

ORDINANCE NO. 2007- 11

*AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
BELGRADE, MONTANA AMENDING CHAPTER 3.10 OF THE
BELGRADE MUNICIPAL CODE REGARDING IMPACT FEES*

PREAMBLE

WHEREAS, the City Council has determined that it is appropriate to amend Chapter 3.10 of the Belgrade Municipal Code regarding impact fees to promote the health, safety and welfare of the citizens of Belgrade.

IT IS HEREBY ORDAINED by the City Council of the City of Belgrade, Montana, that Section 3.10, Belgrade Municipal Code is hereby amended as follows:

Chapter 3.10

IMPACT FEES

Sections:

- 3.10.010 Legislative findings.
- 3.10.020 Authority and applicability.
- 3.10.030 Intent.
- 3.10.040 Definitions.
- 3.10.050 Street impact fees.
- 3.10.060 Fire protection impact fees.
- 3.10.070 Water impact fees.
- 3.10.080 Sewer impact fees.
- 3.10.090 Park impact fees.
- 3.10.100 Administrative fee.
- 3.10.110 Credits against impact fees.
- 3.10.120 Appeal.
- 3.10.130 Miscellaneous provisions

3.10.010 Legislative findings.

The city council of the city of Belgrade, Montana finds that:

- A. Capital improvements to streets, fire protection, water and sewer systems, and parks are

necessary to accommodate continued growth within the city to protect the health, safety and general welfare of the citizens of the city.

- B. New residential and nonresidential development imposes increased and excessive demands upon existing city facilities.
- C. New development often overburdens existing public facilities and the tax revenues generated from new development often do not generate sufficient funds to provide public facilities to serve the new development.
- D. New development is expected to continue, and will place ever-increasing demands on the city to provide public facilities to serve new development.
- E. The creation of an equitable impact fee system would enable the city to impose a proportionate share of the costs that are reasonably related to the capital improvement demands of new development.
- F. The impact fee study, dated February 14, 2007, and as updated, prepared by TischlerBise Fiscal, Economic & Planning Consultants, set forth reasonable methodologies and analysis for determining the impacts of various types of development on the city's street, fire protection, water and sewer systems, and parks necessary to meet the demands for such services created by new development.
- G. The city establishes as city standards the assumptions and service standards referenced in the impact fee studies as part of its current plans for the major street system and for the city's fire protection, water and sewer systems and parks.
- H. The impact fees described in this chapter are based on the impact fee study, and do not exceed the maximum impact fee determined by the impact fee study.
- I. The impact fees adopted in this chapter are reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the new development.
- J. After the consideration of the need for capital improvements required to served new development, and after consideration of the payments for capital improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes and other available sources of funding the capital improvements, the city council determined that the impact fees adopted in this chapter do not exceed a proportionate share of the costs incurred or to be incurred by the city in accommodating the development and are reasonably related to the benefits accruing to the development paying the impact fees.
- K. The types of infrastructure included in the impact fee study all have citywide service areas. Therefore, impact fees will be imposed on a citywide basis with one benefit district comprised of all land within the city limits of Belgrade.

- L. This chapter creates a system by which impact fees will be used to expand or improve the city street, fire protection, water and sewer systems, and parks in ways that benefit the development that paid each fee within a reasonable period of time after the fee is paid.
- M. This chapter creates a system under which development impact fees shall not be used to cure existing deficiencies in public facilities.
- N. This chapter does not hold new development to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.
- O. It is in the best interests of the city and new development to include an administrative surcharge, not to exceed five percent of the total impact fee, to help cover impact fee expenses.
- P. The capital improvement plan for growth related projects adopted by the city must cover at least a five year period, and must be reviewed and updated at least every two years.
- Q. This chapter adopts policies and procedures related to site specific credits or developer reimbursements that are reasonably designed to avoid double payment for growth related capital improvements.

3.10.020 Authority and applicability.

- A. This chapter is enacted pursuant to the city's general police power, the authority granted to the city by the Montana State Constitution, Section 7-1-101, and Title 7, Chapter 6, Part 16, of Montana Code Annotated (M.C.A.).
- B. The provisions of this chapter shall apply to all of the territory within the limits of the city.
- C. The provisions of this chapter related to water impact fees shall also apply to all properties located outside the city that are connected to the city water system, if any.
- D. The provisions of this chapter related to sewer impact fees shall also apply to all properties located outside the city that are connected to the city sewer system, if any.

3.10.030 Intent.

- A. It is the intent of this chapter to adopt impact fees that are reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the new development.

- B. It is the further intent of this chapter to adopt impact fees that do not exceed a proportionate share of the costs incurred or to be incurred by the city in accommodating the development.
- C. It is the intent of this chapter that impact fees collected under the provisions of this chapter not be used to correct existing deficiencies in a public facility.
- D. It is the intent of this chapter that new development not be held to a higher level of services than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.
- E. It is the intent of this chapter that any monies collected from any impact fee and deposited in an impact fee fund shall not be co-mingled with monies from a different impact fee fund or ever be used for a type of facility or equipment different from that for which the fee was paid.

3.10.040 Definitions.

As used in this chapter, the following definitions apply:

- (1) (a) "Capital improvements" means improvements, land, and equipment with a useful life of 10 years or more that increase or improve the service capacity of a public facility.
 - (b) The term does not include consumable supplies.
- (2) "Connection charge" means the actual cost of connecting a property to a public utility system and is limited to the labor, materials, and overhead involved in making connections and installing meters.
- (3) "Development" means construction, renovation, or installation of a building or structure, a change in use of a building or structure, or a change in the use of land when the construction, installation, or other action creates additional demand for public facilities.
- (4) "Governmental entity" means the city of Belgrade, Montana.
- (5) (a) "Impact fee" means any charge imposed upon development by a governmental entity as part of the development approval process to fund the additional service capacity required by the development from which it is collected. An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the total impact fee collected.
 - (b) The term does not include:

- (i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit required for development;
 - (ii) a connection charge;
 - (iii) any other fee authorized by law, including but not limited to user fees, special improvement district assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water districts and systems, and costs of ongoing maintenance; or
 - (iv) onsite or offsite improvements necessary for new development to meet the safety, level of service, and other minimum development standards that have been adopted by the governmental entity.
- (6) "Proportionate share" means that portion of the cost of capital system improvements that reasonably relates to the service demands and needs of the project. A proportionate share must take into account the limitations provided in 7-6-1602, M.C.A.
- (7) "Public facilities" means:
- (a) a water supply production, treatment, storage, or distribution facility;
 - (b) a wastewater collection, treatment, or disposal facility;
 - (c) a transportation facility, including roads, streets, bridges, rights-of-way, traffic signals, and landscaping;
 - (d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility;
 - (e) a police, emergency medical rescue, or fire protection facility; and
 - (f) other facilities for which documentation is prepared as provided in 7-6-1602 that have been approved as part of an impact fee ordinance or resolution by a two-thirds majority of the city council for the city of Belgrade.
- (8) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity, other than the city of Belgrade, Montana.

3.10.050 Street impact fees.

- A. Imposition of Street Impact Fees.
 - 1. On or after the effective date of this ordinance, any person who seeks to obtain a building permit, or an extension of a building permit that was issued before the

effective date of this chapter, is required to pay a street impact fee in the amount specified in this chapter.

2. No building permit shall be issued, or extension granted, until the street impact fee described in this chapter has been paid, unless the development for which the permit is sought is exempted by subsection F of this section.

B. Amount of Street Impact Fee.

1. The amount of the street impact fee shall be Fifty Five Percent (55%) of the amounts set forth in the following Street Impact Fee Schedule:

Street Impact Fee Schedule

Residential (per housing unit)

210 Single Family Detached	\$3,856
230 All Other Housing Types	\$2,361

Nonresidential (per Sq Ft of floor area)

820 Commercial / Shop Ctr	\$6.94
770 Business Park	\$1.68
720 Medical-Dental Office	\$7.21
710 General Office	\$2.66
610 Hospital	\$3.50
151 MiniWarehouse	\$0.49
150 Warehousing	\$0.99
140 Manufacturing	\$0.76
110 Light Industrial	\$1.39
520 Elementary School	\$1.91

Nonresidential (per unique demand indicator)

620 Nursing Home (per bed)	\$473
565 Day Care (per student)	\$429
530 Secondary School (per student)	\$245
520 Elementary School (per student)	\$170
320 Lodging (per room)	\$1,124

C. Payment of Street Impact Fee.

1. Any person who applies for a building permit or for an extension of a building permit that was issued before the effective date of this chapter, shall pay the street impact fee required by this chapter to the city prior to the issuance or extension of a permit.
2. All funds paid by a person pursuant to this subchapter shall be identified as street impact fees and shall be promptly deposited in the street impact fee fund described in subsection D of this section.

- D. Street Impact Fee Funds.
 - 1. A single street impact fee fund is created, and such fund shall be maintained in an interest bearing account.
 - 2. Such fund shall contain only those street impact fees collected pursuant to this chapter and any interest which may accrue from time to time on such amounts.

