

Legal Issues Checklist for Parks Impact Fees	
Issue	Description
Needs	A developer may only be compelled to assume a cost which bears a reasonable relationship to the needs created by, and benefits conferred upon, the new development. Planning documentation should support the determination of parks needs related to new development, and the costs associated with those facilities.
Benefits	Only park improvements that reasonably benefit new development can be funded by impact fees. Since Missouri has no user fee enabling legislation, the "reasonable relationship" test would likely be applied the courts to test an impact fee ordinance.
Capital facilities plan	Impact fees must fit within the framework of a capital improvements plan, providing a budget to pay for parks facilities. Other methods of financing parks improvements must be taken into account (also see credits below).
Existing Deficiencies	Impact fees must arise from the costs of parks improvements and construction that will be needed to serve new development. New development cannot be made to pay for (1) existing parks that serve previously existing development, or (2) correction of existing deficiencies. Parks can remain open to the public, but the need for new facilities must justify the impact fee.
Earmarking	Impact fees must be earmarked, collected and set aside solely for the purpose of paying for the new parks facilities created by the new development in the appropriate service area. Segregated accounts are typically established for each service area to ensure proper accounting and expenditure of fees.
Credits	User fees must account for the extent to which the newly developed properties are entitled to a credit because the City is requiring developers or owners to pay for parks improvements attributable to new development through other methods. The Parks sales tax should be factored into this analysis.

Service areas; Proximity of improvements	Impact fees must pay for parks improvements serving the new development, and these improvements must be in reasonably close geographic proximity to the new development. Service areas are typically established to ensure a reasonable connection between the property and the improvements.
Timing	Generally, a capital improvements plan controls the timing of adequate public facilities to serve new development, as demand is created by new growth. The timing of a valid user fee ordinance involves two issues: (1) the point in the development approval process at which the fee is imposed, and (2) a sufficient nexus between the time when the user fee is assessed and the time when the parks improvements occur within the appropriate service area.
No double-charging	Illegal double-charging occurs when two fees of the same character are imposed on the same property, for the same purpose, by the same taxing authority within the same jurisdiction during the same taxing period. This must be avoided.
Engineering standards	The fee calculation methodology must use generally accepted practices, including the calculation of the costs of parks improvements and the demand created by each parcel paying the fee.
Time-price differential of fees paid at different times	Inflationary factors should be included in the calculation of the fees, to ensure a fair time-price differential between earlier and later fee payers for the same facilities. The calculation of credits can aid resolution of this issue.
Extraordinary costs	Location of new development, topography, geography, and natural limitations associated with providing public services to new development may be taken into account (related to creation of service areas).
No hypothetical scenarios	Hypothetical development scenarios may not be used to impose user fees.