~~**Chapter 7**~~

~~**CAPITAL FACILITY IMPACT FEE**~~

~~**11-7-1: PURPOSE AND LEGISLATIVE INTENT:**~~
~~**11-7-2: DEFINITIONS:**~~
~~**11-7-3: GENERAL REGULATORY REQUIREMENTS:**~~
~~**11-7-4: CAPITAL FACILITY IMPACT FEE CREDIT:**~~
~~**11-7-5: CAPITAL FACILITY IMPACT FEES TO BE EARMARKED:**~~
~~**11-7-6: CITY MANAGER RULES:**~~

Chapter 14

LAND DEVELOPMENT CHARGES

1-14-1: PURPOSE AND LEGISLATIVE INTENT:

(A) Purpose: The purpose of this chapter is to ~~charge~~ authorize the imposition of a ~~capital facility~~ land development impact fee to applicants for nonresidential and residential development in the city to fund capital improvements needed to address demand attributable to new development for fire, general government facilities, museum, police, ~~facilities~~, library ~~and~~ transportation, parks and stormwater

(B) Legislative Intent: The city council recites the following legislative findings and statements of intent that were taken into consideration in the adoption of ~~this chapter~~ land development impact fees:

1. The ~~capital facility~~ land development impact fees collected pursuant to this chapter are not intended to fund operation, maintenance or replacement costs or otherwise fund the general costs of government.

2. The ~~capital facility~~ land development impact fee applies regardless of the value of the property developed. The ~~capital facility~~ land development impact fee shall be imposed in addition to other fees, taxes or charges of the city and is designed to cover the costs generated to the city by the add.

3. The ~~capital facility~~ land development impact fee established in this chapter is ~~in part on the methodology in the "Impact Fee Study" prepared by BBC Research & Consulting, Inc., dated July 30, 2013, as updated by a supplemental memorandum dated June 5, 2014.~~ the imposition of fees on each new service unit that is constructed as part of land development within the city.

4. The city council finds that the impact fee study and this chapter establish ~~capital facility~~ land development impact fees that are generally applicable to ~~broad classes of property~~; land development; quantifies the reasonable impacts of proposed development on

capital facilities; and establishes charges at a level no greater than necessary to defray such impacts directly related to proposed development.

5. The city council intends that the ~~capital facility~~ land development impact fees collected pursuant to this chapter are to be used to fund expenditures for capital facilities attributable to ~~new development~~ land development which shall mean any of the following:

   a. The subdivision of land

   b. Construction, reconstruction, redevelopment or re conversion of use of land or any structural Alteration, relocation, enlargement which results in an increase in the number of service units required

   c. An extension of use or a new use of land which results in the number of service units required.

6. The city council intends that land development impact fees should be imposed upon land development based upon the principle of new growth paying for the costs attributable to new growth.

1-14-2: DEFINITIONS:

For purposes of this chapter the following words have the following meanings, unless the context clearly indicates otherwise:

ACCESSORY USE: Shall have the same meaning as in section 10-1-2 of this code.

CAPITAL FACILITIES ~~Y CLASSIFICATION~~: Each separate municipal capital facility ~~area~~ for which the ~~capital facility~~ ~~land development~~ impact fee is charged, including library, museum, general government facilities, police, fire and transportation. Upon approval by the council by ordinance, capital facilities may include parks, stormwater and water reclamation.

~~CAPITAL FACILITY IMPACT FEE: The fee charged in accordance with this chapter~~.

~~DEVELOPMENT AND DEVELOPED PROPERTY: The construction, existence or the intensification of any structure attached to real property.~~

DWELLING UNIT: Shall have the same meaning as in section 10-1-2 of this code.

FLOOR AREA: Shall have the same meaning as in section 10-1-2 of this code.

LAND DEVELOPMENT shall mean any of the following:

a. The subdivision of land

b. Construction, reconstruction, redevelopment or re conversion of use of land or any structural Alteration, relocation, enlargement which results in an increase in the number of service units required

c. An extension of use or a new use of land which results in the number of service units required.