- E. Use of Street Impact Fee Funds.
 - 1. The monies in the street impact fee fund shall be used for capital improvements that are reasonably related to the benefits accruing to the development paying the impact fees for streets.
 - 2. Street impact fees may be used to reimburse the city for costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to 7-6-1602, M.C.A., in a manner that demonstrates the need for the excess capacity. The city may continue to assess an impact fee that recoups costs for excess capacity in an existing facility. Street impact fees used to reimburse the city for the costs to provide the excess capacity must be based on the actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

- F. Exemptions from Street Impact Fee.
 - 1. The following types of development shall be exempted from payment of the street impact fee:
 - a. Alterations or expansions of existing buildings where the use is not changed, no additional residential or commercial units are created, and no additional vehicle trips will be produced over and above those produced by the existing use;
 - b. Construction of accessory buildings or structures that will not produce additional vehicle trips over and above those produced by the primary building or land use;
 - c. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use where no additional vehicle trips will be produced over and above those produced by the original building or structure;
 - d. Any other type of development for which the applicant can demonstrate that the proposed land use and development will produce no more vehicle trips from such site over and above the trips from such site prior to the proposed development, or for which the applicant can show that a street impact fee for such site has previously been paid in an amount that equals or exceeds the street impact fee that would be required by this chapter for such development.
 - 2. Any such claim for exemption must be made no later than the time when the applicant applies for the building permit, or for an extension of a building permit that was issued before the effective date of this chapter, and any claim for

- exemption not made at or before that time shall have been waived.
3. The city manager or his designee shall determine the validity of any claim for exemption pursuant to the criteria set forth in subsection (F)(1) of this section.

G. Site-Specific Credits and Developer Reimbursements.

1. The city council shall adopt policies and procedures related to site-specific credits or developer reimbursements for street impact fees. Project improvements normally required as part of the development approval process are not eligible for credits against impact fees.

3.10.060 Fire protection impact fees.

A. Imposition of Fire Protection Impact Fees.

1. On or after the effective date of this ordinance, any person who seeks to obtain a building permit, or an extension of a building permit that was issued before the effective date of this chapter, is required to pay a fire protection impact fee in the amount specified in this chapter.
2. No building permit shall be issued, or extension granted, until the fire protection impact fee described in this chapter has been paid, unless the development for which the permit is sought is exempted by subsection F of this section.

B. Amount of Fire Protection Impact Fee.

1. The amount of the fire protection impact fee shall be Fifty Five Percent (55%) of the amounts set forth in the following Fire Protection Impact Fee Schedule:

Fire Protection Impact Fee Schedule

Residential (per housing unit)

210 Single Family Detached	\$917
230 All Other Housing Types	\$639

Nonresidential (per Sq Ft of floor area)

820 Commercial / Shop Ctr	\$0.70
770 Business Park	\$0.15
720 Medical-Dental Office	\$0.66
710 General Office	\$0.21
610 Hospital	\$0.32
151 MiniWarehouse	\$0.04
150 Warehousing	\$0.09
140 Manufacturing	\$0.07
110 Light Industrial	\$0.12
520 Elementary School	\$0.17

Nonresidential (per unique demand indicator)

620 Nursing Home (per bed)	\$43
565 Day Care (per student)	\$39
530 Secondary School (per student)	\$22
520 Elementary School (per student)	\$15
320 Lodging (per room)	\$104

C. Payment of Fire Protection Impact Fee.

1. Any person who applies for a building permit, or for an extension of a building permit that was issued before the effective date of this chapter, shall pay the fire protection impact fee required by this chapter to the city prior to the issuance or extension of a permit.
2. All funds paid by a person pursuant to this subchapter shall be identified as fire protection impact fees and shall be promptly deposited in the fire protection impact fee fund described in subsection D of this section.

D. Fire Protection Impact Fee Funds.

1. A single fire protection impact fee fund is created, and such fund shall be maintained in an interest bearing account.
2. Such fund shall contain only those fire protection impact fees collected pursuant to this chapter and any interest which may accrue from time to time on such amounts.

E. Use of Fire Protection Impact Fee Funds.

1. The monies in the fire protection impact fee fund shall be used for capital improvements that are reasonably related to the benefits accruing to the development paying the impact fees for fire protection.
2. Fire protection impact fees may be used to reimburse the city for costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to 7-6-1602, M.C.A., in a manner that demonstrates the need for the excess capacity. The city may continue to assess an impact fee that recoups costs for excess capacity in an existing facility. Fire protection impact fees used to reimburse the city for the costs to provide the excess capacity must be based on the actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

F. Exemptions from Fire Protection Impact Fee.

1. The following types of development shall be exempted from payment of the fire protection impact fee:
 - a. Reconstruction or replacement of a previously existing residential or commercial unit that does not create any additional units.
 - b. Construction of unoccupied accessory units related to a residential unit.
 - c. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use where no greater demand for fire protection will be produced over and above those produced

- by the original building or structure.
- d. Projects for which a fire protection impact fee has previously been paid in an amount that equals or exceeds the fire protection impact fee that would be required by this chapter.
- e. Any other type of development for which the applicant can demonstrate that the proposed land use and development will produce no more demand for fire protection from such site over and above the fire protection for such site prior to the proposed development, or for which the applicant can show that a fire protection impact fee for such site has previously been paid in an amount that equals or exceeds the fire protection impact fee that would be required by this chapter for such development.
- 2. Any such claim for exemption must be made no later than the time when the applicant applies for the building permit, or the extension of a building permit issued before the effective date of this chapter, for the proposed development, and any claim for exemption not made at or before that time shall have been waived.
- 3. The city manager or his designee shall determine the validity of any claim for exemption pursuant to the criteria set forth in subsection (F)(1) of this section.

