

## ORDINANCE NUMBER 3364

AN ORDINANCE AMENDING CHAPTER 15.66 MISSOULA MUNICIPAL CODE ENTITLED "DEVELOPMENT IMPACT FEE PROCEDURES AND REQUIREMENTS" BY REVISING SECTIONS 15.66.020, 15.66.030, 15.66.040, 15.66.050, 15.66.070, 15.66.090, 15.66.100, MISSOULA MUNICIPAL CODE, AND ADDING SECTION 15.66.120 TITLED "TRANSPORTATION IMPACT FEE" AND MAKING OTHER NECESSARY AMENDMENTS TO ESTABLISH IMPACT FEES FOR TRANSPORTATION SYSTEM IMPROVEMENTS WITH NEW DEVELOPMENT IN ACCORDANCE WITH THE RESULTS OF AN OFFICIAL 2007 TRANSPORTATION IMPACT FEE STUDY COMMISSIONED BY THE CITY; AND ADDING SECTION 15.66.130 TITLED "IMPACT FEE ADVISORY COMMITTEE" CREATED PURSUANT TO CITY COUNCIL RESOLUTION NO. 7172 IN ACCORDANCE WITH MONTANA CODE ANNOTATED SECTION 7-6-1604; TO BE EFFECTIVE JANUARY 9, 2008.

BE IT ORDAINED THAT CHAPTER 15.66 OF THE MISSOULA MUNICIPAL CODE BE AMENDED BY REVISING SECTIONS 15.66.020, 15.66.030, 15.66.040, 15.66.050, 15.66.070, 15.66.090, 15.66.100 AND ADDING NEW SECTIONS 15.66.120 AND 15.66.130 MISSOULA MUNICIPAL CODE AS FOLLOWS:

### CHAPTER 15.66 DEVELOPMENT IMPACT FEE PROCEDURES AND REQUIREMENTS

#### SECTIONS:

15.66.020	Definitions
15.66.030	Applicability
15.66.040	Procedures for Imposition, Calculation and Collection of Development Impact Fees
15.66.050	Establishment of Development Impact Fee Accounts; Appropriation of Development Impact Fee Funds; and Refunds
15.66.070	Annual Review and Adjustment
15.66.090	Fire and Emergency Medical Service Development Impact Fee
15.66.100	Law Enforcement Development Impact Fee
15.66.120	Transportation Impact Fee
15.66.130	Impact Fee Advisory Committee

#### **15.66.020 DEFINITIONS.**

In this Chapter, unless otherwise indicated below, words and terms shall have the meaning prescribed in Title 19, Chapter 19.04 of the Missoula City Zoning Ordinance:

1. **Applicant:** any person, most generally the property owner or agent authorized by the owner, who files an application with the City for a building permit to undertake new development within the City.
2. **Appropriation or To Appropriate:** an action by the City to identify specific public facilities for which development impact fee funds may be utilized. Appropriation shall include, but shall not necessarily be limited to: inclusion of a public facility in the adopted City budget or Capital Improvements program; execution of a contract or other legal encumbrance for construction of a public facility using development impact fee funds in whole or in part; and/or actual expenditure of development impact fee funds through payments made from a development impact fee account.
3. **Capital Improvement Program:** the schedule of public facility improvements to be undertaken by the City as set forth in the capital budget, the City of Missoula Capital Improvement Program, or an adopted public facility plan, consistent with the requirements of Montana Code Annotated Section 7-6-1602, with the exception of the portions of this chapter not amended by this ordinance that were enacted previously and grandfathered as authorized by Section 9. "Applicability," Chapter, No. 299, Senate Bill 185 of the Montana Session Laws 2005."
4. **Chief Financial Officer:** the Director of the Missoula City Finance Office or his or her designee.