LAND DEVELOPMENT IMPACT FEES: The fees charged in accordance with this chapter for land development.

MIXED USE DEVELOPMENT: Land development that combines residential development and nonresidential development on the same real property.

MULTI-FAMILY RESIDENTIAL DEVELOPMENT: Land development for which the principal use of developed property as a multiple-family dwelling, as that term is defined in section 10-1-2 of this code.

NONRESIDENTIAL DEVELOPMENT: Land development for which the principal use of developed property as other than single-family residential or multi-family residential development and includes, without limitation, motels, hotels, resorts, nursing homes and bed and breakfasts.

RESIDENTIAL DEVELOPMENT: Land development that is multi-family residential development or single-family residential development.

SINGLE-FAMILY RESIDENTIAL DEVELOPMENT: Land development for which the principal use of developed property as a single-family dwelling, as that term is defined in section 10-1-2 of this code.

UNINHABITABLE AREA: A room that has a six foot (6') or less floor to ceiling height, or a room housing mechanical or electrical equipment that serves the building, with less than three feet (3') of clearance in any dimension between the equipment (except supply and return air ducts and wiring) and the adjacent wall.

1-14-3: GENERAL REGULATORY REQUIREMENTS:

(A) ~~Capital Facility~~ Land Development Impact Fee Payment: Any person engaged in ~~nonresidential or residential development~~ land development in the city shall pay the ~~capital facility~~ land development impact fee described in subsection (B) of this section.

(B) Impact Fee Rate: ~~Capital facility~~ Land development impact fees shall be assessed and collected according to the standards of this chapter and the following rates:

TABLE 1-14-3

Use	~~Capital Facility~~ Land Development Impact Fee Rate						Total
	Fire	Museum	Library	Police	Facilities	Transpor-tation	
Residential (per dwelling unit)	$0	$515.00	$542.00	$319.00	$1,550.00	$1,049.00	$3,975.00
Nonresidential (per sq. ft.)	$0	$0.00	$0.00	$0.160	$0.775	$2.607	$3.542

(C) ~~Capital Facility~~ Land development Impact Fee Timing: The capital facility land development impact fee prescribed by this chapter is in addition to any other fee, tax or charge required by this code or any other ordinance of the city. The ~~capital facility~~ land development impact fee shall be paid at the time of the issuance of a building permit, unless an earlier time is specified in a development agreement.

(D) ~~Capital Facility~~ Land Development Impact Fee On land development: The ~~capital facility~~ land development impact fee shall be charged on the following types of development:

1. Nonresidential Development:

(a) New Nonresidential Development: Any person who proposes ~~to construct a structure in a nonresidential development~~ land development that is nonresidential shall pay the ~~capital facility~~ land development impact fee in subsection (B) of this section.

(b) Replacing An Existing Nonresidential Structure: Any person who proposes to replace a structure in a nonresidential development shall pay the ~~capital facility~~ impact fee in subsection (B) of this section for the net increase in floor area square footage.

(1) In calculating the ~~capital facility~~ land development impact fee, ~~city manager, or his designee~~, the finance director or their designee shall ~~credit the nonresidential development with an amount equal to the fee that would have been charged to the~~

~~existing use at the time of redevelopment~~. calculate the land development impact fee on the net increase in square footage. No additional land development impact fee shall be charged upon the existing square footage unless there is an increase in service units.

~~A. If the credit is less than the amount of the capital facility impact fee for each capital facility classification, the applicant shall pay the difference.~~

~~B. If the credit is greater than the amount of the capital facility impact fee for each capital facility classification, the applicant will not be required to pay for each such capital facility classification.~~

(2) The credit prescribed by this subsection applies only to the property served and only to the capital facility impact fees owed to the city and not to other fees, taxes or charges.

(3) No refund for any credit prescribed by this subsection shall be paid to any person.

(c) Additional Floor Area: Any person who proposes to add floor area to any nonresidential development shall pay the ~~capital facility~~ land development impact fee in subsection (B) of this section for the net increase in floor area for nonresidential development.