G. Site-Specific Credits and Developer Reimbursements.

- 1. The city council may adopt policies and procedures related to site-specific credits or developer reimbursements for fire protection impact fees. Project improvements normally required as part of the development approval process are not eligible for credits against impact fees.

3.10.070 Water impact fees.

A. Imposition of Water Impact Fees.

- 1. On or after the effective date of this ordinance, any person who applies for a building permit, or for the extension of a building permit that was issued prior to the effective date of this chapter, or seeks to obtain a water service connection, is required to pay a water impact fee in the amount specified in this chapter.
- 2. No building permit shall be issued, or extension granted, or water service connection allowed, until the water impact fee described in this chapter has been paid, unless the development for which the permit is sought is exempted by subsection F of this section.

B. Amount of Water Impact Fee.

- 1. The amount of the water impact fee shall be Fifty Five Percent (55%) of the amounts set forth in the following Water Impact Fee Schedule:

Water Impact Fee Schedule

Residential (per housing unit)

210 Single Family Detached	\$5,128
230 All Other Housing Types	\$3,574

Nonresidential (based upon meter size)

<i>Meter Size(inches)</i>		<i>Capacity Ratio</i>	
0.75	Displacement	1.0	\$5,128
1.00	Displacement	1.7	\$8,717
1.50	Displacement	3.3	\$16,922
2.00	Compound	5.3	\$27,178
3.00	Compound	10.7	\$54,869
4.00	Compound	16.7	\$85,637

Fees for meters larger than four inches will be based on annualized average day demand and the net capital cost per gallon of capacity.

C. Payment of Water Impact Fee.

1. Any person who applies for a building permit, or applies for the extension of a building permit issued prior to the effective date of this chapter, or applies for a water connection, shall pay the water impact fee required by this chapter to the city prior to the issuance or extension of any such permit.
2. All funds paid by a person pursuant to this subchapter shall be identified as water impact fees and shall be promptly deposited in the water impact fee fund described in subsection D of this section.

D. Water Impact Fee Funds.

1. A single water impact fee fund is created, and such fund shall be maintained in an interest bearing account.
2. Such fund shall contain only those water impact fees collected pursuant to this chapter and any interest which may accrue from time to time on such amounts.

E. Use of Water Impact Fee Funds.

1. The monies in the water impact fee fund shall be used for capital improvements that are reasonably related to the benefits accruing to the development paying the impact fees for water.
2. Water impact fees may be used to reimburse the city for costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to 7-6-1602, M.C.A., in a manner that demonstrates the need for the excess capacity. The city may continue to assess an impact fee that recoups costs for excess capacity in an existing facility. Water impact fees used to reimburse the city for the costs to provide the excess capacity must be based on the actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

F. Exemptions from Water Impact Fee.

1. The following types of development shall be exempted from payment of the water impact fee:

- a. Reconstruction or replacement of a previously existing residential or commercial unit that does not create any additional residential units.
 - b. Construction of unoccupied accessory units related to a residential unit.
 - c. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use where no greater demand for water will be produced over and above those produced by the original building or structure.
 - d. Projects that the applicant can demonstrate will produce no greater demand for water from such land than existed prior to issuance of such permit.
 - e. Projects for which a water impact fee has previously been paid in an amount that equals or exceeds the water impact fee that would be required by this chapter.
 - f. Any other type of development for which the applicant can demonstrate that the proposed land use and development will produce no more demand for water from such site over and above the water demand for such site prior to the proposed development, or for which the applicant can show that a water impact fee for such site has previously been paid in an amount that equals or exceeds the water impact fee that would be required by this chapter for such development.
2. Any such claim for exemption must be made no later than the time when the applicant applies for the building permit, or for the extension of a building permit issued prior to the effective date of this chapter, or for a water connection, for the proposed development, and any claim for exemption not made at or before that time shall have been waived.
 3. The city manager or his designee shall determine the validity of any claim for exemption pursuant to the criteria set forth in subsection (F)(1) of this section.

G. Site-Specific Credits and Developer Reimbursements.

1. The city council may adopt policies and procedures related to site-specific credits or developer reimbursements for water impact fees. Project improvements normally required as part of the development approval process are not eligible for credits against impact fees.

3.10.080 Sewer impact fees.

A. Imposition of Sewer Impact Fees.

1. On or after the effective date of this ordinance, any person who applies for a building permit, or for the extension of a building permit that was issued prior to the effective date of this chapter, or seeks to obtain a sewer service connection, is required to pay a sewer impact fee in the amount specified in this chapter.
2. No building permit shall be issued, or extension of a building permit granted, or sewer service connection allowed, until the sewer impact fee described in this chapter has been paid, unless the development for which the permit is sought is exempted by subsection F of this section.

B. Amount of Sewer Impact Fee.

1. The amount of the sewer impact fee shall be Fifty Five Percent (55%) of the amounts set forth in the following Sewer Impact Fee Schedule:

Sewer Impact Fee Schedule

Residential (per housing unit)

210 Single Family Detached	\$2,708
230 All Other Housing Types	\$1,887

Nonresidential (based upon water meter size)

<i>Water Meter Size (inches)</i>	<i>Capacity Ratio</i>	
0.75 Displacement	1.0	\$2,708
1.00 Displacement	1.7	\$4,604
1.50 Displacement	3.3	\$8,937
2.00 Compound	5.3	\$14,354
3.00 Compound	10.7	\$28,979
4.00 Compound	16.7	\$45,229

Nonresidential sewer fees are based on water meter size. Fees for water meters larger than four inches will be based on annualized average day demand and the net capital cost per gallon of capacity.

C. Payment of Sewer Impact Fee.

1. Any person who applies for a building permit, or applies for the extension of a building permit that was issued prior to the effective date of this chapter, or applies for a sewer connection, shall pay the sewer impact fee required by this chapter to the city prior to the issuance or extension of any such permit.
2. All funds paid by a person pursuant to this subchapter shall be identified as sewer impact fees and shall be promptly deposited in the sewer impact fee fund described in subsection D of this section.

D. Sewer Impact Fee Funds.

1. A single sewer impact fee fund is created, and such fund shall be maintained in an interest bearing account.
2. Such fund shall contain only those sewer impact fees collected pursuant to this chapter and any interest which may accrue from time to time on such amounts.

E. Use of Sewer Impact Fee Funds.

1. The monies in the sewer impact fee fund shall be used for capital improvements that are reasonably related to the benefits accruing to the development paying the impact fees for sewer or wastewater service.
2. Sewer impact fees may be used to reimburse the city for costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must

have been documented pursuant to 7-6-1602, M.C.A., in a manner that demonstrates the need for the excess capacity. The city may continue to assess an impact fee that recoups costs for excess capacity in an existing facility. Sewer impact fees used to reimburse the city for the costs to provide the excess capacity must be based on the actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

F. Exemptions from Sewer Impact Fee.

1. The following types of development shall be exempted from payment of the sewer impact fee:
 - a. Reconstruction or replacement of a previously existing residential or commercial unit that does not create any additional units.
 - b. Construction of unoccupied accessory units related to a residential unit.
 - c. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use where no greater demand for sewer capacity will be produced over and above those produced by the original building or structure.
 - d. Projects that the applicant can demonstrate will produce no greater demand for sewer capacity from such land than existed prior to issuance of such permit.
 - e. Projects for which a sewer impact fee has previously been paid in an amount that equals or exceeds the sewer impact fee that would be required by this chapter.
 - f. Any other type of development for which the applicant can demonstrate that the proposed land use and development will produce no more demand for sewer capacity from such site over and above the sewer capacity for such site prior to the proposed development, or for which the applicant can show that a sewer impact fee for such site has previously been paid in an amount that equals or exceeds the sewer impact fee that would be required by this chapter for such development.
2. Any such claim for exemption must be made no later than the time when the applicant applies for the building permit, or for the extension of a building permit, or for a sewer connection, for the proposed development, and any claim for exemption not made at or before that time shall have been waived.
3. The city manager or his designee shall determine the validity of any claim for exemption pursuant to the criteria set forth in subsection (F)(1) of this section.

G. Site-Specific Credits and Developer Reimbursements.

1. The city council may adopt policies and procedures related to site-specific credits or developer reimbursements for sewer impact fees. Project improvements normally required as part of the development approval process are not eligible for credits against impact fees.

3.10.090 Park impact fees.

- A. Imposition of Park Impact Fees.
 - 1. On or after the effective date of this ordinance, any person who applies for a residential building permit, or for the extension of a residential building permit issued before the effective date of this chapter, is required to pay a park impact fee in the amount specified in this chapter.
 - 2. No residential building permit shall be issued, or no extension of a residential building permit that was issued before the effective date of this chapter shall be allowed, until the park impact fee described in this chapter has been paid, unless the development for which the permit is sought is exempted by subsection F of this section.