5. **City:** City of Missoula, Montana.
6. **Commercial Use:** the purchase, sale, offering for sale, or other transaction involving the handling or disposition of any article, service, substance or commodity for livelihood or profit; or the management or occupancy of recreation or amusement enterprises; or the maintenance and use of buildings, structures, or premises by trades or persons rendering commercial services.
7. **Community Services Development Impact Fee:** a development impact fee imposed on residential and nonresidential development to fund the proportionate share of the costs generated by new development for public facilities, including municipal buildings, vehicles, and equipment.
8. **Development Impact Fee:** a fee imposed on new development on a pro rata basis in connection with and as a condition of the issuance of a building permit and which is calculated to defray all or a portion of the costs of the public facilities required to accommodate new development at City-designated level of service (LOS) standards and which benefits the new development and is proportionate in amount to actual impact of new development on the public facilities to be funded with development impact fee funds.
9. **Director of Public Works:** the director of the City Department of Public Works or his or her designee.
10. **Fire and Emergency Medical Service Development Impact Fee:** a development impact fee imposed on new residential and non-residential development to fund the proportionate share of the costs generated by new development for public facilities including fire stations, emergency vehicles, trucks, pumpers, water tenders, and other fire protection buildings, facilities, and equipment created by new development.
11. **Office:** nonresidential uses that include, but are not limited to, professional services, insurance companies, investment brokers, health care (where no overnight care for patients is given), and tenant services such as banking, restaurants, and service retail facilities ancillary to the principal office uses.
12. **Industrial:** a use devoted to the manufacture, assembly, packaging, processing, fabrication, storage, extraction, reduction, destruction, conversion or distribution of any article, substance, goods, commodities and materials whether new or used, or any treatment thereof in such a manner as to change the form, character, or appearance thereof. Uses include, but are not limited to, printing plants, material-testing laboratories, assembling of data processing equipment, and the substantial refinishing, repair and/or rebuilding of vehicles or boats.
13. **Institutional or Civic Use:** premises reserved for use by organizations considered to support the common good. Civic uses include, but are not limited to, governmental offices and services; cultural, social, educational, and service organizations; not-for-profit organizations; recreational, athletic, convention and entertainment facilities owned or operated by a government agency.
14. **Law Enforcement Development Impact Fee:** a development impact fee imposed on new residential and non-residential development to fund the proportionate share of the costs for public facilities, including law enforcement buildings, vehicles, and equipment generated by new development.
15. **Methodology Reports:** reports prepared in support of this Chapter titled "Impact Fees: City and County of Missoula, Montana," by Tischler & Associates, Inc., dated December 27, 2002, and "Transportation Impact Fee Study," by TischlerBise, dated March 8, 2007, which sets forth the methodology and rational basis for the calculation of the impact of new development and the proper and proportional amount of the development impact fee to be assessed against new development.
16. **New Development:** any new construction, reconstruction, redevelopment, rehabilitation, structural alteration, structural enlargement, structural extension, or new use within the City that requires a building permit, including any damage in use of an existing building, structure, or lot, which increases the demand for one (1) or more public facilities; except as otherwise provided in subsection 15.66.030.

17. **Non-Residential:** any building, structure, use or development designed, intended, or used for purposes other than those of a dwelling or its accessory buildings.
18. **Offset:** a waiver of a portion or all of certain required development impact fees, pursuant to subsection 15.66.040(5) of this Chapter.
19. **Parks and Open Space Development Impact Fee:** a development impact fee imposed on new residential development to fund the proportionate share of the costs generated by new development for public facilities, including neighborhood, community and regional park and recreation facilities; and for acquisition and improvements of open space lands and trails.
20. **Public Facility:** public capital improvements, buildings, vehicles, apparatus, equipment, land acquisitions, and facilities with a useful life of ten (10) years or more, that increase or improve the service capacity of a public facility such as parks, open space, trails, fire and emergency medical service facilities, law enforcement facilities, and community services facilities included in the calculation of development impact fees in the methodology report and transportation facilities included on the City's capital improvement program with the exception of the portions of this chapter not amended by this ordinance that were enacted previously and grandfathered as authorized by Section 9. "Applicability", Chapter No.299, Senate Bill 185 of the Montana Session Laws 2005".
21. **Residential:** any building, structure, use or development designed, intended or used as a dwelling unit or its accessory buildings, or that results in the expansion of a dwelling unit or units.
22. **Shopping Center:** a retail business area comprised of one or more adjacent or adjoining commercial establishments on a parcel planned, constructed and managed as a unit in one or more buildings. A Shopping Center contains a building or buildings with a total gross floor area of thirty thousand square feet or more, with adjoining or adjacent off-street parking. Shopping centers consist primarily of commercial retail establishments; however they also may contain non-merchandizing facilities such as offices, movie theaters, restaurants, post offices, banks, health clubs, and recreational facilities.
23. **Transportation Development Impact Fee:** a development impact fee imposed on new residential and non-residential development to fund the proportionate share of the public facility costs generated by new development for arterial and collector roads designated on the City's capital improvement program, including roads, streets, bridges, rights-of-way, traffic signal, and landscaping.
24. **Warehousing:** a use engaged in bulk storage of wholesale or distribution materials, inventory, equipment, supplies, goods, wares, merchandise, substances, articles or other materials not stored for immediate, on-site retail sale
25. **Zoning Officer:** the Director of the Missoula Office of Planning and Grants or his or her designee.

#### **15.66.030 APPLICABILITY.**

1. **Term.** This Chapter and the procedures established herein shall remain in effect unless and until repealed, amended, or modified by the City Council in accordance with applicable State law and the City Code, ordinances, and resolutions.
2. **Affected Area.** Development impact fees shall be imposed on new development proposed within the corporate boundaries of the City.
3. **Type of Development Affected.** This Chapter shall apply to all new development.
4. **Type of Development Not Affected.** This Chapter shall not apply to:
  - a. **Previously-Issued Building Permits.** No development impact fee shall be imposed on new development for which a building permit has been issued prior to the effective date of sections 15.66.080 through 15.66.120 of this Chapter, as applicable.

- b. **No Net Increase in Square Footage.** No development impact fee shall be imposed on any new development that does not result in the creation of new square footage.
  - c. **Other Uses.** No development impact fee shall be imposed on new development, whether or not a building permit is required, which does not result in an increase in the demand for public facilities. Such development may include, but is not limited to, fences, signs, retaining walls, and residential storage sheds.
  - d. **Development Agreements.** No development impact fee shall be imposed on development projects that are the subject of a duly executed and lawful development agreement entered into by an applicant and the City prior to the effective date of this Chapter, which agreement contains provisions in conflict or inconsistent with this Chapter, but only to the extent of the conflict or inconsistency.
5. **Effect of Payment of Development Impact Fees on Other Applicable City Land Use, Zoning, Platting, Subdivision, or Development Regulations.**
- a. The payment of development impact fees shall not entitle the applicant to a building permit unless all applicable land use, zoning, planning, dedication, platting, subdivision, or other related requirements, standards, and conditions of applicable Montana law and City of Missoula ordinances and resolutions have been met. Such other requirements, standards, and conditions are independent of the requirement for payment of a development impact fee.
  - b. This Chapter shall not affect, in any manner, the permissible use of property, density/intensity of development, design and improvement standards, or other applicable standards or requirements of the Buildings and Construction Code and the Missoula City Zoning Ordinance, which shall be operative and remain in full force and effect without limitation.
6. **Amendments.** This Chapter, and any ordinance adopting development impact fees for any particular public facility pursuant to this Chapter, may be amended from time to time by the City Council; provided, however, that no such amendment shall be adopted without a written report detailing the reasons and need for the development impact fee revision nor without proper notice and public hearing as required by state law and the Missoula Municipal Code.

#### **15.66.040 PROCEDURES FOR IMPOSITION, CALCULATION AND COLLECTION OF DEVELOPMENT IMPACT FEES.**

1. **In General.** An applicant shall be notified by the City of the applicable development impact fee requirements, including applicable service charges, at the time of application for a building permit on a form provided by the City for such purposes. Preliminary development impact fees shall be calculated by the Director of Public Works at the time of application for a Building permit. The final development impact fees shall be paid by the applicant prior to the issuance of a building permit. In lieu of payment prior to building permit issuance, an applicant may provide a Certificate of Deposit payable to the City, Letter of Credit issued by a financial institution in favor of the City, or other reasonable security in an amount equal to the development impact fee calculated to be due, in a form satisfactory to the City Attorney and the Chief Financial Officer, and redeemed or paid in full upon completion of the final inspection by the Building official.
2. **Calculation.**
  - a. Upon receipt of an application for a building permit, the Director of Public Works shall determine (a) whether it is a residential or non-residential use; (b) the specific category of residential or non-residential development, if applicable; and (c) additional square feet of gross floor area of the proposed use.
  - b. Upon receipt of an application for a building permit, the Director of Public Works shall determine whether the development proposed involves a change in use. In such cases, the development impact fee due shall be based only on the incremental increase in the

fee for the increase in the public facility capacity created by the proposed change in square footage.

- c. After making these determinations, the Director of Public Works shall calculate the demand for the public facility created by the new development for each public facility category for which a development impact fee is being imposed, and shall calculate the applicable development impact fee by multiplying the demand added by the new development by the amount of the applicable development impact fee per unit of development, incorporating any applicable offset as discussed in subsection (5) below.
  - d. If the type of land use proposed for new development is not expressly listed in the particular development impact fee ordinance and schedule, the Director of Public Works, in consultation with the Zoning Officer, as necessary, shall:
    - i. identify the most similar land use type listed and calculate the development impact fee based on the development impact fee for the land use identified;
    - ii. identify the broader land use category within which the specified land use would apply and calculate the development impact fee based on the development impact fee for that land use category; or
    - iii. as appropriate, determine the basis used to calculate the fee pursuant to an independent impact analysis pursuant to subsection (3) below.
  - e. The calculation of development impact fees due from a multiple-use new development shall be based upon the aggregated demand for each public facility generated by each land use type in the new development.
  - f. The calculation of development impact fees due from a phased new development shall be based upon the demand generated by each specific land use within the phase of development for which a separate building permit is requested.
  - g. Development impact fees shall be calculated based on the development impact fee amount in effect at the time of submittal of a complete application for a building permit.
3. **Independent Impact Analysis.** The following provisions shall apply to any independent impact analysis:
- a. The applicant shall be responsible, at its sole expense, for preparing the independent impact analysis, which shall be reviewed for approval by the Director of Public Works, and, as appropriate, other City staff or officials, prior to payment of the fee.
  - b. The independent impact analysis shall measure the impact that the proposed new development will have on the particular public facility at issue, shall be based on the same methodologies used in the methodology report, and shall be supported by professionally acceptable data and assumptions.
  - c. Within thirty (30) days of submittal of the independent impact fee analysis, the Director of Public Works shall provide written notice to the applicant as to whether the independent impact analysis is accepted or rejected based on the provisions of this section. If the independent impact analysis is rejected, the written notice shall provide an explanation of the insufficiencies of the analysis.
  - d. The final decision of the Director of Public Works may be appealed pursuant to Section 15.66.060 of this Chapter.
4. **Development Impact Fee Estimates.**
- a. **Non-binding Estimate.** An applicant may request a non-binding estimate of development impact fees due for a particular new development at any time by filing a request on a form provided for such purpose by the City; provided, however, that such estimate may be subject to change when a final application for a building permit for new development is

made. Such non-binding estimate is solely for the benefit of the prospective applicant and shall in no way bind the City nor preclude it from making amendments or revisions to any provisions of this Chapter or the specific development impact fee implementing ordinances.

- b. **Binding Pre-Determination.** An applicant may request a pre-determination of development impact fees due for a particular new development at any time by filing a request on a form provided for such purpose by the City. The pre-determination shall be binding for a period not to exceed ninety (90) days provided, however, that no change has occurred: a) in the square footage and use of the proposed development as presented in a final application for a building permit for the new development; or b) in the schedule of fees as presented in adopted ordinance and modified by annual adjustments. Such binding pre-determination shall not preclude the City from making amendments or revisions to any provisions of this Chapter or the specific development impact fee implementing ordinances.

## 5. **Offsets.**

- a. Offsets against the amount of a development impact fee due from a new development shall be provided for contributions made or to be made in the future by the affected property owner in cash, or by dedication of land, or by actual construction of all or part of a public facility or public facilities identified in an adopted CIP, or land-use or facilities master plan, or impact fee methodology report and meeting or exceeding the demand generated by the new development. The contribution must be a reasonable substitute for the cost and level of service of public facilities included in the City adopted or City CIP, or land-use or facilities master plan, or impact fee methodology report, as determined by the Director of Public Works, the Chief Financial Officer, and representatives of potentially affected departments.
- b. The amount of any excess contribution shall be determined by the Director of Public Works and the Chief Financial Officer upon receipt of an application form requesting an offset; provided, however, that (a) the City will make no reimbursement for excess contributions unless and until the particular development impact fee account has sufficient revenue to make the reimbursement without overdrawing the account or jeopardizing the continuity of the City's Capital Improvements Program; and (b) the excess contribution may not be transferred or credited to any other types of development impact fees calculated to be due from that development for other types of public facilities. The determination of the eligibility for and the amount of the offset shall be made by the Director of Public Works and the Chief Financial Officer, based on the fair market value of the proposed dedication, construction, or contribution, as established by appraisals and construction receipts or construction bids, as applicable. If the applicant contends that any aspect of the City's decision constitutes an abuse of discretion, the applicant shall be entitled to appeal pursuant to Section 15.66.060 of this Chapter.
- c. No offset shall be allowed unless the City has clearly documented the need for the dedication or construction, pursuant to Montana Code Annotated Section 7-6-1602, has approved the contribution or expenditure before it is made, in accordance with the provisions of this subsection, and has determined that any proposed land dedication is appropriate for the proposed use by the City.
- d. Offsets for dedication of land or provision of public facilities shall be applicable only as to development impact fees imposed for the same types of public facilities that are proposed to be dedicated or provided. Even if the value of the dedication of land or provision of a public facility exceeds the development impact fee due for the type of public facility, the excess value may not be transferred to development impact fees calculated to be due from the applicant for other types of public facilities for which development impact fees may be imposed. Offsets for excess capacity may, however, be transferred to the same applicant or to other applicants for new development that

creates a demand for the same type of public facility and which development impact fees are due pursuant to this Chapter.

- e. Any offset or reimbursement shall be pursuant to a duly executed development agreement.
  - f. No offsets shall be given for the construction of local on-site facilities, structures, improvements, or other project improvements required by zoning, subdivision, or other city regulations unless the improvement is identified in the Capital Improvement Program, or impact fee methodology report, or there is a finding that the proposed improvements meet the same need as improvements identified in the Capital Improvements Program or impact fee methodology report.
6. **Collection.** The City shall collect all development impact fees and service charges in the amounts set forth in this Chapter and shall issue a receipt to the applicant for such payment unless:
- a. the applicant is entitled to a full offset;
  - b. the applicant is not otherwise subject to the payment of a development impact fee; or
  - c. the applicant has filed an appeal as required by Section 15.66.060 and has filed a bond or other surety in the amount of the development impact fee as calculated by the City and approved by file City Attorney and Finance Director/Treasurer.

#### **15.66.050 ESTABLISHMENT OF DEVELOPMENT IMPACT FEE ACCOUNTS; APPROPRIATION OF DEVELOPMENT IMPACT FEE FUNDS; AND REFUNDS**

1. **Development Impact Fee Accounts.** The City shall establish a development impact fee account for each category of public facility for which development impact fees are imposed. Such account shall clearly identify the category, account, or fund for which the development impact fee has been imposed. Sub-accounts may be established for individual development impact fee districts. All development impact fees collected by the City shall be deposited into the appropriate development impact fee account. Unless otherwise prohibited by law, all interest earned on monies deposited to such account shall be credited to and shall be considered funds of the account. The funds of each such account shall be capable of being accounted for separately from all other City funds. The City shall establish and implement necessary accounting controls to ensure that the development impact fee funds are properly deposited, accounted for, and appropriated in accordance with this Chapter and any other applicable legal requirements.
2. **Appropriation of Development Impact Fee Funds.**
  - a. **Use of Funds.** All appropriations from development impact fee accounts shall be detailed on a form provided for such purpose and filed in the City Finance Department. Development impact fee funds may be used only for:
    - i. expenditures on public facilities;
    - ii. the payment of principal, interest, and other financing costs on contracts bonds, notes, or other obligations issued by or on behalf of the City to finance public facilities;
    - iii. financing of offsets as set forth in Section 15.66.040 (5); or
    - iv. financing the costs of updating this chapter.
  - b. **Restrictions on Use.** Development impact fees appropriations shall be reasonably related to the benefits accruing to new development subject to the provisions of this Chapter and shall not be appropriated for repair or maintenance of public facilities, for operational or personnel expenses associated with the provision of public facilities, to correct an existing deficiency, or for any facility that provides capacity for development

other than new development. Additionally, development impact fees shall be appropriated only:

- i. for the particular public facility for which they were imposed, calculated, and collected; and
  - ii. within six (6) years of the beginning of the City's fiscal year immediately succeeding the date of collection, unless such time period is extended as provided herein.
- c. **Appropriation of Development Impact Fee Funds beyond Six (6) Years of Collection.** Notwithstanding the provisions of subsection (2)(b) above, development impact fee funds may be appropriated beyond six (6) years from the beginning of the City's fiscal year immediately succeeding the date of collection, if the appropriation is for a public facility that requires more than six (6) years to plan, design, finance and construct. Funds held over must be specifically identified and described in the impact fee annual financial report. The City shall document compliance with the provisions of this paragraph.

### 3. Procedure for Appropriation of Development Impact Fee Funds.

- a. Each year the City shall identify public facility projects anticipated to be funded in whole or in part with development impact fees. Public facility expenditures shall be based upon the development impact fee annual review set forth in Section 15.66.070 of this Chapter, the methodology report, the City Capital Improvement Program and such other information as may be relevant, and shall be part of the City's annual budget and capital improvements programming process.
- b. The recommendations shall be consistent with the provisions of this Chapter, the methodology report, particular public facility development impact fee ordinances other applicable legal requirements, and any guidelines adopted by the City Council.
- c. The City Council may include public facilities funded with development impact fees in the City's annual budget and capital improvements program. If included, the description of the public facility shall specify the nature of the public facility, the location of the public facility, the capacity to be added by the public facility, the service area of the public facility, the need/demand for the public facility and the anticipated timing of completion of the public facility.
- d. The City Council may authorize public facilities funded by development impact fees at such other times, as they deem necessary and appropriate by a majority vote of the City Council.
- e. The City Council shall verify that adequate development impact fee funds are or will be available from the appropriate development impact fee account for the particular public facility.
- f. Development impact fee funds shall be spent on a first in/first out basis.

### 4. Refunds.

- a. **Eligibility.**
  - i. **Expiration or Revocation of Building Permit.** An applicant who has paid a development impact fee for a new development for which the necessary building permit has expired or for which the building permit has been revoked prior to construction may apply for a refund of development impact fees paid. Refunds made pursuant to this subparagraph shall be made payable to the owner of the property upon which the development was to occur. The refund application shall be made on a form provided by the City for such purposes.



- ii. **Failure of City to Appropriate Development Impact Fee Funds within Time Limit.** The current property owner may apply for a refund of development impact fees paid by an applicant if the City has failed to appropriate the development impact fees collected from the applicant within the time limit established in subsection (2) above. Refunds made pursuant to this subparagraph shall be to the current property owner. The refund application shall be made on a form provided by the City for such purposes.
- iii. **Administrative Fee.** Except when a refund is warranted due to timeliness (see paragraph vi below), a five percent (5%) administrative fee, not to exceed two-hundred dollars (\$200), shall be deducted from the amount of any refund granted and shall be retained by the City in the appropriate development impact fee account to defray the administrative expenses associated with the processing of a refund application.
- iv. **Processing of Applications for a Refund.** Applications for a refund shall be made on a form provided by the City for such purposes. Upon receipt of a complete application for a refund, the Director of Public Works shall review the application and documentary evidence submitted by the applicant as well as such other information and evidence as may be deemed relevant, and make a determination as to whether a refund is due. Refunds by direct payment shall be made following an affirmative determination by the Director of Public Works.
- v. **Due to Expiration or Revocation.** Applications for refunds due to expiration or revocation of a building permit shall be made on a form provided by the City for such purposes and shall be made within sixty (60) days following expiration or revocation of the building permit. The applicant shall submit: (a) evidence that the person applying for the refund was the initial applicant who paid the fee, or the duly designated agent of the initial applicant; (b) the amount of the development impact fees paid by public facility category and receipts evidencing such payments; and (c) documentation evidencing the expiration or revocation of the building permit. Failure to apply for a refund within sixty (60) days following expiration or revocation of the building permit shall constitute a waiver of entitlement to a refund. No interest shall be paid by the City in calculating the amount of the refunds.
- vi. **Due to Timeliness.** Applications for refunds due to the failure of the City to appropriate development impact fees collected from the applicant within the time limits established in subsection (2)(a) above shall be made on forms provided by the Finance Office and shall be made within one (1) year following the expiration of such time limit. The applicant shall submit: (a) evidence that the applicant is the property owner or the duly designated agent of the property owner; (b) the amount of the development impact fees paid by public facility category and receipts evidencing such payments; and (c) description and documentation of the City's failure to appropriate development impact fee funds for relevant public facilities. Interest shall be paid by the City in calculating the amount of the refunds based upon actual interest earned, and the Administrative Fee for processing refunds shall be waived.

