

1 **BELLEVUE ORDINANCE NO. 2021-03**  
2

3 AN ORDINANCE OF THE CITY OF BELLEVUE, IDAHO, AMENDING TITLE 9, BUILDINGS AND  
4 CONSTRUCTION, OF THE BELLEVUE CITY CODE BY ADDING A NEW CHAPTER, CHAPTER 5,  
5 DEVELOPMENT IMPACT FEE SCHEDULE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING  
6 FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

7 WHEREAS, Idaho Code § 67-8201 *et seq.* allows Idaho municipal corporations to enact  
8 ordinances allowing cities to collect development impact fees;

9 WHEREAS, as a basis for Bellevue’s development impact fee ordinance, the City engaged  
10 a consultant to develop a Development Impact Fee Study;

11 WHEREAS, Bellevue retained Richard Caplan and Associates to establish Bellevue’s  
12 development impact fees;

13 WHEREAS, Richard Caplan and Associates submitted a study for Development Impact  
14 Fees dated November 4, 2020;

15 WHEREAS, the Bellevue Development Impact Fee Advisory Committee has been  
16 appointed and will comply with all procedural requirements as set forth in Idaho Code § 67-8205;

17 WHEREAS, Bellevue has adopted this development impact fee ordinance in accordance  
18 with the procedural requirements of Idaho Code § 67-8206.

19 NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF  
20 BELLEVUE, IDAHO, AS FOLLOWS:

21 **Section 1.** Title 9 of the Bellevue, Idaho City Code is hereby amended by the addition of the  
22 underlined language, as follows:

23 **TITLE 9/ CHAPTER 5**  
24 **DEVELOPMENT IMPACT FEES**

25  
26 **SECTION:**

27 **9-5-1: Findings And Purpose**

28 **9-5-1-01: Findings**

29 **9-5-1-02: Purpose**

30 **9-5-2: Definitions**

31 **9-5-3: Authority, Applicability And Exemptions**

32 **9-5-3-01: Authority**

33 **9-5-3-02: Applicability**

34 **9-5-3-03: Exemptions**

35 **9-5-4: Calculation Of Development Impact Fees**

- 1 9-5-5: General Provisions
- 2 9-5-6: Methodology
- 3 9-5-7: Schedules
- 4 9-5-8: Procedures
- 5 9-5-9: Credits And Reimbursement
- 6 9-5-9-01: Credits To Be Issued
- 7 9-5-9-02: Limitations
- 8 9-5-9-03: Valuation Of Credit At Present Value
- 9 9-5-9-04: When Credits Become Effective
- 10 9-5-9-05: Application Procedures
- 11 9-5-9-06: Credits Exceeding Fee Amounts Due
- 12 9-5-9-07: Written Agreement Required
- 13 9-5-10: Refunds
- 14 9-5-10-01: Duty To Refund
- 15 9-5-10-02: Failure To Commence Construction Or Encumber Trust Funds
- 16 9-5-10-03: No Refund Due For Subsequent Reduction In Size Of Development
- 17 9-5-10-04: Interest
- 18 9-5-10-05: Timing
- 19 9-5-11: Collection And Administration Of Impact Fees
- 20 9-5-11-01: Payment Of Fees
- 21 9-5-11-02: Deposit Of Development Impact Fees
- 22 9-5-11-03: Establishment Of Trust Fund And Accounts
- 23 9-5-11-04: First In/First Out
- 24 9-5-11-05: Deposit And Management Of Trust Fund
- 25 9-5-12: Use Of Development Impact Fees
- 26 9-5-12-01: Park Capital Facilities
- 27 9-5-12-02: Transportation Capital Facilities
- 28 9-5-12-03: Police Capital Facilities
- 29 9-5-12-04: Fire/EMS Capital Facilities
- 30 9-5-12-05: Capital Improvement Plan Reimbursement
- 31 9-5-12-06: Limitation On Use
- 32 9-5-13: Appeals, Protest And Mediation
- 33 9-5-13-01: Appeals
- 34 9-5-13-02: Payment Under Protest
- 35 9-5-13-03: Mediation
- 36 9-5-14: Periodic Reviews
- 37 9-5-14-01: Review And Modification Of Capital Improvement Plan
- 38 9-5-14-02: Annual Review
- 39 9-5-14-03: Audit

- 1 9-5-14-04: Development Impact Fee Advisory Committee Revisions
- 2 9-5-15: Enforcement And Collection
- 3 9-5-16: Miscellaneous Provisions
- 4 9-5-16-01: Development Projects
- 5 9-5-16-02: Private Agreements
- 6 9-5-16-03: Extraordinary Impacts
- 7 9-5-16-04: Reduction In Levels Of Service
- 8 9-5-16-05: Additional Rights Not Created
- 9 9-5-16-06: Eminent Domain
- 10 9-5-16-07: Annexation
- 11 9-5-16-08: Alternative Sources Of Revenue
- 12 9-5-16-09: Permits Issued Prior To Effective Date
- 13 9-5-16-10: Monies Not Expended
- 14 9-5-16-11: Errors
- 15 9-5-16-12: Recalculation
- 16 9-5-16-13: Advisory Committee
- 17 9-5-16-14: Penalty
- 18 9-5-16-15: Construction
- 19 9-5-17: Development Impact Fee Schedule

20

21 9-5-1: FINDINGS AND PURPOSE:

22

23 9-5-1-01: FINDINGS:

24 A. Based on the City of Bellevue comprehensive plan adopted by the city, pursuant to Idaho  
25 Code title 67, chapter 65 and based on the general governmental goal of protecting the health,  
26 safety and general welfare of the citizens of the city, it is necessary that the city's public  
27 facilities for: 1) parks and recreation; 2) transportation; 3) police; and 4) fire be expanded and  
28 improved to accommodate new development within the city. Throughout this chapter, the  
29 system improvements for these types of public facilities are sometimes collectively referred to  
30 as the "city capital facilities" and sometimes individually referred to as a "city capital  
31 improvements element".

32 B. The city will form a development impact fee advisory committee as required by Idaho  
33 Code section 67-8205, and that committee will perform the duties required of it pursuant to  
34 Idaho Code sections 67-8205 and 67-8206(2). The city intends that the committee continue to  
35 exist and to perform those duties identified in Idaho Code section 67-8205 that occur following  
36 the adoption of development impact fees.

37 C. New residential and nonresidential development imposes and will impose increasing and  
38 excessive demands upon city capital facilities.

39 D. The revenues generated from new residential and nonresidential development often do  
40 not generate sufficient funds to provide the necessary improvements of these city capital  
41 facilities to accommodate new development.

1 E. New development is expected to continue, and will place ever increasing demands on the  
2 city to provide and expand city capital facilities to serve new development.

3 F. The city has planned for the improvement of the city capital facilities in the City of  
4 Bellevue comprehensive plan.

5 G. Idaho Code title 67, chapter 82 (the Idaho development impact fee act) authorizes the city  
6 to adopt a development impact fee system to offset, recoup or reimburse the portion of the  
7 costs of needed improvements to the city capital facilities caused by new development in the  
8 city.

9 H. The creation of an equitable development impact fee system would promote the  
10 purposes set forth in the Idaho development impact fee act, in that it would: 1) ensure that  
11 adequate public facilities are available to serve new growth and development; 2) promote  
12 orderly growth and development by establishing uniform standards by which the city may  
13 require that those who benefit from new growth and development pay a proportionate share  
14 of the cost of new public facilities needed to serve new growth and development; 3) establish  
15 minimum standards for the adoption of development impact fees; 4) ensure that those who  
16 benefit from new growth and development are required to pay no more than their  
17 proportionate share of the cost of public facilities needed to serve new growth and  
18 development; and 5) prevent duplicate and ad hoc development requirements.

19 I. The creation of an equitable development impact fee system would enable the city to  
20 accommodate new development, and would assist the city to implement the capital  
21 improvements element of the comprehensive plan.

22 J. In order to implement an equitable development impact fee system for the city capital  
23 facilities, the city retained Richard Caplan and Associates to prepare an impact fee study for  
24 these types of facilities. The resulting document is titled "City of Bellevue, Idaho, Development  
25 Impact Fees Study", dated November 4, 2020 (the "development impact fee study"). The  
26 development impact fee study was prepared by qualified professionals in the fields relating to  
27 finance, engineering, planning and transportation. Richard Caplan and Associates has consulted  
28 with the Bellevue city council and will be consulting with the development impact fee advisory  
29 committee.

30 K. The methodology used in preparing the development impact fee study, when applied  
31 through this chapter, complies with all applicable provisions of Idaho law, including those set  
32 forth in Idaho Code sections 67-8204(1), (2), (16) and (23), 67-8207 and 67-8209. The  
33 incorporation of the development impact fee study by reference satisfies the requirement in  
34 Idaho Code section 67-8204(16) for a detailed description of the methodology by which the  
35 development impact fees were calculated, and the requirement in Idaho Code section 67-  
36 8204(24) for a description of acceptable levels of service for system improvements.

37 L. In determining the proportionate share of the cost of system improvements, the city has  
38 considered: 1) the cost of the existing system improvements; 2) the means by which the  
39 existing system improvements have been financed; 3) the extent to which the new  
40 development will contribute to the cost of system improvements through taxation, assessment  
41 or developer or landowner contributions, or has previously contributed to the cost of system  
42 improvements through developer or landowner contributions; 4) the extent to which the new  
43 development is required to contribute to the cost of existing system improvements in the

1 future; 5) the extent to which the new development should be credited for providing system  
2 improvements, without charge to other properties within the service area or areas; 6)  
3 extraordinary costs, if any, incurred in serving the new development; 7) the time and price  
4 differential inherent in a fair comparison of fees paid at different times; and 8) the availability  
5 of other sources of funding system improvements, including, but not limited to, user charges,  
6 general tax levies, intergovernmental transfers, and special taxation. The governmental entity  
7 shall develop a plan for alternative sources of revenue.

8 N. The development impact fee study sets forth reasonable methodologies and analyses for  
9 determining the impacts of various types of new development on the city capital facilities, and  
10 determines the cost of acquiring or constructing the improvements necessary to meet the  
11 demands for such facilities created by new development.

12 O. In accordance with Idaho Code, the development impact fee study was based on actual  
13 system improvement costs or reasonable estimates of such costs. In addition, the development  
14 impact fee study uses a fee calculation methodology that is net of credits for the present value  
15 of revenues that will be generated by new growth and development based on historical funding  
16 patterns and that are anticipated to be available to pay for system improvements, including  
17 taxes, assessments, user fees and intergovernmental transfers.

18 P. The development impact fees described in this chapter are based on the development  
19 impact fee study, and do not exceed the costs of system improvements for city capital facilities  
20 to serve new development that will pay the development impact fees.

21 Q. The facilities for parks and recreation, and fire included in the calculation of fees in the  
22 development impact fee study will benefit all new residential and nonresidential development  
23 throughout the city, and it is therefore appropriate to treat all areas of the city as a single  
24 service area for purposes of calculating, collecting, and spending the development impact fees  
25 collected from residential and nonresidential development.

26 R. In accordance with Idaho Code section 67-8208, the City of Bellevue has adopted a  
27 development impact fee for the cost of preparing the capital improvements element of the City  
28 of Bellevue comprehensive plan.

29 S. There is both a rational nexus and a rough proportionality between development impacts  
30 created by each type of development covered by this chapter and the development impact fees  
31 that such development covered by this chapter and the development impact fees that such  
32 development will be required to pay.

33 T. This chapter creates a system by which development impact fees paid by new  
34 development will be used to finance, defray or reimburse a portion of the costs incurred by the  
35 city to construct improvements for city capital facilities in ways that benefit the development  
36 for which each development impact fee was paid within a reasonable period of time after the  
37 development impact fee is paid, and in conformance with Idaho Code section 67-8210.

38 U. This chapter creates a system under which development impact fees shall not be used to  
39 correct existing deficiencies for any capital facilities, or to replace or rehabilitate existing  
40 improvements, or to pay for routine operation or maintenance of those facilities.

41 V. This chapter creates a system under which there shall be no double payment of impact  
42 fees, in accordance with Idaho Code section 67-8204(19).

1 W. This chapter is consistent with all applicable provisions of Idaho Code title 67, chapter 82,  
2 concerning development impact fee ordinances.

3  
4 9-5-1-02: PURPOSE:

5 A. This chapter is adopted to be consistent with, and to help implement the City of Bellevue  
6 comprehensive plan.

7 B. The intent of this chapter is to ensure that new development bears a proportionate share  
8 of the cost of improvements to the city capital facilities; to ensure that such proportionate  
9 share does not exceed the cost of improvements to such facilities required to accommodate  
10 new development; and to ensure that funds collected from new development are actually used  
11 for improvements to the city capital facilities in accordance with Idaho Code title 67, chapter  
12 82.

13 C. It is the further intent of this chapter to be consistent with those principles for allocating a  
14 fair share of the cost of new capital facilities to new development, and for adopting  
15 development impact fee ordinances, established by Idaho Code title 67, chapter 82.

16 D. It is not the intent of this chapter to collect any money from any new development in  
17 excess of the actual amount necessary to offset new demands for city capital facilities created  
18 by such new development.

19 E. It is not the intent of this chapter that any monies collected from any development impact  
20 fee deposited in an impact fee account ever be commingled with monies from a different  
21 impact fee account, or ever be used for a development impact fee component different from  
22 that for which the fee was paid, or ever be used to correct current deficiencies in the city  
23 capital facilities or ever be used to replace, rehabilitate, maintain or operate any city facility.

24  
25 9-5-2: DEFINITIONS:

26 As used in this chapter, the following words and terms shall have the following meanings,  
27 unless another meaning is plainly intended:

28 ACCOUNTS: The ADMINISTRATION capital facilities account, the BUILDINGS AND GROUNDS  
29 capital facilities account, the COMMUNITY DEVELOPMENT capital facilities account, the FIRE  
30 capital facilities account, the LIBRARY capital facilities account, the MARSHAL capital facilities  
31 account, the PARKS capital facilities account, the STREETS capital facilities account, and the  
32 CAPITAL IMPROVEMENT PLAN account, established as part of the development impact fee trust  
33 fund established in section 9-5-11-03 of this chapter.

34 APPROPRIATE: To legally obligate by contract or otherwise commit to use by appropriation or  
35 other official act of a governmental entity.

36 BUILDING PERMIT: The permit required for foundations, new construction and additions  
37 pursuant to chapter 15.08 of this title, as amended.

38 CAPITAL IMPROVEMENTS: Improvements with a useful life of ten (10) years or more, by new  
39 construction or other action, which increases the service capacity of a public facility.

40 CAPITAL IMPROVEMENTS PLAN: A plan adopted pursuant to the development impact fee act,  
41 Idaho Code section 67-8201 et seq., that identifies capital improvements for which  
42 development impact fees may be used as a funding source.

1 CHILDCARE FACILITY: Any business, home or establishment which provides childcare.  
2 CITY: The City of Bellevue, Idaho.  
3 CITY COUNCIL: The city council of the City of Bellevue, Idaho.  
4 DEVELOPER: Any person or legal entity undertaking development, including a party that  
5 undertakes the subdivision of property pursuant to Idaho Code sections 50-1301 through 50-  
6 1334, as amended.  
7 DEVELOPMENT: Any construction or installation of a building or structure, or any change in use  
8 of a building or structure, or any change in the use, character or appearance of land, which  
9 creates additional demand and need for public facilities or the subdivision of property that  
10 would permit any change in the use, character or appearance of land.  
11 DEVELOPMENT APPROVAL: Any written duly authorized document from the city which  
12 authorizes the commencement of a development.  
13 DEVELOPMENT IMPACT FEE: A payment of money imposed as condition of development  
14 approval to pay for a proportionate share of the costs of system improvements needed to serve  
15 development. In the context of this chapter, development impact fee shall mean one of the  
16 eight (8) impact fees defined for the eight (8) city capital facilities elements, and development  
17 impact fees (in the plural) shall mean all eight (8) impact fees (or all of them that apply to the  
18 proposed development pursuant to section 9-5-17, Exhibit A of this chapter). The term does not  
19 include the following:  
20 A. A charge or fee to pay the administrative plan review, or inspection cost associated with  
21 permits required for development;  
22 B. Connection or hookup charges;  
23 C. Availability charges for drainage, sewer, water or transportation charges for services  
24 provided directly to the development; or  
25 D. Amounts collected from a developer in a transaction in which the city has incurred  
26 expenses in constructing capital improvements for the development if the owner or developer  
27 has agreed to be financially responsible for the construction or installation of the capital  
28 improvements, unless a written agreement is made pursuant to Idaho Code section 67-8209(3),  
29 as amended, for credit or reimbursement.  
30 DEVELOPMENT IMPACT FEE ADMINISTRATOR: The community development director of the City  
31 of Bellevue, Idaho, or his or her designee.  
32 DEVELOPMENT IMPACT FEE STUDY: The document entitled "Bellevue Growth Related Capital  
33 Improvements Plan And Development Impact Fees", dated March 23, 2007, prepared by  
34 Richard Caplan and Associates for the city, that sets forth reasonable methodologies and  
35 analyses for determining the impacts of various types of development on the city capital  
36 facilities and determines the cost of expansions to those facilities necessary to meet the  
37 demands created by new development.  
38 DEVELOPMENT IMPACT FEE TRUST FUND OR TRUST FUND: The trust fund established by  
39 section 15.16.070.03 of this chapter that includes a: a) administration capital facilities account;  
40 b) buildings and grounds capital facilities account; c) community development capital facilities  
41 account; d) fire capital facilities account; e) library capital facilities account; f) marshals capital

1 facilities account; g) parks capital facilities account; h) streets capital facilities account and i)  
2 capital improvement plan account.

3 DEVELOPMENT REQUIREMENT: A requirement attached to a developmental approval or other  
4 governmental action approving or authorizing a particular development project, including, but  
5 not limited to, a rezoning, which requirement compels the payment, dedication or contribution  
6 of goods, services, land or money as condition of approval.

7 EXTRAORDINARY COSTS: Those costs incurred as result of an extraordinary impact.

8 EXTRAORDINARY IMPACT: An impact which is reasonably determined by the city to: a) result in  
9 the need for system improvements, the cost of which will significantly exceed the sum of the  
10 development impact fees to be generated from the project or the sum agreed to be paid  
11 pursuant to a development agreement as allowed by Idaho Code section 67-8214(2), as  
12 amended; or b) result in the need for system improvements which are not identified in the  
13 capital improvements plan.

14 FEE PAYER: The person who pays or is required to pay a development impact fee. A fee payer  
15 may include a developer.

16 FIRE CAPITAL FACILITIES: Lands, as well as buildings, improvements to land, and related  
17 equipment and vehicles meeting the definition of capital improvement, used for fire and  
18 emergency medical service facilities included in the calculation of the fire/EMS impact fee in  
19 the development impact fee study, and specifically including those related costs included in the  
20 definition of system improvement cost, but not including maintenance, operations or  
21 improvements that do not expand capacity.

22 LAND USE ASSUMPTIONS: A description of the service area and projections of land uses,  
23 densities, intensities and population in the service area over at least a twenty (20) year period.

24 LEVEL OF SERVICE: A measure of the relationship between service capacity and service demand  
25 for public facilities.

26 MANUFACTURED/MOBILE HOME: A structure, constructed according to HUD/FHA mobile home  
27 construction and safety standards, transportable in one or more sections, which, in the  
28 traveling mode, is eight feet (8') or more in width or is forty (40) body feet or more in length, or  
29 when erected on site, is three hundred twenty (320) or more square feet, and which is built on  
30 a permanent chassis and designed to be used as a dwelling with or without a permanent  
31 foundation when connected to required utilities, and includes the plumbing, heating, air  
32 conditioning and electrical systems contained in such structure, except that such term shall  
33 include any structure which meets all the requirements of this definition except the size  
34 requirements and with respect to which the manufacturer voluntarily files a certification  
35 required by the secretary of housing and urban development and complies with the standards  
36 established under 42 USC section 5401 et seq.

37 MODULAR BUILDING: Any building or building component other than a manufactured/mobile  
38 home, which is constructed according to the international building code, as adopted or any  
39 amendments thereto, which is of closed construction and is either entirely or substantially  
40 prefabricated or assembled at a place other than the building site.

41 NET FLOOR AREA: The sum of the horizontal areas of all floors in a building including basements  
42 but not including open unenclosed decks, exterior circulation, common hallways, mechanical

1 equipment rooms, parking areas, common areas, public bathrooms or storage areas in  
2 basements.

3 PARK CAPITAL FACILITIES: Open space lands, as well as buildings, improvements to land, and  
4 related equipment meeting the definition of "capital improvements", as defined in this section,  
5 used for public parks, recreation, open space and trail facilities included in the calculation of the  
6 park impact fee in the development impact fee study, and specifically including those related  
7 costs included in the definition of "system improvement costs", as defined in this section, but  
8 not including maintenance, operations or improvements that do not expand capacity.

9 MARSHAL CAPITAL FACILITIES: Lands, as well as buildings, improvements to land, and related  
10 equipment and vehicles meeting the definition of "capital improvements", as defined in this  
11 section, used for police facilities included in the calculation of the police impact fee in the  
12 development impact fee study, and specifically including those related costs included in the  
13 definition of "system improvement costs", as defined in this section, but not including  
14 maintenance, operations or improvements that do not expand capacity.

15 PRESENT VALUE: The total current monetary value of past, present or future payments,  
16 contributions or dedications of goods, services, materials, construction or money.

17 PROJECT: A particular development on an identified parcel of land.

18 PROJECT IMPROVEMENTS: In contrast to system improvements, shall mean site improvements  
19 and facilities that are planned and designed to provide service for a particular development  
20 project and that are necessary for the use and convenience of the occupants or users of the  
21 project.

22 PROPORTIONATE SHARE: That portion of the cost of system improvements determined  
23 pursuant to Idaho Code section 67-8207, which reasonably relates to the service demands and  
24 needs of the project.

25 PUBLIC FACILITIES:

26 A. Water supply production, treatment, storage and distribution facilities;  
27 B. Wastewater collection, treatment and disposal facilities;  
28 C. Roads, streets, bridges, sidewalks and bike paths, including rights of way, traffic signals,  
29 landscaping and any local components of state or federal highways;  
30 D. Stormwater collection, retention, detention, treatment and disposal facilities, flood  
31 control facilities, and bank and shore protection and enhancement improvements;  
32 E. Parks, open space and recreation areas, and related capital improvements; and  
33 F. Public safety facilities, including law enforcement, fire, emergency medical and rescue and  
34 street lighting facilities.

35 RECREATIONAL VEHICLE: A vehicular type unit primarily designed as temporary quarters for  
36 recreational, camping or travel use, which either has its own motive power or is mounted on or  
37 drawn by another vehicle.

38 SERVICE AREA: Any defined geographic area identified by the city in which specific public  
39 facilities provide service to development within the areas defined, on the basis of sound  
40 planning or engineering principles, or both.

1 SERVICE UNIT: A standardized measure of consumption, use, generation or discharge  
2 attributable to an individual unit of development calculated in accordance with generally  
3 accepted engineering or planning standards for a particular category of capital improvements.

4 SYSTEM IMPROVEMENTS: In contrast to project improvements, shall mean capital  
5 improvements to public facilities which are designed to provide service to a service area  
6 including, without limitation, the type of improvements described in Idaho Code section 50-  
7 1703, as amended. For the purpose of this chapter, the system improvements are the park  
8 capital facilities, transportation capital facilities, police capital facilities and fire/EMS capital  
9 facilities.

10 SYSTEM IMPROVEMENTS COSTS: Costs incurred for construction or reconstruction of system  
11 improvements, including design, acquisition, engineering and other costs, and also including,  
12 without limitation, the type of costs described in Idaho Code section 50-1702(h), as amended,  
13 to provide additional public facilities needed to service new growth and development. For  
14 clarification, system improvement costs do not include:

15 A. Construction, acquisition or expansion of public facilities other than capital improvements  
16 identified in the capital improvements plan;

17 B. Repair, operation or maintenance of existing or new capital improvements;

18 C. Upgrading, updating, expanding or replacing existing capital improvements to serve  
19 existing development in order to meet stricter safety, efficiency, environmental or regulatory  
20 standards;

21 D. Upgrading, updating, expanding or replacing existing capital improvements to provide  
22 better service to existing development;

23 E. Administrative and operating costs of the city unless such costs are attributable to  
24 development of the capital improvements plan, as provided in Idaho Code section 67-8208, as  
25 amended;

26 F. Principal payments and interest or other finance charges on bonds or other indebtedness  
27 except financial obligations issued by or on behalf of the city to finance capital improvements  
28 identified in the capital improvements plan.

29 TRANSPORTATION FACILITIES: Lands, improvements to land, and equipment meeting the  
30 definition of capital improvement, used for the system of traffic signals and for the widening of  
31 bridges on arterial and collector roads, included in the calculation of the road impact fee in the  
32 development impact fee study, and consistent with the capital improvements element, and  
33 specifically including those related costs included in the definition of system improvement  
34 costs, but not including maintenance, operations or improvements that do not expand capacity.

35  
36 9-5-3: AUTHORITY, APPLICABILITY AND EXEMPTIONS:

37  
38 9-5-3-01: AUTHORITY:

39 This chapter is enacted pursuant to the city's general police power granted to the city by Idaho  
40 Code title 67, chapter 82, and other applicable laws of the state of Idaho.

1 9-5-3-02: APPLICABILITY:

2 Except as otherwise exempted, the provisions of this chapter shall apply to any development  
3 within all areas of the city.

4  
5 9-5-3-03: EXEMPTIONS:

6 The provisions of this chapter shall not apply to the following:

7 A. Rebuilding the same amount of net floor area of a structure which is destroyed by fire or  
8 other catastrophe, provided the structure is rebuilt and ready for occupancy within two (2)  
9 years of its destruction.