- B. Amount of Park Impact Fee.
 - 1. The amount of the park impact fee shall be Fifty Five Percent (55%) of the amounts set forth in the following Park Impact Fee Schedule:

Park Impact Fee Schedule

<i>Residential (per housing unit)</i>	
210 Single Family Detached	\$831
230 All Other Housing Types	\$579

- C. Payment of Park Impact Fee.
 - 1. Any person who applies for a residential building permit, or applies for the extension of a residential building permit that was issued prior to the effective date of this chapter, shall pay the park impact fee required by this chapter to the city prior to the issuance or extension of any such permit.
 - 2. All funds paid by a person pursuant to this subchapter shall be identified as park impact fees and shall be promptly deposited in the park impact fee fund described in subsection D of this section.

- D. Park Impact Fee Funds.
 - 1. A single park impact fee fund is created, and such fund shall be maintained in an interest bearing account.
 - 2. Such fund shall contain only those park impact fees collected pursuant to this chapter and any interest which may accrue from time to time on such amounts.

- E. Use of Park Impact Fee Funds.
 - 1. The monies in the park impact fee fund shall be used for capital improvements that are reasonably related to the benefits accruing to the development paying the impact fees for parks.
 - 2. Park impact fees may be used to reimburse the city for costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to 7-6-1602, M.C.A., in a manner that demonstrates the need for the excess capacity. The city may continue to assess an

impact fee that recoups costs for excess capacity in an existing facility. Park impact fees used to reimburse the city for the costs to provide the excess capacity must be based on the actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

F. Exemptions from Park Impact Fee.

1. The following types of development shall be exempted from payment of the park impact fee:
 - a. Reconstruction or replacement of a previously existing residential unit that does not create any additional residential units.
 - b. Construction of unoccupied accessory units related to a residential unit.
 - c. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use where no greater demand for parks will be produced over and above those produced by the original building or structure.
 - d. Projects that the applicant can demonstrate will produce no greater demand for parks from such land than existed prior to issuance of such permit.
 - e. Projects for which a park impact fee has previously been paid in an amount that equals or exceeds the park impact fee that would be required by this chapter.
 - f. Any other type of development for which the applicant can demonstrate that the proposed land use and development will produce no more use of parks from such site over and above the use of parks for such site prior to the proposed development, or for which the applicant can show that a park impact fee for such site has previously been paid in an amount that equals or exceeds the park impact fee that would be required by this chapter for such development.
2. Any such claim for exemption must be made no later than the time when the applicant applies for the building permit, or for the extension of a building permit issued prior to the effective date of this chapter, for the proposed development, and any claim for exemption not made at or before that time shall have been waived.
3. The city manager or his designee shall determine the validity of any claim for exemption pursuant to the criteria set forth in subsection (F)(1) of this section.

G. Site-Specific Credits and Developer Reimbursements.

1. The city council may adopt policies and procedures related to site-specific credits or developer reimbursements for park impact fees. Project improvements normally required as part of the development approval process are not eligible for credits against impact fees.

3.10.100 Administrative fee.

A. Imposition of Impact Fee Administrative Fees.

1. Any person who is responsible to pay an impact fee under this ordinance shall also pay a fee for the administration of the impact fee to the city when the impact fee is

paid.

- B. Amount of Impact Fee Administrative Fee.
 - 1. The amount of the impact fee administrative fee shall be five percent of the impact fee paid.
- C. When Impact Fee Administrative Fee Paid.
 - 1. Any person who pays an impact fee under this ordinance shall also pay the impact fee administrative fee to the city when the impact fee is paid.
 - 2. All funds paid by a person pursuant to this subchapter shall be identified as impact fee administrative fees and shall be promptly deposited in the impact fee administrative fee fund described in subsection D of this section.
- D. Impact Fee Administrative Fee Funds.
 - 1. A single impact fee administrative fee fund is created, and such fund shall be maintained in an interest bearing account.
 - 2. Such fund shall contain only those impact fee administrative fees collected pursuant to this subchapter and any interest which may accrue from time to time on such amounts.
- E. Use of Impact Fee Administrative Fee Funds.
 - 1. The monies in the impact fee administrative fee fund shall be used for the administration of impact fees pursuant to the provisions in Title 7, Chapter 6, Part 16, M.C.A.

3.10.110 Credits Against Impact Fees.

- A. After the effective date of this chapter, all mandatory or voluntary monetary contributions for, land or easement dedications for, or acquisition or construction of, capital improvements by an applicant in connection with a proposed development shall result in a *pro rata* credit against the impact fee for the same type of service or facility otherwise due for such development, except that no such credit shall be awarded for:
 - 1. Projects not listed on the impact fee capital improvements program; or
 - 2. Land or easement dedications for, or acquisition or construction of, project-related improvements required as a condition of preliminary plat approval, or other approval, of a development or subdivision; or
 - 3. Any voluntary land or easement dedications not accepted by the city; or
 - 4. Any voluntary acquisition or construction of improvements not approved in writing by the city prior to commencement of the acquisition or construction.
- B. In order to obtain a credit against development impact fees otherwise due, an applicant must submit a written offer to make a specific monetary contribution for, to dedicate to the city specific parcels of qualifying land or easements, or to acquire

or construct, specific capital improvements in accordance with all applicable state or city design and construction standards, and must specifically request a credit against such impact fees. Such written request must be made on a form provided by the city, must contain a statement under oath of the facts that qualify the applicant to receive a credit, must be accompanied by documents evidencing those facts, and must be filed not later than the initiation of construction of improvements or the acceptance by the city of monetary contributions, land or easement dedications, or the applicant's claim for the credit shall be waived. The granting of credit shall not occur without the approval of the city council.

- C. The credit due to an applicant shall be calculated and documented as follows:
1. Credit for qualifying land or easement dedications shall, at the applicant's option, be valued at:
 - a. One hundred percent of the most recent assessed value for such land as shown in the records of the city assessor; or
 - b. That fair market value established by a private appraiser acceptable to the city in an appraisal paid for by the applicant.
 2. In order to receive credit for qualifying acquisition or construction of capital improvements, the applicant shall submit complete engineering drawings, specifications, and construction cost estimates to the city. The city shall determine the amount of credit due based on the information submitted, or, if it determines that such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the city.
- D. Approved credits shall become effective at the following times:
1. Approved credit for land or easement dedications shall become effective when the land has been conveyed to the city in a form acceptable to the city, and at no cost to the city, and has been accepted by the city council. When such conditions have been met, the city shall note that fact in the credit record maintained by the city finance department. Upon request of the credit holder, the city shall send the credit holder a letter stating the credit balance available to him (or her).
 2. Approved credits for the acquisition or construction of capital improvements shall generally become effective when:
 - a. All required construction has been completed and has been accepted by the city; and
 - b. A suitable maintenance and warranty bond has been received and approved by the city; and
 - c. All design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable city and state procedures.

However, approved credits for the construction of improvements may become effective at an earlier date if the applicant posts security in the form of a performance bond, irrevocable letter of credit, or escrow agreement, and the amount and terms of such security are accepted by the city. At a minimum, such security must be in the amount of the approved credit or an amount determined to be adequate to allow the city to construct the improvements for which the credit was given, whichever is higher. When such conditions have been met, the city shall note that fact in the credit record maintained by the city finance department. Upon request of the credit holder, the city shall also send the credit holder a letter stating the credit balance available to him (or her).

- E. Approved credits may be used to reduce the amount of impact fees due from any proposed development for the same type of service or facility for which the applicant made a monetary contribution, dedicated land or easements, or acquired or constructed improvements, until the amount of the credit is exhausted. Each time a request to use credit from a mandatory or voluntary contribution, dedication, acquisition, or construction is presented to the city, the city shall reduce the amount of the impact fee of the same type otherwise due from the applicant and shall note in the city records the amount of credit remaining, if any. In the case of a mandatory contribution, dedication, acquisition, or construction, any credit in excess of the amount of the impact fee otherwise due under this chapter shall be deemed excess credit that is remaining and available for use by the applicant. In the case of a voluntary contribution, dedication, acquisition, or construction, any credit in excess of the amount of the impact fee of the same type and applicable to the project, shall be deemed excess credit that is remaining and available for use by the applicant. Upon request of the credit holder, the city shall also send the credit holder a letter stating the amount of credit remaining to him (or her).
- F. Approved credit shall only be used to reduce the amount of development impact fees of the same type otherwise due under this chapter and shall not be paid to the applicant in cash or in credit against any impact fees for a different type of facility or service or against any other monies due from the applicant to the city, except as described in Subsection G of this section.
- G. If the amount of approved credit for a mandatory contribution, dedication, acquisition, or construction exceeds the amount of the impact fees of the same type otherwise due under this chapter, the applicant may request in writing that the city provide for reimbursement of any excess credit to the applicant in cash. Such written request must be filed not later than the initiation of construction of improvements, or the acceptance by the city of contributions or land or easement dedications, or the applicant's claim shall be waived. Upon receipt of such a written request, the city may, at its discretion:

1. Arrange for the reimbursement of such excess credit from the impact fee fund for the same type of service or facility from impact fees paid by others; or
 2. Reject the request for cash and provide credit. Such excess credit shall be valued at one hundred percent of actual developer costs for the excess improvements, or at the actual appraised value of such excess improvements, at the city's option.
- H. Credit may be transferred from one holder to another by any written instrument clearly identifying the credit issued under Subsection C of this section that is to be transferred, provided that such instrument is signed by both the transferor and transferee, and that the document is delivered to the City for registration of the change in ownership.
- I. The city council shall determine a means and method of valuation of the proposed dedication or constructions to establish credits against future impact fee revenue if the dedication of land or construction of public facilities is of worth in excess of the impact fee due from an individual development.