(d) Decreased Floor Area: Any person who proposes to decrease the floor area of any nonresidential development shall be exempt from paying the ~~capital facility~~ land development impact fee in subsection (B) of this section and shall not receive any refund or credit for the decrease in floor area for nonresidential development.

2. Land development that is Residential ~~Development~~:

(a) New Residential Development: Any person who proposes to construct a dwelling unit in a residential development shall pay the ~~capital facility~~ land development impact fee in subsection (B) of this section.

(b) Increased Number Of Dwelling Units: Any person who proposes to increase the number of dwelling units ~~of any residential development~~ on any parcel shall pay the capital facility impact fee in subsection (B) of this section for the net increase in dwelling units for residential development.

(c) Decreased Number Of Dwelling Units: Any person who proposes to decrease the number of dwelling units ~~of any residential development~~ on any parcel shall be exempt from paying the ~~capital facility~~ land development impact fee in subsection (B) of this section and shall not receive any refund or credit for the decrease in dwelling units for residential development.

(d) Additions To Structures In Residential Development: An accessory building of a residential use or an addition to an existing dwelling unit~~, provided no additional dwelling units are created,~~ shall be exempt from paying a ~~capital facility~~ land development impact fee, unless such addition contains a bedroom, bathroom, kitchen facilities and a

separate entrance for ingress and egress in such case it shall be treated as an additional residential unit and a fee shall be charged.

3. Change In Use: For existing residential or nonresidential development, whenever there is a change of use classification the applicant shall pay the capital facility impact fee for the new use as described below:

(a) If an existing residential development or nonresidential development is changing use by adding an additional number of residential dwelling units, a land development impact fee shall be charged for each new dwelling unit added.

(b) If an existing residential development or nonresidential development is changing use by reducing the number of residential dwelling units, no land development impact fee shall be charged for the residential dwelling units.

(c) If an existing non-residential development is increasing the amount of square footage of the nonresidential development, the land development impact fee shall be calculated on the amount of increased square footage.

(d) If an existing non-residential development is decreasing the amount of square footage of the non-residential development, there shall be no credit for the land development impact fees paid.

~~(a) Determination Of Capital Facility Impact Fee Rate For A Change Of Use: For conversions of existing floor area to different uses, the capital facility impact fee will be the difference in rate between each of the capital facility classifications for the existing use and for the proposed use as follows:~~

~~(1) In calculating the capital facility impact fee, the city manager, or his designee, shall credit each developed property with an amount equal to the fee that would have been charged to the existing use at the time of the change in use.~~

~~A. If the credit is less than the amount of the capital facility impact fee for each capital facility classification, the applicant shall pay the difference.~~

~~B. If the credit is greater than the amount of the capital facility impact fee for each capital facility classification, the applicant shall not pay for each such capital facility classification.~~

(2) The credit prescribed by this subsection applies only to the property served and only to the capital facility impact fees owed to the city and not to other fees, taxes or charges.

(3) No refund for any credit prescribed by this subsection shall be paid to any person.

4. Mixed Use Development: For mixed use development, the applicant shall pay the residential rate of the capital facility impact fee for the residential development portion of

the project and shall pay the nonresidential rate of the capital facility impact fee for the nonresidential development portion of the project. The provisions of this chapter applicable to residential development shall be applicable to the residential development portion of the mixed use development as if such portion of the mixed use development were solely residential development, and the provisions of this chapter applicable to nonresidential development shall be applicable to the nonresidential development portion of the mixed use development as if such portion of the mixed use development were solely nonresidential development.

(E) Interpretation Of Use Classifications: The ~~city manager, or his designee~~ finance director or their designee, may decide questions of interpretation of the use classification in subsection (B) of this section. This decision shall be based on precedents, similar situations, relative impacts, trip generation rates, employees per demand unit ~~or the methodology used to create such classifications in the "Impact Fee Study" prepared by BBC Research & Consulting, Inc., dated July 30, 2013, as updated by a supplemental memorandum dated~~ or any other information deemed relevant to the calculation of the land development impact fee.

(F) Appeal: Any fee payer aggrieved by a decision of the ~~city manager, or his designee,~~ finance director or their designee under this chapter may request a hearing. ~~under the procedures prescribed by title 10, chapter 11, "Board Of Adjustment", of this code.~~ Before a hearing officer appointed for such purposes. The hearing shall be to determine whether the procedures of this chapter were followed.

(G) Measurement Of Floor Area: No person applying for a building permit shall fail to provide the city with a floor area measurement for nonresidential development. The floor area measurement shall be signed by a professional engineer or architect licensed by the state of Colorado, or in another form acceptable to the city manager, or his designee, at the time of such application. The fee imposed by this chapter shall be apportioned according to such measurement. The rate of fee for each accessory use shall be the same as that for the principal use to which the accessory use is related.

(H) Rate At Time Of Application: The fee shall be calculated and charged at the rates in effect at the time of acceptance of a complete application for a building permit and shall be payable upon ~~building permit issuance~~ application for a building permit.

1-14-4: ~~CAPITAL FACILITY~~ LAND DEVELOPMENT IMPACT FEE CREDIT:

(A) The ~~city manager, or his designee, may recommend to council~~ finance director or their designee may provide a ~~capital facility~~ land development impact fee credit on any of the fees imposed by this chapter if secured by a development agreement~~,~~ ~~subdivision improvement agreement~~ or other legally binding instrument in which the owner and/or developer has agreed to make and dedicate to the city any capital improvements beyond those required by any provision of this code that would benefit the public at large to the same degree as collection of the ~~capital facility~~ land development impact fee and the agreement providing for such credits has been approved by the council, and that granting the credit will not result in a substantial increase in the city's costs of providing capital improvements in the future.

The amount of the credit shall be equal to the cost of such improvements to the person, as determined by the city manager, or his designee, and in no event shall the credit be greater than the amount of ~~capital facility~~ land development impact fee for each category that would be due on the property. Credits may only be applied against each specific capital facility fee category. No certificate of occupancy, temporary or otherwise, shall be issued for the property until such improvements have been completed to the satisfaction of the city manager, or his designee, and dedicated to the city, or a financial guarantee in a form allowed under subsections 11-5-1(D)5 and (D)7 of this title or as provided in any development agreement, subdivision improvement agreement or other legally binding instrument and in an amount sufficient to secure the full costs, as determined by the city manager, or his designee, of constructing or installing the improvements, has been provided by the owner and/or developer.

(B) ~~Upon written request of the owner and/or developer, the city manager, or his designee, may grant a credit to such owner and/or developer who have paid the previous public facility fee or parks/open space fee but have not applied for a building permit. The amount of credit shall be equal to the amount expended for those fees and in no event shall the credit be greater than the amount of those fees paid previously for the property.~~

1-14-5: ~~CAPITAL FACILITY~~ LAND DEVELOPMENT IMPACT FEES TO BE EARMARKED:

The city shall establish and maintain a land development ~~capital facility~~ impact fee account for each category of capital facility for which a ~~capital facility~~ land development impact fee is imposed. Each such account ~~must be clearly identified as to the category of capital facility for which the capital facility impact fee has been imposed~~.shall be accounted for separately.

~~The city shall reflect the historical allocation of the capital facility impact fee in each annual budget. The funds collected will be allocated according to the following capital facility categories: fire, museum, library, police, facilities, and transportation and shall be used exclusively for the purpose of capital improvements related to each particular category.~~

Land development impact fees shall be accounted for by each capital facility category. The city shall publish annually on its website detailing the allocation of the land development impact fees by capital facility categories, the interest earned on each category and the amounts disbursed from each category.

1-14-6: CITY MANAGER RULES:

The city manager, or his designee, is authorized to adopt rules and regulations necessary in order to interpret, further define or implement the provisions of this chapter.