#### **15.66.070 ANNUAL REVIEW AND ADJUSTMENT.**

##### **1. Annual Review.**

- a. Not later than March 1st of each year, beginning March 1, 2005, and prior to City Council adoption of the Annual Budget and Capital Improvements Program, the Chief Financial Officer shall coordinate the preparation and submission of an Annual Report to the Mayor and City Council on the subject of development impact fees. The Annual Report shall recap results of the most recently completed fiscal year, and disclose any annual

adjustments made appropriate by the Engineering News Record Construction Cost Index.

- b. In addition to the requirements of Montana Code Annotated Section 7-6-1602(1), the Annual Report may include any or all of the following:
  - i. recommendations for amendments if appropriate, to these procedures or to specific ordinances adopting development impact fees for particular public facilities;
  - ii. proposed changes to any applicable ordinance or policy, including the identification of additional public facility projects anticipated to be funded wholly or partially with development impact fees;
  - iii. creation of development impact fee districts, as necessary;
  - iv. proposed changes to development impact fee schedules as set forth in the ordinances imposing and setting development impact fees for particular public facilities;
  - v. proposed changes to level of service standards for particular public facilities;
  - vi. proposed changes to any development impact fee calculation methodology;
  - vii. proposed changes to the population, housing, land use, persons per household or non-residential development projections included in the methodology report and upon which the development impact fee amounts have been determined; or
  - viii. other data, analyses, or recommendations as the Chief Financial Officer or appropriate designee may deem appropriate, or as may be requested by the Mayor and City Council.
- c. The Annual Report may additionally include any or all of the following background data:
  - i. number of building permits issued by type of residential or non-residential development;
  - ii. gross floor area of new development by type;
  - iii. total amount of development impact fees collected, by public facility and by land use type;
  - iv. the amount of expenditure made from the development impact fee account or sub-accounts and the purpose for which the expenditure was made, i.e., the description, type and location of the public facility project;
  - v. when the public facility project was or will be initiated and completed;
  - vi. whether additional development impact fee funds will be appropriated for the same project in the future;
  - vii. whether supplemental non-development impact fee funds have been used for file project and, if so, how much;
  - viii. the service area of the public facility project;
  - ix. the total estimated cost of the project and the portion funded with development impact fees;
  - x. whether the public facility project is in the City's current Annual Budget or Capital Improvements Program;
  - xi. the estimated useful life of the project; or
  - xii. such other facts as may be deemed relevant by the Mayor or City Council.

- d. Submission of Development Impact Fee Annual Report and City Council Action. The Chief Financial Officer shall submit the annual report to the Mayor and City Council, which shall receive the annual report and which may take such actions as deemed appropriate, including, but not limited to, requesting additional data or analyses and holding public workshops and/or public hearings.
- e. Except for the annual adjustment identified in Section 15.66.070 (2), no increase in development impact fees will be enacted before:
  - i. completion and City Council approval of a new methodology report that ties any impact fees to the City Capital Improvement Program; and
  - ii. a public hearing.

**2. Annual Adjustments.**

- a. On March 1, 2005, and on March 1st of each year thereafter in which this Chapter is in effect, the amount of any development impact fee shall be adjusted to account for inflationary changes in the cost of providing public facilities utilizing the most recent twenty (20) city annual national average data from the Engineering News Record Construction Cost Index.
- b. The Chief Financial Officer shall make the annual adjustment unless the City Council, in its Annual Review, determines an alternate adjustment.
- c. Nothing herein shall prevent the City Council from electing to retain existing development impact fees or from electing to waive the inflation adjustment for any given fiscal year.

**15.66.090 FIRE AND EMERGENCY MEDICAL SERVICE DEVELOPMENT IMPACT FEE.**

**1. Development Impact Fee for Residential Development.**

- a. All new residential development within the City of Missoula shall be subject to the payment of a fire and emergency medical service development impact fee payable pursuant to this Chapter, as follows:

<b>Development Type</b>	<b>Square Feet</b>	<b>Fee per DU</b>
Single Dwelling Unit, Detached and Mobile Home	less than 1200	\$ 77
Single Dwelling Unit, Detached and Mobile Home	1200-1299	\$ 82
Single Dwelling Unit, Detached and Mobile Home	1300-1399	\$ 87
Single Dwelling Unit, Detached and Mobile Home	1400-1499	\$ 92
Single Dwelling Unit, Detached and Mobile Home	1500-1599	\$ 96
Single Dwelling Unit, Detached and Mobile Home	1600-1699	\$ 100
Single Dwelling Unit, Detached and Mobile Home	1700-1799	\$ 104
Single Dwelling Unit, Detached and Mobile Home	1800-1899	\$ 108
Single Dwelling Unit, Detached and Mobile Home	1900-1999	\$ 111
Single Dwelling Unit, Detached and Mobile Home	2000-2099	\$ 114
Single Dwelling Unit, Detached and Mobile Home	2100-2199	\$ 117
Single Dwelling Unit, Detached and Mobile Home	2200-2299	\$ 120
Single Dwelling Unit, Detached and Mobile Home	2300-2399	\$ 123
Single Dwelling Unit, Detached and Mobile Home	2400-2499	\$ 126
Single Dwelling Unit, Detached and Mobile Home	2500-2599	\$ 128
Single Dwelling Unit, Detached and Mobile Home	2600-2699	\$ 131
Single Dwelling Unit, Detached and Mobile Home	2700-2799	\$ 133
Single Dwelling Unit, Detached and Mobile Home	2800-2899	\$ 136
Single Dwelling Unit, Detached and Mobile Home	2900-2999	\$ 138
Single Dwelling Unit, Detached and Mobile Home	3000-3099	\$ 140
Single Dwelling Unit, Detached and Mobile Home	3100-3199	\$ 142