3.10.120 Appeal.

- A. Right to Appeal.
1. The person charged an impact fee under the provisions of this ordinance may appeal the charge if the person believes an error has been made.
- B. Appeal Procedure.
1. The person making the appeal shall file with the city a written notice of appeal that sets forth the basis for the appeal including the alleged error.
 2. The person making the appeal shall pay the city an appeal fee of one hundred dollars at the time of filing the written notice of appeal.
 3. The city manager shall fix a time and place for hearing the appeal, and the city shall mail notice of the hearing to the appellant at the address given in the notice of appeal. The hearing shall be conducted at the time and place stated in such notice given by the city. The determination of the city council shall be final.
 4. The appeal shall be heard and determined by the city council within sixty days of the filing of written notice of appeal.

3.10.130 Miscellaneous provisions.

- A. Interest earned on monies in any impact fee fund shall be considered part of such fund, and shall be subject to the same restrictions on use applicable to the impact fees deposited in such fund.
- B. No monies from any impact fee fund shall be spent for operations or maintenance of any facility or to cure deficiencies in public facilities existing on the effective date of this chapter.
- C. Nothing in this chapter shall restrict the city from requiring an applicant to construct

reasonable project improvements required to serve the applicant's project, whether or not such improvements are of a type for which credit is available under Section 3.10.120.

- D. The city shall maintain accurate records of impact fees paid, including the name of the person paying such fees, the project for which the fees were paid, the date of payment of each fee, the amounts received in payment for each fee, and any other matters that the city deems appropriate or necessary to the accurate accounting of such fees, and such records shall be available for review by the public during city business hours.
- E. At least once during each fiscal year of the city, the city manager shall present to the city council a proposed capital improvements program for the major street system, the city fire protection system, the city water and wastewater systems, and the city park system, and such capital improvements program shall assign monies from each impact fee fund to specific projects and related expenses for improvements to the type of facilities or services for which the fees in that fund were paid. Any monies, including any accrued interest, not assigned to specific projects within such capital improvements program and not expended shall be retained in the same impact fee fund until the next fiscal year. The impact fee capital improvements program shall be adopted by the city council as a supplemental document to the city budget. The impact fee capital improvements program shall anticipate project expenditures and fund revenues for a five year period. The individual fee funds shall maintain a positive fiscal balance. The program may be amended by a majority vote of the city council.
- F. If an impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by an applicant shall be refunded by the city to the applicant within thirty days after the city's acceptance of the recalculated amount, with interest at the rate of five percent per annum since the date of such overpayment. Any amounts underpaid by the applicant shall be paid to the city within thirty days after the city's acceptance of the recalculated amount, with interest at the rate of five percent per annum since the date of such underpayment. In the event the underpayment is caused by an error attributed solely to the city, the applicant shall pay the recalculated amount without interest. In the case of an underpayment to the city, the city shall not issue any additional permits or approvals for the project for which the development impact fee was previously paid until such underpayment is corrected, and if amounts owed to the city are not paid within such thirty day period, the city may also repeal any permits issued in reliance on the previous payment of such impact fee and refund such fee to the then current owner of the land.
- G. The impact fees described in this chapter and the administrative procedures and manual of this chapter shall be updated at least once every two fiscal years to ensure that (1) the demand and cost assumptions underlying such fees are still valid, (2) the resulting fees do not exceed the actual cost of constructing improvements that are of the type for which the fee was paid and that are required to serve new development, (3) the monies collected or to be collected in each impact fee fund have been and are expected to be spent for improvements of the type for which such fees were paid, and (4) that such

improvements will benefit those developments for which the fees were paid.

- H. The section titles used in this chapter are for convenience only, and shall not affect the interpretation of any portion of the text of this chapter.
- I. Any judicial action or proceeding to attack, review, set aside or annul the reasonableness, legality or validity of any impact fee must be filed within ninety days following the date of imposition of the fee or the final determination of the city council, whichever is the later.

Passed by the City Council of the City of Belgrade, Montana, at regular session thereof held on the 17th day of December, 2007.

/s/ Russell C. Nelson
Russell C. Nelson, Mayor

(SEAL)

ATTEST:
/s/ Marilyn Foltz
Marilyn Foltz, Director of Finance

Passed, adopted and approved by the City of Belgrade, Montana, on second reading at a regular session held on the 7th day of January, 2008.

/s/ Russell C. Nelson
Russell C. Nelson, Mayor

(SEAL)

ATTEST:
/s/ Marilyn Foltz
Marilyn Foltz, Director of Finance