10 B. Remodeling or repairing a structure which does not increase the number of service units.  
11 In the event one or more service units are added in a remodel, a development impact fee shall  
12 be calculated based on the net floor area attributable to the additional service unit(s).

13 C. Replacing a residential unit, including a manufactured/mobile home, with another  
14 residential unit on the same lot, provided the net floor area does not increase. In the event the  
15 net floor area increases, a development impact fee shall be calculated based on the additional  
16 net floor area.

17 D. Placing a temporary construction trailer or office on a lot.

18 E. Constructing an addition on a residential structure which does not increase the number of  
19 service units.

20 F. Adding uses that are typically accessory to residential uses, such as tennis court or a  
21 clubhouse, unless it can be clearly demonstrated that the use creates a significant impact on  
22 the capacity of system improvements.

23 G. The installation of a modular building, manufactured/mobile home or recreational vehicle  
24 if the fee payer can demonstrate by documentation, such as utility bills and tax records, that  
25 either: 1) a modular building, manufactured/mobile home or recreational vehicle was legally in  
26 place on the lot or space prior to the effective date hereof; or 2) a development impact fee has  
27 been paid previously for the modular building, manufactured/mobile home or recreational  
28 vehicle on that same lot or space.

29 H. Childcare facility.

30 I. Replacing a nonresidential unit with another nonresidential unit on the same lot, provided  
31 the net floor area does not increase. In the event the net floor area increases, a development  
32 impact fee shall be calculated based on the additional net floor area.

33  
34 9-5-4: CALCULATION OF DEVELOPMENT IMPACT FEES:

35  
36 9-5-5: GENERAL PROVISIONS:

37 A. Accounting Principles: The calculation of a development impact fee shall be in accordance  
38 with generally accepted accounting principles. A development impact fee shall not be deemed  
39 invalid because payment of the fee may result in an incidental benefit to owners or developers  
40 within the service area other than the person paying the fee.

1 B. Levels Of Service: A development impact fee shall be calculated on the basis of levels of  
2 service for public facilities adopted in this chapter that are applicable to existing development  
3 as well as new growth and development. The construction, improvement, expansion or  
4 enlargement of new or existing public facilities for which a development impact fee is imposed  
5 must be attributable to the capacity demands generated by the new development.  
6

7 9-5-6: METHODOLOGY:

8 A. Proportionate Methodology: A development impact fee shall not exceed a proportionate  
9 share of the cost of system improvements determined in accordance with Idaho Code section  
10 67-8207, as amended. Development impact fees shall be based on actual system improvement  
11 costs or reasonable estimates of such costs. The amount of the development impact fee shall  
12 be calculated using the methodology contained in the development impact fee study and as  
13 summarized in the schedule in section 9-5-17, Exhibit A of this chapter.

14 B. Proportionate Share Determination:

15 1. All development impact fees shall be based on a reasonable and fair formula or method  
16 under which the development impact fee imposed does not exceed a proportionate share of  
17 the costs incurred or to be incurred by the city in the provision of system improvements to  
18 serve the new development. The proportionate share is the costs attributable to the new  
19 development after the city considers the following:

20 a. Any appropriate credit, offset or contribution of money, dedication of land or  
21 construction of system improvements;

22 b. Payments reasonably anticipated to be made by or as a result of a new development in  
23 the form of user fees and debt service payments;

24 c. That portion of general tax or other revenues allocated by the jurisdiction to system  
25 improvements; and

26 d. All other available sources of funding such system improvements.

27 2. In determining the proportionate share of the cost of system improvements to be paid  
28 by the developer, the following factors shall be considered by the city and accounted for in the  
29 calculation of the development impact fee:

30 a. The costs of existing system improvements within the service area;

31 b. The means by which existing system improvements have been financed;

32 c. The extent to which the new development will contribute to the cost of system  
33 improvements through taxation, assessments or developer or landowner contributions, or has  
34 previously contributed to the cost of system improvements through developer or landowner  
35 contributions;

36 d. The extent to which the new development is required to contribute to the cost of  
37 existing system improvements in the future;

38 e. The extent to which the new development should be credited for providing system  
39 improvements, without charge to other properties within the service area;

40 f. Extraordinary costs, if any, incurred in serving the new development;

41 g. The time and price differential inherent in a fair comparison of fees paid at different  
42 times; and

1 h. The availability of other sources of funding system improvements, including, but not  
2 limited to, user charges, general tax levies, intergovernmental transfers and special taxation.

3 C. Nonlisted Uses: If the proposed development is of a type not listed in section 9-5-17,  
4 Exhibit A of this chapter, then the city shall apply the development impact fees applicable to  
5 the most nearly comparable type of land use listed in section 9-5-17, Exhibit A of this chapter.  
6 The determination as to which type of development is most nearly comparable to the proposed  
7 development shall be made by referring to traffic generation rates for land uses published by  
8 Institute Of Transportation Engineers, and by identifying that land use listed in section 9-5-17,  
9 Exhibit A of this chapter, whose traffic generation rates are most comparable to the proposed  
10 land use. If no traffic generation rate for the proposed land use appears in a publication of the  
11 Institute Of Transportation Engineers, or if it is not possible to determine which land use listed  
12 in section 9-5-17, Exhibit A of this chapter has the most comparable traffic generation rates,  
13 then the most nearly comparable land use shall be determined by the development impact fee  
14 administrator based on comparison of other characteristics of the proposed land use (including  
15 employment or occupancy, the size of the facility, and the amount of parking to be provided)  
16 with the characteristics of those land uses listed in section 9-5-17, Exhibit A of this chapter.

17 D. Mixed Uses: If the development for which a building permit is sought contains a mix of  
18 uses, the development impact fee will be calculated for each type of development based on net  
19 floor area.

20 E. Developer's Election: A developer shall have the right to elect to pay a project's  
21 proportionate share of system improvement costs by payment of development impact fees  
22 according to the fee schedule in section 9-5-17, Exhibit A of this chapter as full and complete  
23 payment of the development project's proportionate share of system improvement costs,  
24 except as provided in Idaho Code section 67-8214(3), as amended.

25  
26 9-5-7: SCHEDULES:

27 Development impact fees shall be calculated using the schedule in section 9-5-17, Exhibit A of  
28 this chapter, unless: a) the fee payer requests an individual assessment pursuant to subsection  
29 9-5-8C of this chapter; or b) the city finds an extraordinary impact for a proposed development  
30 in writing to the fee payer, in which case subsection 9-5-8D of this chapter shall apply.

31  
32 9-5-8 PROCEDURES:

33 A. Building Permit: Upon submittal of complete building permit plans, the city shall calculate  
34 the development impact fees in accordance with this chapter within thirty (30) days of  
35 submittal.

36 B. Exemption: An exemption must be claimed by the fee payer upon application for a  
37 building permit. Any exemption not so claimed shall be deemed waived by the fee payer.  
38 Applications for exemption shall be submitted to and determined by the city within ninety (90)  
39 days.

40 C. Using An Individual Assessment:

41 1. In lieu of calculating the amount of development impact fees by reference to section 9-  
42 5-17, Exhibit A of this chapter, a fee payer may request that the amount of the required

1 development impact fee be determined through an individual assessment for the proposed  
2 development. The individual assessment process shall permit consideration of studies, data,  
3 and any other relevant information submitted by the fee payer to adjust the amount of the fee.  
4 If a fee payer requests the use of an individual assessment, the fee payer shall be responsible  
5 for retaining a qualified professional to prepare the individual assessment that complies with  
6 the requirements of this chapter, at the fee payer's expense. The fee payer shall, at the fee  
7 payer's expense, bear the burden of proving by clear and convincing evidence that the resulting  
8 individual assessment complies with the requirements of this chapter. The fee payer shall bear  
9 the burden of proving by clear and convincing evidence that the resulting individual assessment  
10 is a more accurate measure of its proportionate share of the cost of city capital improvements,  
11 based on the city's adopted levels of service, than the development impact fees that would  
12 otherwise be due pursuant to the schedule set forth in section 9-5-17, Exhibit A of this chapter.

13 2. Each individual assessment shall be based on the same level of service standards and  
14 unit costs for system improvements used in the development impact fee study, shall use an  
15 average cost (not a marginal cost) methodology, and shall document the relevant  
16 methodologies and assumptions used.

17 3. An application for an individual assessment may be submitted at any time that the types  
18 and amounts of development in each category identified in section 9-5-17, Exhibit A of this  
19 chapter are known. The city shall issue a decision within thirty (30) days following receipt of a  
20 completed application for individual assessment and supporting information from the  
21 applicant, so as not to unreasonably delay subsequent applications for or issuance of building  
22 permits.

23 4. Each individual assessment shall be submitted to the development impact fee  
24 administrator, and may be accepted, rejected, or accepted with modifications by the  
25 development impact fee administrator as the basis for calculating development impact fees.  
26 The criteria for acceptance, rejection or acceptance with modifications shall be whether the  
27 individual assessment is more accurate measure of demand for the city capital improvements  
28 element(s) created by the proposed development, or the costs of those facilities, than the  
29 applicable fee shown in section 9-5-17, Exhibit A of this chapter.

30 5. The decision by the development impact fee administrator on an application for an  
31 individual assessment shall include an explanation of the calculation of the development impact  
32 fee, shall specify the system improvement(s) for which the development impact fee is intended  
33 to be used, and shall include an explanation of those factors identified in Idaho Code section  
34 67-8207.

35 6. If an individual assessment is accepted or accepted with modifications by the  
36 development impact fee administrator, then the development impact fees due under this  
37 chapter for such development shall be calculated according to such individual assessment.

38 D. Extraordinary Impacts:

39 1. If the city determines that a proposed development generates extraordinary impacts  
40 that will result in extraordinary costs, the city will notify the fee payer of such determination  
41 within thirty (30) days after receipt for a certification pursuant to subsection E of this section, or  
42 a request for a building permit of development approval, whichever occurs first. Such notice  
43 shall include a statement that the potential impacts of such development on system

1 improvements are not adequately addressed by development impact fee study, and that a  
2 supplemental study at the fee payer's expense will be required.

3 2. Circumstances that may lead to a determination of extraordinary impacts include, but  
4 are not limited to: a) an indication that traffic generation from the proposed development or  
5 activity will exceed those typical for a facility or activity of its type; b) an indication that  
6 employment generated by the development or activity will exceed those typical for a facility or  
7 activity of its type; c) an indication the assumptions used in the development impact fee study  
8 underestimate the level of activity or impact on city capital facilities from the proposed  
9 development or activity; or d) an indication that levels of calls for fire or emergency services  
10 from developments or activities owned or operated by the fee payer or its agents will exceed  
11 assumptions used in the development impact fee study.

12 3. Within thirty (30) days following the designation of a development with extraordinary  
13 impacts, the city shall meet with the fee payer to discuss whether the fee payer wants to: a)  
14 pay for the supplemental study necessary to determine the system improvement costs related  
15 to the proposed development; or b) modify the proposal to avoid generating extraordinary  
16 impacts; or c) withdraw the application for certification, building permit or development  
17 approval.

18 4. If the fee payer agrees to pay for the supplemental study required to document the  
19 proposed development's proportionate share of system improvement costs, then the city and  
20 the fee payer shall jointly select an individual or organization acceptable to both to perform  
21 such study. The fee payer shall enter into a written agreement with such individual or  
22 organization to pay the costs of such study. Such agreement shall require the supplemental  
23 study to be completed within thirty (30) days of such written agreement, unless the fee payer  
24 agrees to a longer time.

25 5. Once the study has been completed, the fee payer may choose to: a) pay the  
26 proportionate share of system improvement costs documented by the supplemental study; or  
27 b) modify the proposed development to reduce such costs; or c) withdraw the application. If  
28 the fee payer agrees to pay the system improvement costs documented in the supplemental  
29 study, that agreement shall be reduced to writing between the city and the fee payer prior to  
30 review and consideration of any application for any development approval or building permit  
31 related to the proposed development.

32 6. Notwithstanding any agreement by the fee payer to pay the proportionate share of  
33 system improvement costs documented by the supplemental study, nothing in this chapter  
34 shall obligate the city to approve development that results in an extraordinary impact.

35 E. Certification: After the development impact fees due for a proposed development have  
36 been calculated pursuant to section 9-5-17, Exhibit A of this chapter or the individual  
37 assessment, the fee payer may request the development impact fee administrator or a  
38 designee for a certification of the amount of development impact fees due for that  
39 development. Within thirty (30) days after receiving such request, the development impact fee  
40 administrator shall issue a written certification of the amount of development impact fees due  
41 for the proposed development. Such certification shall establish the development impact fee so  
42 long as there is no material change to the particular project as identified in the individual  
43 assessment application, or the impact fee schedule set forth in section 9-5-17, Exhibit A of this

1 chapter. The certification shall include an explanation of the calculation of the impact fee,  
2 including an explanation of factors considered under Idaho Code section 67-8207 and shall also  
3 specify the system improvement(s) for which the development impact fee is intended to be  
4 used.

5  
6 9-5-9: CREDITS AND REIMBURSEMENT:

7  
8 9-5-9-01: CREDITS TO BE ISSUED:

9 When a developer or his or her predecessor in title or interest has constructed system  
10 improvements of the same category as a city capital improvement, or contributed or dedicated  
11 land or money toward the completion of system improvements of the same category as a city  
12 capital improvement, and the city has accepted such construction, contribution or dedication,  
13 the city shall issue a credit against the development impact fees otherwise due for the same  
14 city capital improvements in connection with the proposed development, as set forth in this 9-  
15 5-9: Credit shall be issued regardless of whether the contribution or dedication to system  
16 improvements was required by the city as a condition of development approval or was offered  
17 by the developer and accepted by the city in writing, and regardless of whether the  
18 contribution or dedication was contributed by the developer or by a local improvement district  
19 controlled by the developer.

20  
21 9-5-9-02: LIMITATIONS:

22 Credits against development impact fees shall not be given for: a) project improvements; or b)  
23 any construction, contribution or dedication not agreed to in writing by the city prior to  
24 commencement of the construction, contribution or dedication. Credits issued for one city  
25 capital improvement may not be used to reduce development impact fees due for a different  
26 capital improvement. No credits shall be issued for system improvements contributed or  
27 dedicated prior to the effective date hereof.

28  
29 9-5-9-03: VALUATION OF CREDIT AT PRESENT VALUE:

30 A. Land: Credit for qualifying land dedications shall, at the fee payer's option, be valued at  
31 the present value of: 1) one hundred percent (100%) of the most recent assessed value for such  
32 land as shown in the records of the county assessor; or 2) that fair market value established by  
33 a private appraiser acceptable to the city in an appraisal paid for by the fee payer.

34 B. Improvements: Credit for qualifying acquisition or construction of system improvements  
35 shall be valued by the city at the present value of such improvements based on complete  
36 engineering drawings, specifications, and construction cost estimates submitted by the fee  
37 payer to the city. The city shall determine the amount of credit due based on the information  
38 submitted, or, if it determines that such information is inaccurate or unreliable, then on  
39 alternative engineering or construction costs acceptable to the city as a more accurate measure  
40 of the value of the offered system improvements to the city.

41  
42 9-5-9-04: WHEN CREDITS BECOME EFFECTIVE:

1 A. Land: Approved credits for land dedications shall become effective when the land has  
2 been conveyed to the city in a form acceptable to the city, at no cost to the city, and has been  
3 accepted by the city. Upon request of the fee payer, the city shall issue a letter stating the  
4 amount of credit available.

5 B. Improvements: Approved credits for acquisition or construction of system improvements  
6 shall generally become effective when: 1) all required construction has been completed and has  
7 been accepted by the city; 2) a suitable maintenance and warranty bond has been received and  
8 approved by the city; and 3) all design, construction, inspection, testing, bonding and  
9 acceptance procedures have been completed in compliance with all applicable requirements of  
10 the city and the state of Idaho. Upon request of the fee payer, the city shall issue a letter stating  
11 the amount of credit available.

12  
13 9-5-9-05: APPLICATION PROCEDURES:

14 A. Request: In order to obtain a credit against development impact fees otherwise due, a fee  
15 payer shall submit a written offer to dedicate to the development impact fee administrator for  
16 specific parcels of qualifying land or a written offer to contribute or construct specific system  
17 improvements to the city capital facilities in accordance with all applicable state or city design  
18 and construction standards, and shall specifically request a credit against the type of  
19 development impact fees for which the land dedication or system improvement is offered. No  
20 request for a credit against development impact fees shall be accepted unless a written offer to  
21 dedicate, contribute or construct has previously been approved in writing.

22 B. Review: After receipt of the request for credit, the development impact fee administrator  
23 shall review the request and determine whether the land or system improvements offered for  
24 credit will reduce the costs of providing city capital facilities by an amount at least equal to the  
25 value of the credit. If the development impact fee administrator determines that the offered  
26 credit satisfies that criteria, then the credit shall be issued. The city shall complete its review  
27 and determination of an application within thirty (30) days after receipt of an application for  
28 credit.

29  
30 9-5-9-06: CREDITS EXCEEDING FEE AMOUNTS DUE:

31 A. If the credit due to a fee payer pursuant to sections 9-5-9-01 through 9-5-9-05 of this  
32 chapter exceeds the development impact fee that would otherwise be due from the fee payer  
33 pursuant to this chapter (whether calculated through section 9-5-17, Exhibit A of this chapter or  
34 through an independent assessment), the fee payer may choose to receive such credit in the  
35 form of either: 1) a credit against future development impact fees due for the same capital  
36 improvements; or 2) a reimbursement from development impact fees paid by future  
37 development that impacts the system improvements contributed or dedicated by the fee  
38 payer.

39 B. Unless otherwise stated in an agreement with the fee payer, the city shall be under no  
40 obligation to use any city funds, other than development impact fees paid by other  
41 development for the same city capital improvements, to reimburse the fee payer for any credit  
42 in excess of development impact fees due.

43

1  
2 9-5-9-07: WRITTEN AGREEMENT REQUIRED:

3 If credit or reimbursement is due to the fee payer pursuant to this section 9-5-9: the city shall  
4 enter into a written agreement with the fee payer, negotiated in good faith, prior to the  
5 contribution, dedication or funding of the system improvements giving rise to the credit. The  
6 agreement shall provide for the amount of credit or the amount, time and form of  
7 reimbursement, and shall have a term not exceeding ten (10) years.

8  
9 9-5-10: REFUNDS:

10  
11 9-5-10-01: DUTY TO REFUND:

12 Development impact fees shall be refunded to the fee payer, or to a successor in interest, in the  
13 following circumstances:

14 A. Service is available but never provided;

15 B. A building permit, or permit for installation of a manufactured home, is denied or  
16 abandoned;

17 C. The fee payer pays a development impact fee under protest and a subsequent review of  
18 the fee paid or the completion of an individual assessment determines that the fee paid  
19 exceeded the proportionate share to which the city was entitled to receive; or

20 D. The city has collected a development impact fee and has failed to appropriate or expend  
21 the collected fees pursuant to section 9-5-10-02: of this chapter.

22  
23 9-5-10-02: FAILURE TO COMMENCE CONSTRUCTION OR ENCUMBER TRUST FUNDS:

24 Any development impact fees paid shall be refunded if the city has failed to commence  
25 construction of system improvements in accordance with this chapter, or to appropriate funds  
26 for such construction, within eight (8) years after the date on which such fee was paid. Any  
27 refund due shall be paid to the owner of record of the parcel for which the development impact  
28 fees were paid. The city may hold development impact fees for longer than eight (8) years if it  
29 identifies in writing: a) a reasonable cause why the fees should be held longer than eight (8)  
30 years; and b) an anticipated date by which the fees will be expended, but in no event greater  
31 than eleven (11) years from the date they were collected. If the city complies with the previous  
32 sentence, then any development impact fees identified in such writing shall be refunded to the  
33 fee payer if the city has failed to commence construction of system improvements in  
34 accordance with this chapter, or to appropriate funds for such construction on or before the  
35 date identified in such writing.

36  
37 9-5-10-03: NO REFUND DUE FOR SUBSEQUENT REDUCTION IN SIZE OF DEVELOPMENT:

38 After a development impact fee has been paid pursuant to this chapter and after a certificate of  
39 occupancy has been issued, no refund of any part of such fee shall be made if the project for  
40 which the fee was paid is later demolished, destroyed, or is altered, reconstructed, or  
41 reconfigured so as to reduce the size of the project.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40

9-5-10-04: INTEREST:

Each refund shall include a refund of interest at one-half (1/2) the legal rate provided for in Idaho Code section 28-22-104 from the date on which the fee was originally paid. (Ord. 985 § 1, 2007)

9-5-10-05: TIMING:

The city shall make a determination of whether a refund is due within thirty (30) days after receipt of a written request for a refund from the owner of record of the property for which the fee was paid. When the right to a refund exists, the city shall send the refund to the owner of record within ninety (90) days after the city determines that a refund is due.

9-5-11: COLLECTION AND ADMINISTRATION OF IMPACT FEES:

9-5-11-01: PAYMENT OF FEES:

Development impact fees shall be paid to the city at the following times:

A. If a building permit or manufactured/mobile home installation permit is required, then at the time such permit is issued;

B. If no building permit or manufactured/mobile home installation permit is required, then at the time that construction commences; or

C. At such other time as the developer and the city have agreed upon in writing.

9-5-11-02: DEPOSIT OF DEVELOPMENT IMPACT FEES:

All monies paid by a fee payer pursuant to this chapter shall be identified as development impact fees and shall be promptly deposited in the appropriate account.

9-5-11-03: ESTABLISHMENT OF TRUST FUND AND ACCOUNTS:

A development impact fee trust fund (the "trust fund") is hereby established for the purpose of ensuring that the development impact fees collected pursuant to this chapter are used to address impacts reasonably attributable to new development for which the development impact fees are paid. The trust fund shall be divided into the accounts. The trust fund shall be maintained in an interest-bearing account. The interest earned on each account shall not be governed by Idaho Code section 57-127, as amended, but shall be considered funds of the account and shall be subject to the same restrictions on uses of funds as the development impact fees on which interest is generated.

9-5-11-04: FIRST IN/FIRST OUT:

Monies in each account shall be spent in the order collected, on a first in/first out basis.

9-5-11-05: DEPOSIT AND MANAGEMENT OF TRUST FUND:

1 A. Deposit: All development impact fees collected by the city shall be promptly deposited  
2 into the appropriate account.

3 B. Maintenance Of Records: The city shall maintain and keep accurate financial records for  
4 each account that shall show the source and disbursement of all revenues, that shall account  
5 for all monies received, that shall ensure that the disbursement of funds from each account  
6 shall be used solely and exclusively for the provisions of projects specified in the capital  
7 improvements plan, and that shall provide an annual accounting for each development impact  
8 fee account showing the source and amount of all funds collected and the projects that were  
9 funded.

10  
11 9-5-12: USE OF DEVELOPMENT IMPACT FEES:

12  
13 ADMIN CAPITAL FACILITIES:

14 9-5-12-01: The monies collected from the admin development impact fees shall be used only to  
15 plan for and acquire or construct admin capital facilities, or to pay debt service on any portion  
16 of any future general obligation or revenue bond issue or similar instrument used to finance the  
17 acquisition or construction of admin capital facilities within the city, or to reimburse the city for  
18 such costs.

19  
20 BUILDINGS AND GROUNDS CAPITAL FACILITIES:

21 9-5-12-02: The monies collected from the buildings and grounds development impact fees shall  
22 be used only to plan for and acquire or construct buildings and grounds capital facilities, or to  
23 pay debt service on any portion of any future general obligation or revenue bond issue or  
24 similar instrument used to finance the acquisition or construction of buildings and grounds  
25 capital facilities within the city, or to reimburse the city for such costs.

26  
27 COMMUNITY DEVELOPMENT CAPITAL FACILITIES:

28 9-5-12-03: The monies collected from the community development development impact fees  
29 shall be used only to plan for and acquire or construct community development capital  
30 facilities, or to pay debt service on any portion of any future general obligation or revenue bond  
31 issue or similar instrument used to finance the acquisition or construction of community  
32 development capital facilities within the city, or to reimburse the city for such costs.

33  
34 FIRE CAPITAL FACILITIES:

35 9-5-12-04: The monies collected from the fire development impact fees shall be used only to  
36 plan for and acquire or construct fire capital facilities, or to pay debt service on any portion of  
37 any future general obligation or revenue bond issue or similar instrument used to finance the  
38 acquisition or construction of fire capital facilities within the city, or to reimburse the city for  
39 such costs.

40  
41 LIBRARY CAPITAL FACILITIES:

1 9-5-12-05: The monies collected from the library development impact fees shall be used only to  
2 plan for and acquire or construct library capital facilities, or to pay debt service on any portion  
3 of any future general obligation or revenue bond issue or similar instrument used to finance the  
4 acquisition or construction of library capital facilities within the city, or to reimburse the city for  
5 such costs.

6  
7 MARSHAL CAPITAL FACILITIES:

8 9-5-12-06: The monies collected from the marshal development impact fees shall be used only  
9 to plan for and acquire or construct marshal capital facilities, or to pay debt service on any  
10 portion of any future general obligation or revenue bond issue or similar instrument used to  
11 finance the acquisition or construction of marshal capital facilities within the city, or to  
12 reimburse the city for such costs.

13  
14 PARK CAPITAL FACILITIES:

15 9-5-12-07: The monies collected from the park development impact fees shall be used only to  
16 plan for and acquire or construct park capital facilities, or to pay debt service on any portion of  
17 any future general obligation or revenue bond issue or similar instrument used to finance the  
18 acquisition or construction of park capital facilities within the city, or to reimburse the city for  
19 such costs.

20  
21 STREETS CAPITAL FACILITIES:

22 9-5-12-08: The monies collected from the streets development impact fees shall be used only  
23 to plan for and acquire or construct streets capital facilities, or to pay debt service on any  
24 portion of any future general obligation or revenue bond issue or similar instrument used to  
25 finance the acquisition or construction of streets capital facilities within the city, or to  
26 reimburse the city for such costs.

27  
28 9-5-12-08: CAPITAL IMPROVEMENT PLAN REIMBURSEMENT:

29 The monies collected from the capital improvement plan development impact fees shall be  
30 used only to reimburse the city for the preparation of the development impact fee study.

31  
32 9-5-12-09: LIMITATION ON USE:

33 Development impact fees shall not be used for any purpose other than system improvement  
34 costs to create additional improvements to serve new growth, or for reimbursement of the cost  
35 of the development impact fee study. The expenditure of development impact fees is  
36 prohibited except in accordance with the requirements of Idaho Code section 67-8210, as  
37 amended.

38  
39 9-5-13: APPEALS, PROTEST AND MEDIATION:

40  
41 9-5-13-01: APPEALS:

1 A. Any fee payer that is or may be obligated to pay a development impact fee, or that claims  
2 a right to receive a refund, reimbursement, exemption or credit under this chapter, and who is  
3 dissatisfied with a decision made by the development impact fee administrator in applying this  
4 chapter, may appeal such decision to the city council. The fee payer shall have the burden of  
5 proving by clear and convincing evidence that the decision was in error.

6 B. In order to pursue the appeal described in subsection A of this section, the fee payer shall  
7 file a written notice of the appeal with the development impact fee administrator within thirty  
8 (30) days after the date of the decision, or the date on which the fee payer submitted a  
9 payment of development impact fees under protest, whichever is later. Such written  
10 application shall include a statement describing why the fee payer believes that the decision  
11 was in error, together with copies of any documents that the fee payer believes support the  
12 claim.

13 C. The city council shall hear the appeal within sixty (60) days after receipt of a written notice  
14 of appeal. The fee payer shall have a right to be present and to present evidence in support of  
15 the appeal. The development impact fee administrator who made the decision under appeal or  
16 his or her representative shall likewise have the right to be present and to present evidence in  
17 support of the decision. The criteria to be used by the city council in considering the appeal  
18 shall be whether: 1) the decision or interpretation made by the development impact fee  
19 administrator; or 2) the alternative decision or interpretation offered by the fee payer, more  
20 accurately reflects the intent of this chapter that new development in the city pay its  
21 proportionate share of the costs of system improvements to city capital facilities necessary to  
22 serve new development and whether this chapter has been correctly applied. The city council  
23 shall issue a decision upholding, reversing or modifying the decision being appealed within  
24 thirty (30) days after hearing the appeal.

25  
26 9-5-13-02: PAYMENT UNDER PROTEST:

27 A fee payer may pay a development impact fee under protest in order not to delay in the  
28 issuance of a building permit. A fee payer making a payment under protest shall not be  
29 estopped from exercising the right to appeal provided herein, nor shall such fee payer be  
30 estopped from receiving a refund of any amount deemed to have been illegally collected.

31  
32 9-5-13-03: MEDIATION:

33 A. Any fee payer that has a disagreement with the city regarding a development impact fee  
34 that is or may be due for a proposed development pursuant to this chapter, may enter into a  
35 voluntary agreement with the city to subject the disagreement to mediation by a qualified  
36 independent party acceptable to both the fee payer and the city.

37 B. Mediation may take place at any time following the filing of a timely appeal pursuant to  
38 section 9-5-13-01: of this chapter, or as an alternative to such appeal; provided, that the  
39 request for mediation is filed no later than the last date on which a timely appeal could be filed  
40 pursuant to section 9-5-13-01: of this chapter.

41 C. Participation in mediation does not preclude the fee payer from pursuing other remedies  
42 provided for in this section 9-5-13-01.

1 D. If mediation is requested, any related mediation costs shall be shared equally by the fee  
2 payer and the city, and a written agreement regarding the payment of such costs shall be  
3 executed prior to the commencement of mediation.

4 E. In the event that mediation does not resolve the issues between the parties, the fee payer  
5 retains all rights to seek relief from a court of competent jurisdiction.

6  
7 9-5-14: PERIODIC REVIEWS:

8  
9 9-5-14-01: REVIEW AND MODIFICATION OF CAPITAL IMPROVEMENT PLAN:

10 Unless the city council deems some other period is appropriate, the city shall, at least once  
11 every five (5) years commencing from the date of the original adoption of the capital  
12 improvements plan, review the development potential and update the capital improvements  
13 plan in accordance with the procedures set forth in Idaho Code section 67-8206, as amended.

14  
15 9-5-14-02: ANNUAL REVIEW:

16 The city shall annually adopt a capital budget.

17  
18 9-5-14-03: AUDIT:

19 As part of its annual audit process, the city shall prepare an annual report: a) describing the  
20 amount of all development impact fees collected, appropriated or spent during the preceding  
21 year by category of public facility; and b) describing the percentage of taxes and revenues from  
22 sources other than development impact fees collected, appropriated or spent for system  
23 improvement during the preceding year by category of public facility.

24  
25 9-5-14-04: DEVELOPMENT IMPACT FEE ADVISORY COMMITTEE REVISIONS:

26 The city council shall consider the development impact fee advisory committee recommended  
27 revision(s) to this chapter at least once every twelve (12) months. The committee's  
28 recommendations and the city council's actions are intended to ensure that the benefits to a  
29 development paying development impact fees are equitable, in that the fee charged to the  
30 development shall not exceed a proportionate share of system improvements costs, and that  
31 the procedures for administering development impact fees remain efficient.

32  
33 9-5-15: ENFORCEMENT AND COLLECTION:

34 When any development impact fee is due pursuant to this chapter, or pursuant to the terms of  
35 any written agreement between a fee payer and the city, and such development impact fee has  
36 not been paid in a timely manner, the city may exercise any or all of the following powers, in  
37 any combination, to enforce the collection of the development impact fee:

38 A. Withhold building permits or other city approvals related to the development for which  
39 the development impact fee is due until all development impact fees due have been paid, and  
40 issue stop work orders, and revoke or suspend a building permit.

1 B. Withhold utility services from the development for which the development impact fee is  
2 due until all development impact fees due have been paid.

3 C. Add interest to the development impact fee not paid in full at the legal rate provided for in  
4 Idaho Code section 28-22-104, as amended, plus five percent (5%) beginning on the date at  
5 which the payment of the development impact fee was due until paid in full.

6 D. Impose a penalty of five percent (5%) of the total development impact fee (not merely the  
7 portion dishonored, late or not paid in full) per month beginning on the date at which the  
8 payment of the development impact fee was due until paid in full.

9 E. Impose a lien for failure to timely pay a development impact fee following the procedures  
10 contained in Idaho Code title 45, chapter 5.

11  
12 9-5-16: MISCELLANEOUS PROVISIONS:

13  
14 9-5-16-01: DEVELOPMENT PROJECTS:

15 Nothing in this chapter shall prevent the city from requiring a developer to construct  
16 reasonable project improvements in conjunction with a development project.

17  
18 9-5-16-02: PRIVATE AGREEMENTS:

19 Nothing in this chapter shall be construed to prevent or prohibit private agreements between  
20 property owners or developers, the Idaho transportation department and governmental  
21 entities in regard to the construction or installation of system improvements or providing for  
22 credits or reimbursements for system improvement costs incurred by a developer, including  
23 interproject transfers of credits or providing for reimbursement for project improvements  
24 which are used or shared by more than one development project. If it can be shown that a  
25 proposed development has a direct impact on a public facility under the jurisdiction of the  
26 Idaho transportation department, then the agreement shall include a provision for the  
27 allocation of development impact fees collected from the developer for the improvement of  
28 the public facility by the Idaho transportation department.

29  
30 9-5-16-03: EXTRAORDINARY IMPACTS:

31 Nothing in this chapter shall obligate the city to approve development which results in an  
32 extraordinary impact.

33  
34 15.16.120.049-5-16-04: in this chapter shall obligate the city to approve any development  
35 request which may reasonably be expected to reduce levels of service below minimum  
36 acceptable levels established in this chapter.

37  
38 9-5-16-05: ADDITIONAL RIGHTS NOT CREATED:

39 Nothing in this chapter shall be construed to create any additional right to develop real  
40 property or diminish the city in regulating the orderly development of real property within its  
41 boundaries.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

9-5-16-06: EMINENT DOMAIN:

Nothing in this chapter shall work to limit the use by the city of the power of eminent domain or supersede or conflict with requirements or procedures authorized in Idaho Code for local improvement districts or general obligation bond issues.

9-5-16-07: ANNEXATION:

Nothing herein shall restrict or diminish the power of the city to annex property into its territorial boundaries or exclude property from its territorial boundaries upon request of a developer or owner, or to impose reasonable conditions thereon, including the recovery of project or system improvement costs required as a result of such voluntary annexation.

9-5-16-08: ALTERNATIVE SOURCES OF REVENUE:

The city shall develop a plan for alternative sources of revenue, which shall include, but not necessarily be limited to, plans generated during city's annual budget process, lobbying efforts, tax increment financing, implementation of user fees, administrative and regulatory fees and other forms of revenue.

9-5-16-09: PERMITS ISSUED PRIOR TO EFFECTIVE DATE:

Notwithstanding any other provision of this chapter, that portion of a project for which a complete application for a building permit has been received by the city prior to the effective date hereof shall not be subject to the development impact fees imposed by this chapter. If the resulting building permit is later revised or replaced after the effective date hereof, and the new building permit reflects a development density, intensity, development size or number of units more than ten percent (10%) higher than that reflected in the original building permit, then development impact fees may be charged on the difference in density, intensity, development size or number of units between the original and the revised or replacement building permit.

9-5-16-10: MONIES NOT EXPENDED:

Any monies, including any accrued interest not assigned to specific system improvements within such capital improvements program and not expended pursuant to section 15.16.080 of this chapter or refunded pursuant to section 15.16.060 of this chapter shall be retained in the same account until the next fiscal year.

9-5-16-11: ERRORS:

If the city discovers an error in the development impact fee study that results in assessment or payment of more than a proportionate share of system improvement costs on any proposed development, the city shall: a) adjust the development impact fee to collect no more than a proportionate share; or b) discontinue the collection of any development impact fees until the error is corrected by ordinance.

1  
2  
3 9-5-16-12: RECALCULATION:

4 If development impact fees are calculated and paid based on a mistake or misrepresentation,  
5 they shall be recalculated. Any amounts overpaid by a fee payer shall be refunded by the city  
6 within thirty (30) days after the city's acceptance of the recalculated amount, with interest at  
7 the legal rate provided for in Idaho Code section 28-22-104 from the date on which the fee was  
8 paid. Any amounts underpaid by the fee payer shall be paid to the city within thirty (30) days  
9 after the city's acceptance of the recalculated amount, with interest at the legal rate provided  
10 for in Idaho Code section 28-22-104 from the date on which the fee was paid. In the case of an  
11 underpayment to the city, the city may withhold issuance of the building permits or  
12 development approvals for the project for which the development impact fee was paid until  
13 such underpayment is corrected, and if amounts owed to the city are not paid within such  
14 thirty (30) day period, the city may also revoke any building permits or development approvals  
15 issued in reliance on the previous payment of such development impact fee and refund such  
16 fee to the fee payer.

17  
18 9-5-16-13: ADVISORY COMMITTEE:

19 The development impact fee advisory committee established during the preparation of the  
20 development impact fee study shall continue in existence, and shall be composed of not fewer  
21 than five (5) members appointed by city council. Two (2) or more members shall be active in  
22 the business of development, building or real estate. The committee shall serve in an advisory  
23 capacity and has been established to: a) assist the city in adopting land use assumptions; b)  
24 review the capital improvements plan, and proposed amendments, and file written comments;  
25 c) monitor and evaluate implementation of the capital improvements plan; d) file periodic  
26 reports, at least annually, with respect to the capital improvements plan and report to the city  
27 any perceived inequities in implementing the plan or imposing the development impact fees;  
28 and e) advise the city of the need to update or revise the land use assumptions, the capital  
29 improvements plan, and development impact fees.

30  
31 9-5-16-14: PENALTY:

32 Any person who violates any provision of this chapter shall be guilty of a misdemeanor,  
33 punishable by imprisonment not to exceed six (6) months or a fine not to exceed one thousand  
34 dollars (\$1,000,00), or both. Knowingly furnishing false information to any official of the city  
35 charged with the administration of this chapter, including, without limitation, the furnishing of  
36 false information regarding the expected size, use or impacts from a proposed development,  
37 shall be a violation of this chapter.

38  
39 9-5-16-15: CONSTRUCTION:

40 All provisions, terms, phrases and expressions contained in this chapter shall be liberally  
41 construed in order that the true intent and meaning of the Idaho development impact fee act  
42 and the city council may be fully carried out.

1 9-5-17: DEVELOPMENT IMPACT FEE SCHEDULE:

2  
3 EXHIBIT A:

4 Proposed Residential Development Impact Fee by Unit Size (in Square Feet)

<u>Housing Unit size Department</u>	<u>Under 1,000 SF</u>	<u>1,001- 1,600 SF</u>	<u>1,601- 2,200 SF</u>	<u>2,201- 2,800 SF</u>	<u>2,801 or more SF</u>
<u>Administration</u>	<u>\$75.35</u>	<u>\$150.70</u>	<u>\$188.38</u>	<u>\$207.21</u>	<u>\$226.05</u>
<u>Buildings/Grounds</u>	<u>\$163.32</u>	<u>\$326.63</u>	<u>\$408.29</u>	<u>\$449.12</u>	<u>\$489.95</u>
<u>Community Development</u>	<u>\$183.99</u>	<u>\$367.99</u>	<u>\$459.99</u>	<u>\$505.99</u>	<u>\$551.98</u>
<u>Fire Services</u>	<u>\$310.71</u>	<u>\$621.42</u>	<u>\$776.77</u>	<u>\$854.45</u>	<u>\$932.12</u>
<u>Library</u>	<u>\$10.06</u>	<u>\$20.12</u>	<u>\$25.15</u>	<u>\$27.66</u>	<u>\$30.18</u>
<u>Marshall</u>	<u>\$3.29</u>	<u>\$6.57</u>	<u>\$8.21</u>	<u>\$9.04</u>	<u>\$9.86</u>
<u>Parks</u>	<u>\$30.14</u>	<u>\$60.28</u>	<u>\$75.35</u>	<u>\$82.89</u>	<u>\$90.42</u>
<u>Streets</u>	<u>\$131.22</u>	<u>\$262.44</u>	<u>\$328.06</u>	<u>\$360.86</u>	<u>\$393.67</u>
<b><u>TOTAL IMPACT FEE/ UNIT</u></b>	<b><u>\$908</u></b>	<b><u>\$1,816</u></b>	<b><u>\$2,270</u></b>	<b><u>\$2,497</u></b>	<b><u>\$2,724</u></b>

27 **Assumptions:**

28 Under 1,000 SF= 1 person per unit

29 1,001 to 1,600 SF = 2 persons per unit

30 1,601 to 2,200 SF= 2.5 persons per unit

31 2,201 to 2,800 SF= 2.75 persons per unit

32 2,801 or more SF= 3 persons per unit

**Proposed Business/ Industrial and Office Development Impact Fee (in Square Feet)**

<u>DIF per 1,000 SF</u>	<u>Business/ Retail</u>	<u>Light Industrial</u>	<u>Office</u>
<u>Administration</u>	<u>\$49.86</u>	<u>\$41.63</u>	<u>\$83.02</u>
<u>Buildings/Grounds</u>	<u>\$108.07</u>	<u>\$90.24</u>	<u>\$179.93</u>
<u>Community Development</u>	<u>\$121.75</u>	<u>\$101.66</u>	<u>\$202.71</u>
<u>Fire Services</u>	<u>\$43.39</u>	<u>\$36.23</u>	<u>\$72.25</u>
<u>Library</u>	<u>\$6.66</u>	<u>\$5.56</u>	<u>\$11.08</u>
<u>Marshall</u>	<u>\$2.17</u>	<u>\$1.82</u>	<u>\$3.62</u>
<u>Parks</u>	<u>\$19.94</u>	<u>\$16.65</u>	<u>\$33.21</u>
<u>Streets</u>	<u>\$598.85</u>	<u>\$500.04</u>	<u>\$997.09</u>
<b><u>TOTAL IMPACT FEE/ per 1,000 SF</u></b>	<b><u>\$951 per 1,000 SF</u></b>	<b><u>\$794 per 1,000 SF</u></b>	<b><u>\$1,583 per 1,000 SF</u></b>


**Section 2. SEVERABILITY CLAUSE.** If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

**Section 3. REPEALER CLAUSE.** All Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

**Section 4. EFFECTIVE DATE.** This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

**PASSED AND ADOPTED BY THE BELLEVUE CITY COUNCIL** and approved by the Mayor this 22<sup>nd</sup> day of March, 2021.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11

  
\_\_\_\_\_  
Ned Burns, Mayor

ATTEST:

  
\_\_\_\_\_  
Marian Edwards, City Clerk



Publish: Idaho Mountain Express \_\_\_\_\_, 2021