpose intended, and that the amount of fees imposed continues to represent an equitable and reasonable apportionment of the costs of public improvements and requirements generated by land development. Upon such considerations and for such purposes, the Common Council may make reasonable adjustments to the amount of such fees and determine whether there exists any reasonable need for refund of fees previously collected. The impact fees imposed under this section shall be adjusted annually each December, with any adjustment to be effective on January 1 of the following year. The annual adjustment will be based on a Construction Cost Index published in the Engineering News Record (the "CCI"). Said percentage shall be calculated on the average of the CCI indices for the Cities of Chicago and Minneapolis.

**SEC.3-6-12 APPEAL.**

Any developer upon whom an impact fee is imposed under this section as a condition of the issuance of a building permit, shall have the right to contest the amount, collection or use of the impact fee to the Common Council, provided that the developer files a written notice of appeal in the City Clerk's office within 15 days of the developer's filing of an application for a building permit upon which the impact fee is imposed. Such notice of appeal shall be entitled "Notice of Appeal of Impact Fee" and shall state the developer's name, address, telephone number, address of property being developed (if available), legal description of the land development upon which the impact is imposed, and a statement of the nature of and reasons for the appeal. The City Clerk shall schedule the appeal for consideration by the Common Council at a regular meeting as soon as reasonably practicable under the circumstances and shall notify the developer of the time, date and place of such meeting in writing by regular mail, deposited in the mail no later than at least three (3) days before the date of such meeting. Upon review of such appeal, the Common Council may adjust the amount, collection or use of the impact fee upon just and reasonable cause shown.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of all other provisions, sections or portion thereof of this ordinance, which shall remain in full force and effect.