<b>Development Type</b>	<b>Square Feet</b>	<b>Fee per DU</b>
Single Dwelling Unit, Detached and Mobile Home	3200 or larger	\$ 142
All Other Housing		\$ 69

**2. Development Impact Fee for Nonresidential Development.**

- a. All new nonresidential development within the City of Missoula shall be subject to the payment of a fire and emergency medical service development impact fee payable pursuant to this Chapter, as follows:

<b>Development Type</b>	<b>Square Feet</b>	<b>Fee per 1,000 SF of Total GFA</b>
Commercial/Shopping Center	50,000 or less	\$ 134
Commercial/Shopping Center	50,001 to 100,000	\$ 117
Commercial/Shopping Center	100,001 to 200,000	\$ 104
Commercial/Shopping Center	200,000 and over	\$ 94
Office/Institutional	25,000 or less	\$ 189
Office/Institutional	25,001 to 50,000	\$ 178
Office/Institutional	50,001 to 100,000	\$ 167
Office/Institutional	100,000 or more	\$ 157
Industrial		\$ 108
Warehousing		\$ 60

**15.66.100 LAW ENFORCEMENT DEVELOPMENT IMPACT FEE.**

**1. Development Impact Fee for Residential Development.**

- a. All new residential development within the City of Missoula shall be subject to the payment of a law enforcement development impact fee payable pursuant to this Chapter, as follows:

<b>Development Type</b>	<b>Square Feet</b>	<b>Fee per DU</b>
Single Dwelling Unit, Detached and Mobile Home	less than 1200	\$ 14
Single Dwelling Unit, Detached and Mobile Home	1200-1299	\$ 15
Single Dwelling Unit, Detached and Mobile Home	1300-1399	\$ 16
Single Dwelling Unit, Detached and Mobile Home	1400-1499	\$ 17
Single Dwelling Unit, Detached and Mobile Home	1500-1599	\$ 17
Single Dwelling Unit, Detached and Mobile Home	1600-1699	\$ 18
Single Dwelling Unit, Detached and Mobile Home	1700-1799	\$ 19
Single Dwelling Unit, Detached and Mobile Home	1800-1899	\$ 19
Single Dwelling Unit, Detached and Mobile Home	1900-1999	\$ 20
Single Dwelling Unit, Detached and Mobile Home	2000-2099	\$ 21
Single Dwelling Unit, Detached and Mobile Home	2100-2199	\$ 21
Single Dwelling Unit, Detached and Mobile Home	2200-2299	\$ 22
Single Dwelling Unit, Detached and Mobile Home	2300-2399	\$ 22
Single Dwelling Unit, Detached and Mobile Home	2400-2499	\$ 23
Single Dwelling Unit, Detached and Mobile Home	2500-2599	\$ 23
Single Dwelling Unit, Detached and Mobile Home	2600-2699	\$ 24
Single Dwelling Unit, Detached and Mobile Home	2700-2799	\$ 24
Single Dwelling Unit, Detached and Mobile Home	2800-2899	\$ 25
Single Dwelling Unit, Detached and Mobile Home	2900-2999	\$ 25
Single Dwelling Unit, Detached and Mobile Home	3000-3099	\$ 25
Single Dwelling Unit, Detached and Mobile Home	3100-3199	\$ 26
Single Dwelling Unit, Detached and Mobile Home	3200 or larger	\$ 26
All Other Housing		\$ 13

**2. Development Impact Fee for Nonresidential Development.**

- a. All new nonresidential development within the City of Missoula shall be subject to the payment of a law enforcement development impact fee payable pursuant to this Chapter, as follows:

<b>Development Type</b>	<b>Square Feet (SF)</b>	<b>Fee per 1,000 SF of Total GFA</b>
Commercial/Shopping Center	50,000 or less	\$ 31
Commercial/Shopping Center	50,001 to 100,000	\$ 28
Commercial/Shopping Center	100,001 to 200,000	\$ 24
Commercial/Shopping Center	200,000 and over	\$ 21
Office/Institutional	25,000 or less	\$ 32
Office/Institutional	25,001 to 50,000	\$ 20
Office/Institutional	50,001 to 100,000	\$ 14
Office/Institutional	100,000 or more	\$ 11
Industrial		\$ 8
Warehousing		\$ 4

**15.66.120 TRANSPORTATION IMPACT FEE.**

**1. Transportation Impact Fee for Residential Development.**

- a. All new residential development within the City of Missoula shall be subject to the payment of a transportation impact fee payable pursuant to this Chapter, as follows:

<b>Development Type</b>	<b>Square Feet</b>	<b>Fee per DU</b>
Single Dwelling Unit, Detached and Mobile Home	less than 1200	\$ 814
Single Dwelling Unit, Detached and Mobile Home	1200-1299	\$ 871
Single Dwelling Unit, Detached and Mobile Home	1300-1399	\$ 923
Single Dwelling Unit, Detached and Mobile Home	1400-1499	\$ 972
Single Dwelling Unit, Detached and Mobile Home	1500-1599	\$ 1,017
Single Dwelling Unit, Detached and Mobile Home	1600-1699	\$ 1,060
Single Dwelling Unit, Detached and Mobile Home	1700-1799	\$ 1,100
Single Dwelling Unit, Detached and Mobile Home	1800-1899	\$ 1,138
Single Dwelling Unit, Detached and Mobile Home	1900-1999	\$ 1,174
Single Dwelling Unit, Detached and Mobile Home	2000-2099	\$ 1,209
Single Dwelling Unit, Detached and Mobile Home	2100-2199	\$ 1,241
Single Dwelling Unit, Detached and Mobile Home	2200-2299	\$ 1,273
Single Dwelling Unit, Detached and Mobile Home	2300-2399	\$ 1,303
Single Dwelling Unit, Detached and Mobile Home	2400-2499	\$ 1,331
Single Dwelling Unit, Detached and Mobile Home	2500-2599	\$ 1,359
Single Dwelling Unit, Detached and Mobile Home	2600-2699	\$ 1,386
Single Dwelling Unit, Detached and Mobile Home	2700-2799	\$ 1,411
Single Dwelling Unit, Detached and Mobile Home	2800-2899	\$ 1,436
Single Dwelling Unit, Detached and Mobile Home	2900-2999	\$ 1,459
Single Dwelling Unit, Detached and Mobile Home	3000-3099	\$ 1,483
Single Dwelling Unit, Detached and Mobile Home	3100-3199	\$ 1,505
Single Dwelling Unit, Detached and Mobile Home	3200 or larger	\$ 1,505
All Other Housing		\$ 733

**2. Transportation Impact Fee for Nonresidential Development.**

- a. All new nonresidential development within the City of Missoula shall be subject to the payment of a transportation impact fee payable pursuant to this Chapter, as follows:

<b>Development Type</b>	<b>Square Feet (SF)</b>	<b>Feet per 1,000 SF of Total GFA</b>
Commercial/Shopping Center	50,000 or less	\$ 3,205
Commercial/Shopping Center	50,001 to 100,000	\$ 3,205
Commercial/Shopping Center	100,001 to 200,000	\$ 2,743
Commercial/Shopping Center	200,000 and over	\$ 2,331
Business Park		\$ 664
Medical-Dental Office Building		\$ 2,849
Office/Institutional	25,000 or less	\$ 1,447
Office/Institutional	25,001 to 50,000	\$ 1,234
Office/Institutional	50,001 to 100,000	\$ 1,052
Office/Institutional	100,000 or more	\$ 1,052
Hospital		\$ 1,385
Mini-Warehouse		\$ 197
Industrial		\$ 550
Warehousing		\$ 391
Manufacturing		\$ 301

**3. Transportation Impact Fee for Nonresidential Development per Unique Demand Indicator.**

- a. All new nonresidential development with a unique demand indicator within the City of Missoula shall be subject to the payment of a transportation impact fee payable pursuant to this Chapter, as follows:

<b>Development Type</b>	<b>Unique Indicator</b>	<b>Fee per Indicator</b>
Nursing Home (per bed)	Number of beds	\$ 187
Daycare (per student)	Number of students	\$ 170
Secondary School (per student)	Number of students	\$ 97
Elementary School (per student)	Number of students	\$ 67
Lodging (per room)	Number of rooms	\$ 444

**15.66.130 IMPACT FEE ADVISORY COMMITTEE**

**1. Membership.**

- a. The Impact Fee Advisory Committee shall consist of nine (9) members, with two (2) members appointed by City Council and seven (7) members appointed by the Mayor with the advice and consent of the City Council.
- b. In accordance with Montana Code Annotated Section 7-6-1604 the Committee membership shall include at least one (1) representative of the development community and one (1) certified public accountant.

**2. Term.** Each member shall serve a four (4) year term.

**3. Purpose.** The Impact Fee Advisory Committee shall review and monitor the process of calculating, assessing and spending impact fees and advise the City of Missoula governing body with respect to these impact fee revenues as provided by Montana state law.

**SEVERABILITY**

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

**PASSED** by 7 Ayes, 5 Nays, 0 Abstain, 0 Absent vote and;

**APPROVED** by the Mayor this 10<sup>th</sup> of December, 2007.

**ATTEST:**

**APPROVED:**

/s/ Martha L. Rehbein  
Martha L. Rehbein  
City Clerk

/s/ John Engen  
John Engen  
Mayor

(SEAL)