

ORDINANCE NO. 2023-06

AN ORDINANCE AMENDING CERTAIN SECTIONS OF TITLE 17.47 OF THE FRUITA LAND USE CODE CONCERNING IMPACT FEES.

WHEREAS, Title 17.47 of the City of Fruita (the “City”) Municipal Code (the “Code”) sets forth the purposes and applicability of Public Dedications and Impact Fees;

WHEREAS, the Land Use Code has been established for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the community;

WHEREAS, City staff has proposed amendments to the Land Use Code for consideration; and

WHEREAS, the Planning Commission will be reviewing the proposed amendments at their June 13, 2023, public hearing; and

WHEREAS, this Ordinance was introduced at first reading on June 6, 2023, pursuant to Section 2.13(B) of the City Charter; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the requirement of Section 2.13(B) of the City Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence and that approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, has determined to take final action on this Ordinance prior to concluding the public hearing on second reading.

NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, THAT:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the City Council.

TIMING OF PAYMENT:

Section 2. Amendments to Chapter 17.47.025 (A), (B), and (C). Chapter 17.47.025 (A), (B), and (C) are hereby amended to read as follows:

A. Notwithstanding any provision contained in this Chapter to the contrary, any vacant building lot within the city created ~~prior~~ *after* to January 1, 1980, shall be subject to the impact fees/land dedications set forth in this Chapter. *Impact* Fees for *new residential development of* such lots shall be calculated based on the impact fees in effect and payable at the time of Planning Clearance approval. Accessory dwelling units shall be excluded from payment of impact fees.

B. For single-family dwelling units, townhomes, and condominiums, as defined in Section 17.57, impact fees are calculated and due in full at the time of Planning Clearance.

C. For multi-family dwelling units, as defined in Section 17.57, and non-residential projects, impact fees will be established at the time the complete application is submitted and due at issuance of Certificate of Occupancy.

Section 3. Amendments to Chapter 17.47.040 (B). Chapter 17.47.040 (B) is hereby amended to read as follows:

B. In the event no general standard or formula *for determining required dedication or impact fees* has been adopted relating to a *particular certain* type *or size of development of dedication or impact fee*, the owner/developer may voluntarily agree to comply with the dedication or fee recommended by the City staff *or request a review and determination by City Council in a public hearing*. Unless the owner/developer affirmatively requests the City to implement the provisions of subsection C of this Section, at the pre-application conference *and* prior to submittal of a subdivision Concept Plan.

Section 4. Amendments to Chapter 17.47.070 (H). Chapter 17.47.070 (H) is hereby amended to read as follows:

~~H.~~—The City Council may, in its sole discretion ~~and by an affirmative vote of all members of the Council~~, waive, suspend, defer or alter all or some of the impact fees imposed by this Chapter, or agree to pay some or all of the impact fees imposed on a proposed development or redevelopment from other funds of the city that are not restricted to other uses upon finding such waiver, suspension, alteration or payment is necessary to promote the economic development of the city or public health, safety and general welfare of its residents. Any resolution adopted by the City Council providing for the waiver, suspension, deferment or altering of impact fees shall contain specific findings of fact supporting the waiver, suspension, deferment or alternation or payment. *This provision does not apply to those credits for traffic impact fees specifically already contemplated in Chapter 17.47.130.*

PARKS, HEALTH, RECREATION, OPEN SPACE, AND TRAILS:

Section 5. Amendments to Chapter 17.47.090. Chapter 17.47.090 is hereby amended to read as follows:

17.47.090 PUBLIC PARKS, HEALTH, RECREATION, OPEN SPACE, AND TRAILS IMPACT FEE/DEDICATION.

A. The City of Fruita has determined that new residential developments cause financial impacts to the City's public park, open space, and trail systems necessitating capital

improvements that would not be required without such development. The City has adopted a Parks, Health, Recreation, Open Space, and Trails Master Plan (“PHROST”) which provides general policy guidelines and planning recommendations for provision of public parks, open space, and trails. The purpose of this section is to implement and be consistent with the City’s Master Plan, specifically, the parks, open space, and trails section of the Master Plan, by requiring all new residential development to contribute a proportionate share of the public parks, open space, and trails necessary to accommodate any impacts or need for such facilities through the dedication of land and/or fees in lieu of land dedications. It is intended for the PHROST Master Plan to be a guiding document by identifying the initiatives, partnerships, and infrastructure needed by the community to create the playing grounds for success. The City leads the Grand Valley in parks, health, recreation, open space, and trails. The City drives local efforts for world-class outdoor recreation opportunities and regional connectivity. Recreational programming, events, and outdoor recreation opportunities bring the community together around a lifestyle to positively impact the community’s health. The City takes the initiative to protect the natural environment within and surrounding Fruita. Fruita residents value their access to outdoor recreation and the ability to walk and bike safely around the City. The City should act as a trailhead, where residents and visitors can easily walk/ride out of their door to surrounding trail systems or City destinations.

Parks and recreational facilities are important spaces for Fruita residents to be active and gather. As Fruita continues to develop and grow, providing sufficient parks and recreational facilities in addition to expanding existing facilities will be increasingly important.

The payment of the cash equivalent fee in lieu will enable the city to provide parks in the proper location and of the proper size to serve the citizens of the city. This regulation also is adopted to help discourage the proliferation of small parcels, tracts, and outlots that are ostensibly created as open space and/or parks but are not sized, located or maintained as functional sites for these uses or the general city population.

Consistent with this Section and with Chapter 17.43 of this Title, every residential development which increases the number of dwelling units above that which was approved as of the effective date of this title shall include a dedication of land to the city or other entity, as determined by the City Council, to be used for public parks, open space, and/or trails and/or payment of a public parks, open space, and trails fee in lieu of such dedication, as provided herein. ~~Acessory dwelling units are not subject to this fee.~~

B. Payment in Lieu of Dedication and Improvements.

Figure PR6 shows the cost factors for each component of the City of Fruita’s Parks and Recreation Impact Fee. Impact fees for parks and recreation are based on persons per housing unit and are only assessed against residential development.

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The fees for park improvements are calculated per person, so by multiplying the total cost per person by the housing unit size calculates the maximum supportable fee.

The fees represent the highest amount supportable for each type of housing unit, which represents new growth's fair share of the cost for capital facilities. The City may adopt fees that are less than the amounts shown. Accessory dwelling units are not subject to this fee.

~~However, a reduction in impact fee revenue will necessitate an increase in other revenues, a decrease in planned capital expenditures, and/or a decrease in levels of service.~~

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Figure PR6. Maximum Supportable Park & Recreation Impact Fee

Figure PR6. Maximum Supportable Park & Recreation Impact Fee

Fee Component	Cost per Person
Park Land	\$187
Improvements	\$1,127
Gross Total	\$1,314
Credit for Debt Payments	\$0
Net Total	\$1,314

Residential

Housing Type	Persons per Housing Unit	Maximum Supportable Fee	Current Maximum Fees	Difference
Single Family	2.42	\$3,179	\$1,860	\$1,319
Multifamily	1.64	\$2,154	\$1,860	\$294

~~**Single Family:** Single Family detached is a one unit structure detached from any other house, that is, with open space on all four sides. Such structures are considered detached even if they have an adjoining shed or garage. A one family house that contains a business is considered detached as long as the building has open space on all four sides. Also included in the definition is Single family attached (townhouse), which is a one unit structure that has one or more walls extending from ground to roof separating it from adjoining structures. In row houses (sometimes called townhouses), double houses, or houses attached to nonresidential structures, each house is a separate, attached structure if the dividing or common wall goes from ground to roof.~~

~~**Multi Family:** 2+ units (duplexes and apartments) are units in structures containing two or more housing units, further categorized as units in structures with "2, 3 or 4, 5 to 9, 10 to 19, 20 to 49, and 50 or more apartments."~~

- C. The ~~above~~ land values *per person* and development costs are based on ~~average land values in Fruita and data on recent park and trail~~ construction costs in the region for 2022 PHROST Impact Fee Study (TischlerBise, May 31, 2022). The base rate may be adjusted by resolution of the City Council annually for inflation based on the construction cost index published by the Engineering News Record.

- D. The city may require the applicant to dedicate other land owned by the applicant for use as a public park, open space, or trail. If the city determines to accept other land not within the development instead of, or as partial payment toward, the land dedication/fee payment required hereunder, the amount of land dedication shall be the same amount of land that would otherwise be dedicated within the proposed development.
 - E. The proceeds from a fee in lieu of land dedication shall be placed in a public parks, open space, and trails fund established by the city and maintained for the acquisition and improvement of land for public parks, open space, and trails, which may benefit the residents of the city in general, as well as those of the proposed development.
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TRANSPORTATION IMPACT FEES:

Section 6. Amendments to Chapter 17.47.130 (D)(2). Chapter 17.47.130 (D)(2) is hereby amended to read as follows:

- 2. The base rate for residential subdivisions with single family and duplex dwelling units for which no traffic impact analysis is performed, shall be six thousand seven hundred sixty-three dollars (\$6,763.00) per dwelling unit. The base rate fees may be adjusted by resolution of the City Council annually for inflation based on the latest 10-year average of the Colorado Department of Transportation Construction Cost Index, published quarterly by CDOT. For multi-family dwelling units in excess of two units, the base rate of six thousand seven hundred sixty-three dollars (\$6,763.00) shall be multiplied by a factor of 0.68 per unit for the fee per dwelling unit. Said fees are based upon traffic impact analysis performed according to subsection (D)(1) of this Section and adjusted to reflect recent actual costs incurred on local road projects. *This multi-family dwelling base amount may be adjusted by city staff based upon the size and configuration of the units in accordance with Chapter 17.47.040(B).*

Section 7. Amendments to Chapter 17.47.130 (D)(3). Chapter 17.47.130 (D)(3) is hereby amended to remove the outdated Retail/Commercial impact fee phasing schedule.

Section 8. Codification of Amendments. The codifier of the City's Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Code. The City Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors. Such corrections may also include naming references as well as references to studies.

Section 9. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

Section 10. Effective Date. This Ordinance shall take effect thirty (30) days after final adoption in accordance with Section 2.13(G) of the Fruita Home Rule Charter.

Section 11. Safety Clause. The City Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 12. Publication. The City Clerk is ordered to publish this Ordinance in accordance with Chapter 2.13(F) of the Code.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL ON THIS
18TH DAY OF JULY 2023.**

CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk