

TITLE 14
DEVELOPMENT IMPACT FEE
CHAPTER 14.01
TITLE, PURPOSE AND DEFINITIONS

SECTION:

14.01.010: Title and Purpose

14.01.020: Definitions

14.01.010: TITLE AND PURPOSE:

The provisions of this ~~€~~TItle shall be known as the CITY OF COEUR D’ALENE DEVELOPMENT IMPACT FEE ORDINANCE. The purpose of these regulations is to prescribe the procedure whereby developers of land shall pay a Proportionate Share of the cost~~an impact fee as set forth in this title for the purpose~~ of providing ~~the new~~ pPublic fFacilities and sSystem iImprovements needed to serve ~~future residents and users of such~~new growth and development. It is further the purpose of this ~~€~~TItle to:

- A. Ensure that adequate Public fFacilities are available to serve new growth and ~~€~~Development;
- B. Promote orderly growth and development by establishing uniform standards by which the ~~€~~City may require that those who benefit from new growth and ~~€~~Development pay a pProportionate sShare of the cost of new pPublic fFacilities needed to serve new growth and ~~€~~Development;
- C. Ensure that those who benefit from new growth and development are required to pay no more than their pProportionate sShare of the cost of pPublic fFacilities needed to serve new growth and ~~€~~Development and to prevent duplicate and ad hoc ~~€~~Development requirements;
- D. Establish the procedures and regulations for the ~~€~~Collection and expenditure of ~~€~~Development iImpact fFees pursuant to the enabling powers granted by the provision of the Idaho ~~€~~Development iImpact fFee aAct, ~~€~~TItle 67, ~~€~~Chapter 82, Idaho Code (the “Act”);
- E. Provide the legal and procedural basis for the implementation of ~~€~~Development iImpact fFees within the area of city impact; and
- F. Ensure that any capital improvement funded wholly or in part with iImpact fFee revenue shall first be included in an approved ~~€~~Capital iImprovements pPlan that lists the ~~€~~Capital iImprovements that may be funded with iImpact fFee revenues as well as the estimated costs and timing for each improvement.

14.01.020: DEFINITIONS:

As used in this ~~€~~TItle, the following words and terms shall have the following meanings, unless another meaning is plainly intended:

~~ADDENDUM A: The "Development Impact Fee Report" dated July 30, 1996, as amended by the report entitled "City Of Coeur d'Alene Development Impact Fee Report Update", dated February 23, 2004, along with all footnotes, exhibits, appendices, and other attachments referenced therein including, but not limited to, the city of Coeur d'Alene parks master plan, November 1994, all of which are by this reference incorporated herein as if set forth fully. A description of acceptable levels of service for system improvements is described in the report.~~

~~AFFORDABLE HOUSING: Housing affordable to families whose incomes do not exceed eighty percent (80%) of the median income for the service area or areas within the jurisdiction of the city of Coeur d'Alene.~~

BUILDING OFFICIAL: The duly appointed building official for the City of Coeur d'Alene.

BUILDING PERMIT: The permit required for new construction and additions pursuant to Coeur d'Alene Municipal Code ("Municipal Code") section § 15.08.010 ~~of this code.~~

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

CAPITAL IMPROVEMENTS PLAN: A plan adopted ~~and or~~ amended pursuant to the provisions of ~~the development impact fee act,~~ Idaho Code § 67-8208, that identifies eCapital iImprovements for which dDevelopment iImpact fFees may be used as a funding source.

CITY: The eCity of Coeur d'Alene, a municipal corporation duly organized pursuant to the laws of the state of Idaho.

~~DEVELOPMENT: Any construction or installation of a building or structure, or any change in use of a building or structure, or any change in the use, character or appearance of land, which creates additional demand and need for Public Facilities or the subdivision of property that would permit any change in the use, character or appearance of land. Any manmade change to improved or unimproved real property, the use of any principal structure or land, or any other activity that requires issuance of a building permit, site development permit, or manufactured/mobile home permit, which creates additional demand and need for public facilities.~~

DEVELOPMENT APPROVAL: Any written, duly authorized document from the eCity which authorizes the commencement of a dDevelopment.

DEVELOPMENT IMPACT FEE OR IMPACT FEE: A payment of money imposed as a condition of dDevelopment aApproval to pay for a pProportionate sShare of the cost of sSystem iImprovements needed to serve dDevelopment. This term is also referred to as an iImpact fFee in this tTitle. The term does not include the following:

- A. A charge or fee to pay the administrative, plan review, or inspection costs s associated with permits required for dDevelopment;
- B. Connection or hook up charges;
- C. ~~Availability eCharges~~ for drainage, sewer, water, or transportation charges for services provided directly to the dDevelopment; or

D. Amounts collected from a developer in a transaction in which the eCity has incurred expenses in constructing eCapital iImprovements for the dDevelopment if the owner or developer has agreed to be financially responsible for the construction or installation of the eCapital iImprovements, unless a written agreement is made pursuant to Idaho Code section § 67-8209(3), Idaho Code, for credit or reimbursement.

DEVELOPMENT REQUIREMENT: A requirement attached to a developmental approval or other governmental-City action approving or authorizing a particular dDevelopment pProject including, but not limited to, a rezoning, which requirement compels the payment, dedication, or contribution of goods, services, land, or money as a condition of approval.

~~DEVELOPMENT SUBAREAS MAP/SERVICE AREAS MAP/QUADRANT MAP: These terms are interchangeable. A map of development subareas in which impact fees are imposed. This map is contained in the "report" referred to as "quadrant map" and is incorporated by reference herein as if fully set out.~~

~~DEVELOPMENT SUBAREAS/SERVICE AREAS/QUADRANTS: Any defined geographic area identified by the city in the comprehensive plan including, but not limited to, the capital improvement plan, or intergovernmental agreement between the city and another governmental entity, in which specific public facilities provide service to development within the areas defined, on the basis of sound planning or engineering principles or both.~~

EXTRAORDINARY COSTS: Those costs incurred as a result of an eExtraordinary iImpact.

EXTRAORDINARY IMPACT: An impact which is reasonably determined by the eCity to:

A. Result in the need for sSystem iImprovements, the cost of which will significantly exceed the sum of the dDevelopment iImpact fFees to be generated from the pProject or the sum agreed to be paid pursuant to a development agreement as allowed by Idaho Code section § 67-8214(2), Idaho Code, or

B. Result in the need for sSystem iImprovements related to new growth which are not identified in the eCapital iImprovements pPlan.

C. Have an impact which results in a lower than acceptable HLevel of sService.

FEE PAYER: That person who pays or is required to pay a dDevelopment iImpact fFee.

~~GROSS FLOOR AREA: The sum of the areas of the several floors of the building or structure, including areas used for human occupancy or required for the conduct of the business or use, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics when not used for human occupancy, nor any floor space in an accessory building, carport, or the main building intended or designed for the parking of motor vehicles in order to meet any city parking requirements, nor nonresidential facilities; arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.~~

IMPACT FEE: See definition of Development Impact Fee.

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

LEVEL OF SERVICE: A measure of the relationship between service capacity and service demand for ~~p~~Public ~~f~~Facilities.

MANUFACTURED/MOBILE HOME: A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, which, in the traveling mode, is eight feet (8') or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 USC 5401 et seq.

MODULAR BUILDING: Any building or building component, other than a ~~m~~Manufactured/~~m~~Mobile ~~h~~Home, which is constructed according to standards contained in the international building code, as adopted or any amendments thereto, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site.

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

PROJECT: A particular ~~d~~Development on an identified parcel of land.

PROJECT IMPROVEMENTS: In contrast to ~~s~~System ~~i~~Improvements, ~~p~~Project ~~i~~Improvements are site improvements and facilities that are planned and designed to provide service for a particular ~~d~~Development ~~p~~Project and that are necessary for the use and the convenience of the occupants or users of the ~~p~~Project.

PROPORTIONATE SHARE: That portion of the cost of ~~s~~System ~~i~~Improvements determined pursuant to ~~section Idaho Code § -67-8207, Idaho Code~~, which reasonably relates to the service demands and needs of the ~~p~~Project.

PUBLIC FACILITIES: Those types of improvements described in Idaho Code § 50-1703, including, but not limited to, the following:

- A. Water supply production, treatment, storage, and distribution facilities;
- B. Wastewater collection, treatment, and disposal facilities;
- C. Roads, streets, and bridges, including rights-of-way and nonvehicular trails, traffic signals, landscaping, and any local components of state or federal highways;
- D. Storm water collection, retention, detention, treatment, and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;
- E. Parks, open space, and recreation areas, and related ~~e~~Capital ~~i~~Improvements; and
- F. Public safety facilities, including law enforcement, fire stations and apparatus, emergency medical and rescue, and street lighting facilities.

~~QUADRANT: See definition of Development Subareas/Service Areas/Quadrants.~~

~~QUADRANT MAP: See definition of Development Subareas Map/Service Areas Map/Quadrant Map.~~

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

REPORT: The most recently adopted "Development Impact Fee Report," ~~dated July 30, 1996, as amended by "Development Impact Fee Report Update", dated February 23, 2004.~~

~~SERVICE AREA/SUBAREAS/QUADRANT: See definition of Development Subareas/Service Areas/Quadrants.~~

SERVICE AREA: Any defined geographic area identified by the City in the comprehensive plan including, but not limited to, the capital improvement plan, or intergovernmental agreement between the City and another governmental entity, in which specific Public Facilities provide service to Development within the areas defined, on the basis of sound planning or engineering principles or both.

SERVICE UNIT: A standardized measure of consumption, use, generation, or discharge attributable to an individual unit of dDevelopment calculated in accordance with generally accepted engineering or planning standards for a particular category of eCapital iImprovements.

SITE DEVELOPMENT PERMIT: The permit required by the ~~planning department~~ City for construction, placement, and installation of, and additions to, mModular Buildings-structures and mManufactured/mMobile hHomes.

SYSTEM IMPROVEMENTS: In contrast to pProject iImprovements, ~~mean~~ System Improvements are eCapital iImprovements to pPublic fFacilities which are designed to provide service to a sService aArea/subarea including, without limitation, the type of improvements described in ~~section Idaho Code § 50-1703, Idaho Code.~~

SYSTEM IMPROVEMENTS COSTS: Costs incurred for construction or reconstruction of sSystem iImprovements, including design, acquisition, engineering, and other costs attributable thereto, and also including, without limitation, the type of costs described in ~~section Idaho Code § 50-1702(h), Idaho Code~~, to provide additional pPublic fFacilities needed to service new growth and dDevelopment. For clarification, sSystem iImprovement costs do not include:

- A. Construction, acquisition, or expansion of pPublic fFacilities other than eCapital iImprovements identified in the eCapital iImprovements pPlan;
- B. Repair, operation, or maintenance of existing or new eCapital iImprovements;
- C. Upgrading, updating, expanding or replacing existing eCapital iImprovements to serve existing dDevelopment in order to meet stricter safety, efficiency, environmental, or regulatory standards;
- D. Upgrading, updating, expanding, or replacing existing eCapital iImprovements to provide better service to existing dDevelopment;

E. Administrative and operating costs of the eCity unless such costs are attributable to dDevelopment of the eCapital iImprovements plan, as provided in ~~section Idaho Code § 67-8208,~~ Idaho Code; or

F. Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the eCity to finance eCapital iImprovements identified in the eCapital iImprovements pPlan.

UNIT(S) OF DEVELOPMENT: A quantifiable increment of dDevelopment activity measured in terms of dwelling units, or other appropriate measurements contained in the impact fee schedule incorporated in the "rReport".

CHAPTER 14.02
APPLICATION AND EXEMPTIONS

SECTION:

14.02.010: Application

14.02.020: Exemptions

14.02.010: APPLICATION:

~~A.~~—The provisions of this Title ~~shall apply~~ establish uniformly standards applicable to those who benefit from new growth and dDevelopment except as may be provided below in this Title.

14.02.020: EXEMPTIONS:

~~B.A.~~ The provisions of this Title shall not apply to the following:

1. Rebuilding the same amount of floor space of a structure which was destroyed by fire or other catastrophe, providing the structure is rebuilt and ready for occupancy within two (2) years of its destruction;
2. Remodeling or repairing a structure which does not increase the number of sService uUnits or the square footage of heated floor area;
3. Replacing a ~~residential unit structure;~~ which does not increase the number of Service Units or the square footage of heated floor area;
4. ~~including a modular building or~~ Replacing a mManufactured/mMobile hHome; with another residential unit on the same lot which does not increase the number of Service Units or the square footage of heated floor area; ~~provided that the number of service units does not increase;~~
45. Placing a temporary construction trailer or office on a lot;
5. ~~Constructing an addition on a residential structure which does not increase the number of service units;~~

6. Adding uses that are typically accessory to residential uses, such as tennis courts or clubhouses, unless ~~it can be clearly demonstrated that~~ the use creates a significant impact on the capacity of sSystem iImprovements;

7. Upon demonstration by a fFee pPayer ~~by through~~ documentation such as utility bills and tax records, to a mModular bBuilding, mManufactured/mMobile hHome, or rRecreational vVehicle legally in place on the lot or space prior to the effective date of the Development Impact Fee Ordinance; or

~~8. Upon demonstration by fee payer by documentation such as utility bills and tax records, to the installation of a modular building, manufactured/mobile home or recreational vehicle on that same lot or space for which a development impact fee has been paid previously, and as long as there is no increase in service units.~~

€B. An exemption must be claimed by the fFee pPayer ~~upon at the time of~~ application for a bBuilding pPermit. Any exemption not so claimed shall be deemed waived by the fFee pPayer.

C. Applications for exemption shall be submitted to and determined by the City Treasurer/Building Official, or ~~his or her duly designated agent/designee~~, within ninety (90) days. Appeals of the City Treasurer/Building Official's, or ~~his or her duly designated agent's/designee's~~, determination shall be made under the provisions of Chapter 14.11 of this Title.

CHAPTER 14.03 COLLECTION OF IMPACT FEES

SECTION: 14.03.010: Collection of Impact Fees

14.03.010: COLLECTION OF IMPACT FEES:

A. The dDevelopment iImpact fFee shall be paid and collected at the time of issuance of a bBuilding pPermit, a sSite dDevelopment pPermit, or a mManufactured/mMobile hHome installation/setting permit.

B. No bBuilding pPermit or other equivalent City approval shall be issued for dDevelopment as herein defined unless the iImpact fFee is paid pursuant to this Chapter.

C. A mManufactured/mMobile hHome ~~unit~~ may not locate on a mManufactured/mMobile hHome site unless the iImpact fFee is paid pursuant to this Chapter or has been paid on a previous mManufactured/mMobile hHome ~~unit~~ on the same site.

D. In the event payment is dishonored, the City ~~shall have~~ may seek all lawful remedies including, but not ~~necessarily~~ limited to, the withholding of utility services, the imposition of reasonable interest and penalties, the imposition of liens pursuant to eChapter 5, tTitle 45, Idaho Code, the withholding of other City approvals required for the dDevelopment of other properties owned by the fFee pPayer, ~~and~~ the issuance of “stop work” orders, and the revocation or suspension of ~~the any~~ bBuilding pPermit issued for the property.

~~CHAPTER 14.04
DEVELOPMENT SUBAREAS~~

~~SECTION: 14.04.010: Establishment Of Development Subareas~~

~~14.04.010: ESTABLISHMENT OF DEVELOPMENT SUBAREAS:~~

~~Development subareas are established as shown on Exhibit 2, "Quadrant Map", contained in the "Report".~~

~~—A. Such development subareas are established for circulation (streets) facilities to provide a nexus between developments paying the circulation fee and benefits received to ensure that those developments paying impact fees receive substantial benefit.~~

~~—B. The development potential of each subarea is contained in the "Report".~~

CHAPTER 14.05
CAPITAL/SYSTEM IMPROVEMENT PROJECTS

SECTION: 14.05.010: Capital/System Improvement Projects

14.05.010: CAPITAL/SYSTEM IMPROVEMENT PROJECTS:

The ~~e~~Capital/~~s~~System ~~i~~Improvements ~~p~~Projects to be financed by the ~~i~~Impact ~~f~~Fees are those as listed in the "Report", incorporated herein by reference along with all footnotes, exhibits, appendices, and other attachments referenced therein including, but not limited to, ~~the City of Coeur d'Alene Parks~~ all Master Plans, adopted by the City which are November 1994, attached hereto as Addendum B and incorporated herein by ~~this~~ reference.

CHAPTER 14.06
CALCULATION OF IMPACT FEES

SECTION: 14.06.010: Calculation ~~O~~of Impact Fees

14.06.010: CALCULATION OF IMPACT FEES:

A. Procedure: The City shall calculate the amount of the ~~i~~Impact ~~f~~Fee due for each ~~b~~Building ~~p~~Permit, ~~s~~Site ~~d~~Development ~~p~~Permit, and ~~m~~Manufactured/~~m~~Mobile ~~h~~Home installation permit by the procedure set forth in the Report within thirty (30) days of submittal of complete permit plans for residential ~~d~~Development and within sixty (60) days of submittal of complete permit plans for ~~commercial-non-residential d~~Development.

B. Validity: The calculation of a ~~d~~Development ~~i~~Impact ~~f~~Fee shall be in accordance with generally accepted accounting principles. A ~~d~~Development ~~i~~Impact ~~f~~Fee shall not be deemed invalid because payment of the fee may result in an incidental benefit to owners or developers within the ~~s~~Service ~~a~~Area other than the person paying the fee.

C. Levels Of Service: A dDevelopment impact fee shall be calculated on the basis of levels of service for public facilities adopted in this Title and in the Report that are applicable to existing dDevelopment as well as new growth and dDevelopment. The construction, improvement, expansion, or enlargement of new or existing public facilities for which a dDevelopment impact fee is imposed must be attributable to the capacity demands generated by the new dDevelopment.

D. Mixed Uses: If the dDevelopment for which a building permit, site dDevelopment permit, or manufactured/mobile home installation permit is sought contains a mix of uses, the impact fee will be calculated for each type of dDevelopment.

E. Certification: Prior to making an application for a building permit, site dDevelopment permit, manufactured/mobile home installation permit, a prospective applicant may request in writing a written certification of the dDevelopment impact fee schedule or individual assessment for a particular project which shall establish the dDevelopment impact fee for a period of one year from the date of certification. The certification shall include an explanation of the calculation of the impact fee including an explanation of public facilities considered under ~~section Idaho Code § 67-8207, Idaho Code~~. The certification shall specify the system improvement(s) for which the impact fee is intended to be used.

F. Individual Assessment: Individual assessment of impact fees is permitted in situations where the fee payer can demonstrate by clear and convincing evidence that the established impact fee is inappropriate.

1. ~~An individual assessments of dDevelopment iImpact fFees may be made-requested by application to the City TreasurerBuilding Official, or his or her duly designated agentdesignee, prior to receiving-submitting an application for a bBuilding pPermits, sSite dDevelopment pPermits, mManufactured/mMobile hHome installation permits, or other necessary approvals from the City. The City TreasurerBuilding Official, or his or her duly designated agentdesignee, shall evaluate such-the application for an individual assessments under the guidelines provided for in subsectionparagraph F4-of this Section below. If the guidelines are met, the individual assessment shall be approved by the City Treasurer, or his or her duly designated agent, and forwarded to the City Council within thirty (30) days of receiving such application.~~

2. Late applications for individual assessments may be submitted within thirty (30) days after the receipt of a building permit only if the fee payer makes a showing that the facts supporting such application were not known or discoverable prior to receipt of a building permit and that undue hardship would result if said application is not considered.

3. The ~~City TreasurerBuilding Official, or his or her duly designated agentdesignee,~~ shall render a written decision regarding the requ~~est for an~~ individual assessment ~~and forward it to the City Council~~ within thirty (30) days of the date a complete application is submitted. The decision of the City TreasurerBuilding Official, or his or her duly designated agentdesignee, shall establish the impact fee for the project in question for a period of one (1) year from the date said decision becomes final.

4. The ~~City Treasurer~~Building Official, or ~~his or her duly designated agent~~designee, shall evaluate an application for an individual assessment and may approve ~~the same~~a different Impact Fee if ~~the~~the ~~Fee~~Payer has shown by clear and convincing evidence that the ~~established~~Impact ~~Fee~~established by this Chapter is inappropriate and that the following facts and conditions exist:

a. Exceptional or extraordinary circumstances or conditions apply to the ~~d~~DDevelopment that do not apply generally to other properties ~~in the subarea or~~in the vicinity of the ~~d~~DDevelopment;; and

b. An individual assessment is necessary for the reasonable and ~~acceptable~~fair ~~d~~DDevelopment of the property;; and

c. The approval of the individual assessment will not be materially detrimental to the public welfare or injurious to property in the vicinity ~~in which~~of the ~~d~~DDevelopment ~~is located~~; and

d. The approval of the individual assessment will not adversely affect the Capital Improvements Plan of the City.

5. ~~The applicant may~~Appeals of the ~~determination by the City Treasurer~~Building Official, or ~~his or her duly designated agent~~designee, ~~determination of~~on the application for an individual assessment ~~shall be made to the City Council~~ by the filing of an appeal with the City Clerk within thirty (30) days of the date of mailing, ~~faxing~~, or personal delivery of written notice of the decision of the ~~City Treasurer~~Building Official, or ~~his or her duly designated agent~~designee. ~~The appeal will be heard by the City Council, which shall make the~~Ffinal determination ~~regarding individual assessments shall be made by the City Council~~on the application.

G. Determination Of Impact Fees and Trip Generation Rates ~~And Fees~~: The ~~i~~Impact ~~f~~Fees and trip generation rates (as determined by the latest edition of the Institute of Traffic Engineers' trip generation manual) are set forth in the Report,s Addendum A. The City Council may set ~~forth~~ impact fees and trip generation rates by ~~r~~Resolution and modify the same by ~~r~~Resolution as allowed by law.

CHAPTER 14.07 GENERAL METHODOLOGY FOR CALCULATION

SECTION: 14.07.010: Calculation ~~O~~of Impact Fees

14.07.010: CALCULATION OF IMPACT FEES:

A. Fee Amount: The amount of the ~~i~~Impact ~~f~~Fee shall be calculated using the methodology contained in Addendum A to the Report.

B. Fee Limit: A ~~d~~Ddevelopment ~~i~~Impact ~~f~~Fee shall not exceed ~~at the~~the ~~p~~Proportionate ~~s~~Share of the cost of ~~s~~System ~~i~~Improvements determined in accordance with ~~section Idaho Code § 67-8207, Idaho Code~~. Development ~~i~~Impact ~~f~~Fees shall be based on actual ~~s~~System ~~i~~Improvement ~~e~~Costs or reasonable estimates of such costs.

C. Payment Options: A developer shall have the right to elect to pay a pProject's pProportionate sShare of sSystem iImprovement costs by payment of dDevelopment iImpact fFees according to the fee schedule as full and complete payment of the dDevelopment pProject's pProportionate sShare of sSystem iImprovement costs, except as provided in section Idaho Code § 67-8214(3), Idaho Code. The schedule of dDevelopment iImpact fFees for various land users per unit of dDevelopment shall be as set forth in the rReport, table 1 entitled "Impact Fee Summary".

D. Proportionate Share Determination:

1. All dDevelopment iImpact fFees shall be based on a reasonable and fair formula or method under which the dDevelopment iImpact fFee imposed does not exceed a pProportionate sShare of the costs incurred or to be incurred by the eCity in the provision of sSystem iImprovements to serve the new dDevelopment. The pProportionate sShare is the costs attributable to the new Ddevelopment after the eCity considers the following:

- a. Any appropriate credit, offset or contribution of money, dedication of land, or construction of sSystem iImprovements;
- b. Payments reasonably anticipated to be made by or as a result of a new dDevelopment in the form of user fees, and debt service payments; ~~or~~
- c. That portion of general taxes and other revenue which are dedicated for allocated to sSystem iImprovements for which dDevelopment iImpact fFees would otherwise be imposed; and
- ed. All other available sources of funding for such sSystem iImprovements.

2. In determining the pProportionate sShare of the cost of sSystem iImprovements to be paid by the developer, the following factors shall be considered by the eCity and accounted for in the calculation of the fee:

- a. The cost of existing sSystem iImprovements within the sService aArea or areas;
- b. The means by which existing sSystem iImprovements have been financed;
- c. The extent to which the new dDevelopment will contribute to the cost of sSystem iImprovements through taxation, assessments, or developer or landowner contributions, or has previously contributed to the cost of sSystem iImprovements through developer or landowner contributions;
- d. The extent to which the new dDevelopment is required to contribute to the cost of existing sSystem iImprovements in the future;
- e. The extent to which the new dDevelopment should be credited for providing sSystem iImprovements, without charge, to other properties within the sService aArea or areas;
- f. Extraordinary eCosts, if any, incurred in serving the new dDevelopment;

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

h. The availability of other sources of funding ~~s~~System ~~i~~Improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation. The ~~e~~City shall develop a plan for alternative sources of revenue, which shall include, but not necessarily be limited to, ~~plans generated during inclusion in~~ the ~~e~~City's annual budget process, lobbying efforts, tax increment financing, implementation of user fees, and various forms of utility ~~fees~~ies.

CHAPTER 14.08
ADMINISTRATION OF IMPACT FEES

SECTION:

14.08.010: Administration ~~O~~of Impact Fees

14.08.010: ADMINISTRATION OF IMPACT FEES:

A. Transfer Of Funds To City Treasurer: Upon receipt of ~~i~~Impact ~~f~~Fees, the City Treasurer, or ~~his or her designated agent designee~~, shall be responsible for ~~placement deposit~~ of such funds into separate accounts as hereinafter specified. All such ~~funds shall be deposited in accounts shall be~~ interest-bearing accounts, within the Capital Projects Fund, in a bank authorized to receive deposits of City funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for ~~the~~ funds of such account.

B. Establishment And Maintenance Of Accounts: The City Treasurer, or ~~his or her designated agent designee~~, shall establish separate accounts and maintain records for each such account whereby ~~i~~Impact ~~f~~Fees collected can be segregated by subareas as previously defined.

C. Maintenance Of Records: The City Treasurer, or ~~his or her designated agent designee~~, shall maintain and keep accurate financial records for each ~~such~~ account that shall show the source and disbursement of all revenues, ~~that shall account for all moneys received, that shall and~~ ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of ~~p~~Projects specified in the ~~e~~Capital ~~i~~Improvements ~~p~~Plan ~~for the particular development subarea, and that The City Treasurer~~ shall provide an annual accounting for each ~~i~~Impact ~~f~~Fee account showing the source and amount of all funds collected and the ~~p~~Projects that were funded.

D. Use Of Impact Fees: Development ~~i~~Impact ~~f~~Fees shall only be spent for the category of ~~s~~System ~~i~~Improvements for which the fees are collected ~~and either within or for the benefit of the service area in which the project is located.~~

E. Review And Modification: ~~Unless the City Council deems some other time period is appropriate, t~~The City shall, at least once every five (5) years commencing from the date of the ~~original~~ adoption of the ~~current~~ Capital Improvements Plan, ~~review the development potential of the subarea~~ and update the Capital Improvements Plan in accordance with the procedures set forth

in Idaho Code ~~section~~§ 67-8206. The City may make any updates as are deemed necessary as a result of:

- 1.) ~~d~~Development occurring in the prior year;
- 2.) ~~e~~Capital ~~i~~Improvements actually constructed;
- 3.) ~~e~~Changing facility needs;
- 4.) ~~i~~Inflation;
- 5.) ~~r~~Revised cost estimates for ~~e~~Capital ~~i~~Improvements;
- 6.) ~~e~~Changes in the availability of other funding ~~p~~Projects; and
- 7.) ~~s~~Such other factors as may be relevant.

F. Capital Budget: The City shall annually adopt a capital budget.

G. Annual Report: As part of its annual audit process, the City shall prepare an annual report describing the amount of all ~~d~~Development ~~i~~Impact ~~f~~Fees collected, appropriated, or spent during the preceding year by category of ~~p~~Public ~~f~~Facility and ~~s~~Service ~~a~~Area.

H. Earmarking And Expenditure Of Fees: All other requirements of Idaho Code ~~section~~§ 67-8210, regarding earmarking and expenditure of collected ~~d~~Development ~~i~~Impact ~~f~~Fees, shall apply.

CHAPTER 14.09 CREDITS

SECTION:

14.09.010: Credits ~~A~~and Reimbursement

14.09.010: CREDITS AND REIMBURSEMENT:

A. In the calculation of ~~d~~Development ~~i~~Impact ~~f~~Fees for a particular ~~p~~Project, credit or reimbursement shall be given for the ~~p~~Present ~~v~~Value of any construction of ~~s~~System ~~i~~Improvements or contribution of money or dedication of land ~~or money~~ required by the City from a developer for ~~s~~System ~~i~~Improvements of the category for which the ~~d~~Development ~~i~~Impact ~~f~~Fee is being collected, including System Improvements paid for pursuant to a local improvement district. Credit or reimbursement shall not be given for ~~p~~Project ~~i~~Improvements.

B. A credit shall be issued in the case of a change of use if Development Impact Fees were paid for the prior uses.

C. A credit shall be issued in the case of a donation of land or improvements to a park that is included in the Capital Improvements Plan, provided the land or improvements are open for public use.

D. No credit shall be issued for rebuilding of a structure which has been demolished or damages unless the structure is rebuilt within two (2) years of the demolition or damage.

BE. If a developer is required to construct, fund, or contribute sSystem iImprovements in excess of the dDevelopment pProject's pProportionate sShare of sSystem iImprovement costs, including System Improvements paid for pursuant to a local improvement district, the developer shall receive a credit on future iImpact fFees or be reimbursed at the developer's choice for such excess construction, funding, or contribution from dDevelopment iImpact fFees paid by future dDevelopment which impacts the sSystem iImprovements constructed, funded, or contributed by the developer(s) or the fFee pPayer.

F. No credit will be allowed for a Project that triggers frontage improvements, even if the improvements are along a corridor included in the Capital Improvements Plan.

EG. If credit or reimbursement is due to the developer pursuant to this Ssection, the City shall enter into a written agreement, with the fFee pPayer, negotiated in good faith, prior to the construction, funding, or contribution. The agreement shall provide for the amount of credit or the amount, time, and form of reimbursement.

DH. No credits shall be given for the construction of local on-site facilities, structures, improvements, or other pProject iImprovements required by zoning, subdivision, or other City regulations unless the improvement is identified in the Report as a sSystem iImprovement.

EI. Any person requesting ~~such~~ credit or reimbursement shall submit their request in writing on a form provided by the City and present documentation of costs or payments for facilities to the ~~City Treasurer~~Building Official, or ~~his or her designated agent~~designee, for use in determining the amount of credit or reimbursement to be given. Requests for credit or reimbursement shall be submitted to the ~~City Treasurer~~Building Official, or ~~his or her designated agent~~designee, prior to issuance of a bBuilding pPermit, sSite dDevelopment pPermit, or mManufactured/mMobile hHome installation permit. The determination shall be made no more than forty five (45) days after complete documentation is submitted to the ~~City Treasurer~~Building Official or ~~his or her designated agent~~designee. Any appeal from such a determination by the ~~City Treasurer~~Building Official, or ~~his or her designated agent~~designee, shall be pursuant to Chapter 14.11 of this Title.

J. In the calculation of Development Impact Fees for a particular Project, credit shall be given for the Present Value of all tax and user fee revenue generated by the developer within the Service Area where the Impact Fee is being assessed and used by the City for System Improvements of the category for which the Development Impact Fee is being collected. If the amount of credit exceeds the Proportionate Share for the particular Project, the developer shall receive a credit on future Impact Fees for the amount in excess of the Proportionate Share. The credit may be applied by the developer as an offset against future Impact Fees only in the Service Area where the credit was generated.

K. No credit shall be allowed for System Improvements which the developer agrees to construct in a Development or Annexation Agreement.

CHAPTER 14.10
REFUNDS

SECTION:

14.10.010: Refunds

14.10.010: REFUNDS:

A. The current owner of record of property on which an ~~i~~Impact ~~f~~Fee has been paid may request a refund of such fee if:

1. Service is available but never provided;
2. The ~~p~~Project for which a ~~b~~Building ~~p~~Permit has been used has been lawfully altered resulting in a decrease in the amount of the ~~i~~Impact ~~f~~Fee due; or
3. The City, after collecting the fee when service is not available, has failed to appropriate and expend the collected ~~d~~Development ~~i~~Impact ~~f~~Fees pursuant to ~~section Idaho Code § 67-8210(4), Idaho Code; or-~~
4. A ~~b~~Building ~~p~~Permit or permit for installation of a ~~m~~Manufactured/~~m~~Mobile ~~h~~Home is denied or abandoned; or
5. The Fee Payer pays a fee under protest and a subsequent review of the fee paid or the completion of an individual assessment determines that the fee paid exceeded the Proportionate Share to which the City was entitled to receive.

B. The request for refund must be in writing and submitted to the ~~City Treasurer~~Building Official, or ~~his or her duly designated agent~~designee, on a form provided by the City for such purpose. The owner shall provide such documentation as the ~~City Treasurer~~Building Official, or ~~his or her duly designated agent~~designee, may require to prove such satisfaction, reconveyance, or releases from contract sellers, mortgagees, lienholders, and/or others having an interest in the real property for which an ~~i~~Impact ~~f~~Fee has been paid.

C. A request for refund must be filed within the time allowed by law.

D. Within ninety (90) days of the date of receipt of a request for refund, the ~~City Treasurer~~Building Official, or ~~his or her duly designated agent~~designee, must provide the owner, in writing, with a decision on the refund request including the reasons for the decision. If a right to refund exists, the City is required to send a refund to the owner of record within ninety (90) days after it is determined that a refund is due. A refund shall include a refund of interest at one-half (1/2) the legal rate provided for in ~~section Idaho Code § 28-22-104, Idaho Code, from the date on~~ which the fee was originally paid.

E. Any person entitled to a refund shall have standing to sue for a refund if there has not been a timely payment of a refund pursuant to subsection D of this section.

F. The Owner may appeal the determination of the ~~City Treasurer~~Building Official, or ~~his or her duly designated agent~~designee, to the City Council pursuant to the provisions in Chapter 14.11 of this Title.

CHAPTER 14.11
APPEALS

SECTION:

14.11.010: Appeals

14.11.010: APPEALS:

A. A developer or ~~the~~ ~~f~~Fee ~~p~~Payer may appeal the written determination of the applicability and amount of the ~~d~~Development ~~i~~mpact ~~f~~Fee, or refund, or any discretionary action or inaction by, or on behalf of the City, to the City Council.

B. The developer or ~~the~~ ~~f~~Fee ~~p~~Payer must file a notice of appeal ~~to the City Council~~ with the City Clerk within thirty (30) days following the written determination, ~~or~~ discretionary action or inaction. When filing an appeal, the ~~f~~Fee ~~p~~Payer shall submit a letter providing a full explanation of the request, the reason for the appeal, as well as all supporting documentation.

C. The filing of an appeal shall not stay ~~the~~ required payment of the ~~i~~mpact ~~f~~Fee, however a ~~f~~Fee ~~p~~Payer can pay a ~~d~~Development ~~i~~mpact ~~f~~Fee under protest in order to obtain ~~d~~Development ~~a~~Approval or ~~a~~ ~~b~~Building ~~p~~Permit.

D. Upon voluntary agreement by the ~~f~~Fee ~~p~~Payer and the City, any disagreement related to the ~~i~~mpact ~~f~~Fee for the proposed ~~d~~Development may be mediated by a qualified independent party.

1. Mediation may take place at any time during the appeals process and participation in mediation does not preclude the ~~f~~Fee ~~p~~Payer from pursuing other remedies provided for in this Title.

2. Mediation costs shall be shared equally by the ~~f~~Fee ~~p~~Payer and the City.

CHAPTER 14.12
EXTRAORDINARY IMPACTS

SECTION:

14.12.010: Extraordinary Impacts

14.12.010: EXTRAORDINARY IMPACTS:

A. In determining the ~~p~~Proportionate ~~s~~Share of the cost of ~~s~~System ~~i~~mprovements to be paid by the developer, the ~~City Treasurer~~ ~~Building Official~~, or ~~his or her~~ designee, shall consider whether any ~~e~~Extraordinary ~~e~~Costs will be incurred in serving the ~~d~~Development based upon an ~~"e~~Extraordinary ~~i~~mpact." ~~as defined in Section 14.01.020 of this Title.~~ This determination shall be made prior to issuance of any permit for ~~d~~Development and shall be paid prior to any such issuance except as may be provided pursuant to a private agreement between the parties as authorized by Idaho Code ~~see~~ ~~s~~ ~~tion~~ 67-8214.

B. If the ~~City Treasurer~~ Building Official, or ~~his or her~~ designee, determines that the ~~d~~Development will result in an ~~e~~Extraordinary ~~i~~Impact, it shall advise the ~~f~~Fee ~~p~~Payer in writing what the ~~e~~Extraordinary ~~i~~Impact is, the reason for the ~~e~~Extraordinary ~~i~~Impact, and the estimated costs to be incurred as a result of the ~~e~~Extraordinary ~~i~~Impact.

C. Nothing in this Title shall obligate the City to approve any ~~d~~Development which results in ~~e~~Extraordinary ~~i~~Impact.

D. The ~~f~~Fee ~~p~~Payer may appeal the determination ~~of that~~ an ~~e~~Extraordinary ~~i~~Impact ~~exists~~ or the amount of ~~e~~Extraordinary ~~e~~Costs incurred ~~in writing~~ by filing a notice of appeal ~~in writing to the City Council~~ with the City Clerk ~~pursuant to the terms set forth in as provided in Municipal Code Section 14.11.010 of this Title~~. When filing an appeal, the ~~f~~Fee ~~p~~Payer shall submit a letter providing the reason for the appeal along with supporting documentation. The City Council shall consider the appeal and make a final determination within ninety (90) days of receipt of the written appeal.

CHAPTER 14.14 BONDING

SECTION:

14.14.010: Bonding

14.14.010: BONDING:

Funds pledged toward retirement of bonds, revenue certificates, or other obligations of indebtedness for ~~such any p~~Projects may include ~~i~~Impact ~~f~~Fees and other City revenues as may be allocated by the City Council.

CHAPTER 14.15 EFFECT OF IMPACT FEE ON ZONING AND SUBDIVISION REGULATIONS; IMPACT FEE AS ADDITIONAL AND SUPPLEMENTAL REQUIREMENT

SECTION:

14.15.010: Effect of Impact Fee ~~o~~On Zoning ~~A~~And Subdivision Regulations

14.15.020: Other Powers and Rights Not Affected

14.15.010: EFFECT OF IMPACT FEE ON ZONING AND SUBDIVISION REGULATIONS:

This Title shall not affect, in any manner, the permissible use of property, density of ~~d~~Development, design and improvement standards and requirements, or any other aspect of the ~~d~~Development of land or provision of ~~e~~Capital ~~i~~Improvements subject to the zoning and subdivision regulations or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all such ~~d~~Development.

14.15.020: OTHER POWERS AND RIGHTS NOT AFFECTED:

A. Nothing in this Title shall prevent the City from requiring a developer to construct reasonable ~~p~~Project ~~i~~Improvements in conjunction with a ~~d~~Development ~~p~~Project.

B. Nothing in this Title shall be construed to prevent or prohibit private agreements between property owners or developers, the Idaho Transportation Department, the City, and other governmental entities in regard to the construction or installation of ~~s~~System ~~i~~Improvements or providing for credits or reimbursements for ~~s~~System ~~i~~Improvement costs incurred by a developer, including interproject transfers of credits or providing for reimbursement for ~~p~~Project ~~i~~Improvements which are used or shared by more than one ~~d~~Development ~~p~~Project. ~~If it can be shown that~~ a proposed ~~d~~Development has a direct impact on a ~~p~~Public ~~f~~Facility under the jurisdiction of the Idaho Transportation Department, ~~then~~ the agreement shall include a provision for the allocation of ~~i~~Impact ~~f~~Fees collected from the developer for the improvement of the ~~p~~Public ~~f~~Facility by the Idaho Transportation Department.

~~C. Nothing in this Title shall obligate the City to approve development which results in an extraordinary impact. Extraordinary impacts shall be determined and processed pursuant to Chapter 14.12 of this Title.~~

~~DC.~~ Nothing in this Title shall obligate the City to approve a ~~d~~Development request which may reasonably be expected to reduce levels of service below minimum acceptable levels established in the Development Impact Fee Ordinance. To this end, the City may impose a ~~d~~Development ~~i~~Impact ~~f~~Fee for ~~s~~System ~~i~~Improvement costs incurred subsequent to adoption of the Ordinance to the extent that new growth and ~~d~~Development will be served by the ~~s~~System ~~i~~Improvements.

~~ED.~~ Nothing in this Title shall be construed to create any additional right to develop real property or diminish the power of the City in regulating the orderly ~~d~~Development of real property.

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

~~GF.~~ Nothing herein shall restrict or diminish the power of the City to annex property into its territorial boundaries or exclude property from its territorial boundaries upon request of a developer or owner, or to impose reasonable conditions thereon, including the recovery of ~~p~~Project or ~~s~~System ~~i~~Improvement costs required as a result of such voluntary annexation.

CHAPTER 14.16 SEVERABILITY

SECTION:

14.16.010: Severability

14.16.010: SEVERABILITY:

The provisions of this Title are hereby declared to be severable and if any provision ~~of the Title~~ or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this Title.

CHAPTER 14.17
KOOTENAI COUNTY EMERGENCY MEDICAL SERVICE SYSTEM DEVELOPMENT
IMPACT FEES

SECTION:

- 14.17.010: Authority
- 14.17.020: Purpose And Applicability
- 14.17.030: Definitions
- 14.17.040: Imposition Of KCEMSS Impact Fee
- 14.17.050: Exemptions
- 14.17.060: Individual Assessment
- 14.17.070: Extraordinary Impacts
- 14.17.080: Credits And Reimbursements
- 14.17.090: Payment Of Fees
- 14.17.100: Methodology For Calculating KCEMSS Impact Fees
- 14.17.110: Refunds
- 14.17.120: KCEMSS Accounting For Impact Fees
- 14.17.130: Appeals; Protests; Mediation

14.17.010: AUTHORITY:

This Chapter is enacted pursuant to the City’s general police powers under Article XII, Section 2, Idaho Constitution, and the authority provided by the Idaho Development Impact Fee Act, Chapter 82, Title 67, Idaho Code.

14.17.020: PURPOSE AND APPLICABILITY:

- A. Purpose. The purpose of this Chapter is to:
 - 1. Assist with the implementation of the Kootenai County Emergency Medical Service System (“KCEMSS”) Capital Improvement Plan;
 - 2. Ensure that new Development bears a proportionate share of the cost of System Improvements; ensure that such Proportionate Share does not exceed the cost of such System Improvements required to accommodate new Development; and to ensure that funds collected from new Development are used for System Improvements in accordance with the Act;

3. To be consistent with those principles for allocating a fair share of the cost of System Improvements to new Development, and for adopting development impact fee ordinances, established by the Act;

4. To ensure that any KCEMSS Impact Fees collected are deposited in the KCEMSS's impact fee account, are not commingled with other monies, are used solely for the purpose for which they are collected.

B. Applicability. This Chapter applies to all Development of property located within the boundaries of the City.

14.17.030: DEFINITIONS: The following definitions apply to this Chapter.

ACT: The Idaho Development Impact Fee Act, Chapter 82, Title 67, Idaho Code.

APPLICANT: The person who pays or is required to pay a development impact fee, also known as the "fee payer."

BOARD: The Joint Powers Board of KCEMSS.

BUILDING PERMIT: The permit required for foundations, new construction, and additions.

CITY: The City of Coeur d'Alene.

CAPITAL FACILITIES: All KCEMSS facilities, stations, apparatus, vehicles, and equipment which are identified in KCEMSS's Capital Improvements Plan.

CAPITAL IMPROVEMENTS PLAN: The plan adopted by KCEMSS pursuant to this Chapter that identifies Capital Improvements for which development impact fees may be used as a funding source.

CAPITAL IMPROVEMENTS: Improvements with a useful life of ten (10) years or more, by new construction or other action, which increase the service capacity of a Public Facility.

DEVELOPMENT: Any construction or installation of a building or structure, or any change in use of a building or structure, or any change in the use, character or appearance of land, which creates additional demand and need for ~~p~~Public ~~f~~Facilities or the subdivision of property that would permit any change in the use, character or appearance of land. As used in this chapter, "Development" shall not include activities that would otherwise be subject to payment of the development impact fee if such activities are undertaken by a taxing district, as defined in Idaho Code § 63-201, or by an authorized public charter school, as defined in Idaho Code § 33-5202A, in the course of carrying out its statutory responsibilities, unless the adopted impact fee ordinance expressly includes taxing districts or public charter schools as being subject to development impact fees.

EXTRAORDINARY IMPACT: An impact which is reasonably determined by KCEMSS to:

1. Result in the need for KCEMSS System Improvements, the cost of which will significantly exceed the sum of the development impact fees to be generated from the project or the sum agreed to be paid pursuant to a development agreement as allowed by Idaho Code § 67-8214(2); or

2. Result in the need for KCEMSS System Improvements which are not identified in the Capital Improvements Plan.

KCEMSS: The Kootenai County Emergency Medical Services System.

KCEMSS IMPACT FEE: The fee imposed as condition of Development to pay for a proportionate share of the costs of System Improvements needed to serve the Development. The term does not include the following:

1. A charge or fee to pay the administrative plan review, or inspection cost associated with permits required for Development;
2. Connection or hookup charges;
3. Availability charges for drainage, sewer, water, or transportation charges for services provided directly to the Development; or
4. Amounts collected from a developer in a transaction in which KCEMSS has incurred expenses in constructing Capital Improvements for the Development if the owner or developer has agreed to be financially responsible for the construction or installation of those Capital Improvements, unless a written agreement is made, pursuant to Idaho Code § 67-8209(3) as amended, for credit or reimbursement.

PROJECT IMPROVEMENTS: Site improvements and facilities that are planned and designed to provide service for a particular Development project and that are necessary for the use and convenience of the occupants or users of the project.

PUBLIC FACILITY: Includes the land, buildings, and equipment used for fire protection and emergency medical/rescue which have a useful life of ten (10) years or more.

SERVICE AREA: The area within the City in which specific Public Facilities provide KCEMSS services to Development within the areas defined, based on sound planning or engineering principles, or both. For purposes of this Chapter, there is one Service Area encompassing all the City.

SERVICE UNIT: A standardized measure of consumption, use, generation, or discharge attributable to an individual ~~u~~Unit of Development calculated in accordance with generally accepted engineering or planning standards for a particular category of Capital Improvements.

SYSTEM IMPROVEMENTS: Capital Improvements to ~~p~~Public ~~f~~Facilities designed to provide service to a Service Area including, without limitation, the type of improvements described in Idaho Code § 50-1703.

SYSTEM IMPROVEMENTS COSTS: The costs incurred for construction or reconstruction of System Improvements, including design, acquisition, engineering and other costs attributable thereto, and also including, without limitation, the type of costs described in Idaho Code § 50-1702(h), to provide additional Public Facilities needed to serve new growth and development. System Improvement Costs shall not include:

1. Construction, acquisition or expansion of Public Facilities other than Capital Improvements identified in the ~~e~~Capital ~~i~~Improvements ~~p~~Plan;

2. Repair, operation or maintenance of existing or new Capital Improvements;
3. Upgrading, updating, expanding or replacing existing Capital Improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
4. Upgrading, updating, expanding, or replacing existing Capital Improvements to provide better service to existing development;
5. Administrative and operating costs of the governmental entity unless such costs are attributable to development of the ~~e~~Capital ~~i~~Improvements ~~p~~Plan, as provided in Idaho Code § 67-8208; or
6. Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance Capital Improvements identified in the ~~e~~Capital ~~i~~Improvements ~~p~~Plan.

All other terms used in this Chapter which are defined in Idaho Code § 67-8203 shall have the definitions contained in that section.

14.17.040: IMPOSITION OF KCEMSS IMPACT FEE:

A. Imposition of KCEMSS Impact Fee. A KCEMSS Impact Fee is hereby assessed on all new Development in the City.

B. Calculation of Fee and Adoption of Fee Schedule. Unless an exemption is contained in this section, KCEMSS Impact Fees will be calculated in accordance with the fee schedule contained in the Capital Improvements Plan providing for standard fees based on the total number of dwelling units or square feet of nonresidential space in the Development Approval. The methodology for determining the cost per Service Unit provided for in the fee schedule must be set forth in the Capital Improvements Plan. The fee schedule will be adopted by resolution of the City Council and will be updated annually for inflation based on the Engineering News-Record Index.

1. If the City does not collect a City impact fee for a project, the City will not assess or collect the KCEMSS Impact Fee for that project.
2. A person may claim an exemption from the KCEMSS Impact Fee at the time a Building Permit or manufactured/~~m~~obile home installation application is filed, as provided by § 14.17.050. Any exemption that is not requested at the time a permit or application is filed shall be deemed waived.
3. A person may request an individual assessment of the KCEMSS Impact Fee as provided in Section 14.17.060 in lieu of paying the impact fees contained in the fee schedule. The failure to request an individual assessment at the time a permit or application is filed shall constitute a waiver of an individual assessment.
4. If the City determines that the Development presents an Extraordinary Impact under § 14.17.070, the City will refer the application to KCEMSS for a determination of whether the Development also creates an Extraordinary Impact for KCEMSS. In that event, the KCEMSS Impact Fee will be established as provided in § 14.17.070.

5. A person may claim a credit as provided in § 14.17.080. A credit that is not claimed at the time of application filing is waived.

14.17.050: EXEMPTIONS:

A. Exemptions. The provisions of this Chapter do not apply to the following:

1. Rebuilding the same amount of floor space of a structure which is destroyed by fire or other catastrophe, provided the structure is rebuilt and ready for occupancy within two (2) years of its destruction;
2. Remodeling or repairing a structure which does not increase the number of Service Units;
3. Replacing a residential unit, including a manufactured/mobile home, with another residential unit on the same lot; Provided, that the number of Service Units does not increase;
4. Placing a temporary construction trailer or office on a lot;
5. Constructing an addition on a residential structure which does not increase the number of Service Units;
6. Adding uses that are typically accessory to residential uses, such as tennis court or a clubhouse, unless it can be clearly demonstrated that the use creates a significant impact on the capacity of System Improvements;
7. The installation of a modular building or manufactured/mobile home if it can be demonstrated by documentation such as utility bills and tax records that either:
 - a. A modular building or manufactured/mobile home was legally in place on the lot or space prior to the effective date of this Chapter; or
 - b. KCEMSS Impact Fees have been paid previously for the modular building or manufactured/mobile home on that same lot or space; or
8. Construction or Development by taxing districts as defined in Idaho Code § 63-201 and public charter schools as defined in Idaho Code § 33-502A are exempt from paying KCEMSS Impact Fees.

B. Claiming an Exemption. An exemption from the KCEMSS Impact Fee must be claimed when applying for a Building Permit or manufactured/mobile home installation permit. Any exemption not claimed at the time of application will be deemed waived. The City will deliver exemption applications to the KCEMSS which must determine if the Development is exempt within thirty (30) days of receipt.

14.17.060: INDIVIDUAL ASSESSMENT:

A. Requesting an Individual Assessment. In lieu of paying the KCEMSS Impact Fee pursuant to the adopted fee schedule, a person may file a request with the City, at the time of permit application, to determine the amount of the KCEMSS impact fee through an individual assessment process.

B. Required Information. An individual assessment requires a consideration of studies, data, and any other relevant information submitted by the Applicant in order to adjust the amount of the KCEMSS Impact Fee. If a person files a request for an individual assessment, the person shall be responsible for retaining, at the person's sole expense, a qualified professional to calculate an individual assessment that complies with the requirements of this Chapter. The information provided by the Applicant must establish that the resulting individual assessment complies with the requirements of this Chapter and that the resulting individual assessment is a more accurate measure of the Applicant's proportionate share of the cost of System Improvements. The analysis must be based on KCEMSS's adopted levels of service and the unit costs for System Improvements used in the Capital Improvement Plan, and use an average cost (not a marginal cost) methodology. All information upon which the calculated individual assessment is based must be provided to the City within thirty (30) days after filing the request for individual assessment.

C. Transmission to KCEMSS. Upon receipt of information supporting a request for individual assessment, the City will transmit the request and the information to KCEMSS for review. If supporting information is not received within thirty (30) days after the filing of the request of individual assessment, the request will be denied by the City and the fee from the fee schedule will be imposed.

D. Determination by KCEMSS. KCEMSS must issue a written decision within thirty (30) days following receipt of the request and information from the City unless the Applicant and KCEMSS agree to an extension. KCEMSS may accept or reject the calculated individualized assessment or accept the assessment in part based on KCEMSS's evaluation of whether the individual assessment is a more accurate measure of demand for System Improvements created by the proposed Development. KCEMSS shall provide its written determination to the Applicant and the City. The evaluation shall document the relevant methodologies and assumptions used by KCEMSS and include an explanation of the calculation of the KCEMSS Impact Fee, specify the System Improvement(s) for which the KCEMSS Impact Fee is intended to be used, and provide an explanation of those factors identified in Idaho Code § 67-8207.

E. Assessment of Individual Impact Fee. Upon receipt of the final determination from KCEMSS, the City will assess and collect the KCEMSS Impact Fee for the Development Approval using the fee set out in KCEMSS's final determination.

14.17.070: EXTRAORDINARY IMPACTS:

A. Initial Determination of Potential Extraordinary Impact. If the City determines that an Extraordinary Impact exists, the City will notify the Applicant and submit the application, along with the City's determination, to KCEMSS within seven (7) days after making its determination. KCEMSS must then review the application and determine whether the Development will create an Extraordinary Impact for KCEMSS. Unless the Applicant agrees to a longer time, KCEMSS must notify the Applicant and the City within thirty (30) days after KCEMSS's receipt of the application whether KCEMSS believes that the Development creates an Extraordinary Impact.

B. Establishment of Impact Fee if No Extraordinary Impact. If KCEMSS does not believe that the Development creates Extraordinary Impact, or if KCEMSS does not respond within the time allowed, the City will assess the KCEMSS Impact Fees calculated in accordance with the adopted fee schedule. If KCEMSS believes that the Development creates an Extraordinary Impact, KCEMSS must include in its notice a statement that the potential impacts of such Development

Approval on System Improvements are not adequately addressed by the Capital Improvements Plan, and that a supplemental study, at the Applicant's expense, will be required.

C. Meeting with Applicant. Within thirty (30) days after KCEMSS's notice to the City and the Applicant that the Development application may create an Extraordinary Impact, KCEMSS must meet with the Applicant to discuss whether the Applicant wants to:

1. Pay for the supplemental study necessary to determine the System Improvements Costs related to the proposed Development Approval;
2. Modify the proposal to avoid generating Extraordinary Impact; or
3. Withdraw the application.

D. Additional Study. If the Applicant agrees to pay for a supplemental study required to document the proposed Development Approval's Proportionate Share of System Improvements Costs, then KCEMSS and the Applicant will jointly select a consultant to perform the study. The Applicant must agree to enter into a written agreement with the consultant to pay the costs of the study. The agreement must require that the supplemental study be completed within thirty (30) days from the date the agreement is executed unless the Applicant agrees to a longer time.

E. Results of Study. Once the study is completed, the Applicant may choose to:

1. Pay the Proportionate Share of System Improvements Costs documented by the supplemental study;
2. Modify the proposed Development to reduce such costs; or
3. Withdraw the application.

If the Applicant agrees to pay the System Improvements Costs documented in the supplemental study, the Applicant and KCEMSS will provide the City a signed written agreement indicating that both parties accept results of the supplemental study and agree to the amount of the KCEMSS Impact Fees to be assessed.

F. No ~~b~~Building ~~p~~Permit or other equivalent City approval shall be issued for Development unless the required impact fee is paid.

14.17.080: CREDITS AND REIMBURSEMENTS:

A. Credits. A credit or reimbursement may be claimed for the present value of any System Improvements constructed by the Applicant, or for the Present Value of any dedication of land or money required by KCEMSS towards a System Improvement of the category for which the KCEMSS Impact Fee is collected including System Improvements paid for by the Applicant as a part of a local improvement district. Credit will also be given for the present value of all tax and user fee revenue paid by the Applicant within the Service Area that was assessed and used by KCEMSS for System Improvements of the category for which the KCEMSS Impact Fee is collected. Alternatively, an Applicant may request a reimbursement of KCEMSS Impact Fees paid as provided by this Section.

B. Limitations. Credits or reimbursements against a KCEMSS Impact Fee will not be given for Project Improvements. Credits issued for one Capital Improvements Element may not be used to reduce the impact fee due for a different Capital Improvement.

C. Requesting a Credit or Reimbursement. To request a credit or reimbursement against a KCEMSS Impact Fee, an Applicant must submit a request to KCEMSS to negotiate an agreement concerning the amount of the credit or reimbursement as required by Idaho Code § 67-8209(4) prior to submitting a Building Permit application with the City. The request should provide sufficient detail to allow KCEMSS to determine whether a credit or reimbursement is warranted.

D. Evaluation and Agreement. After receipt of the written request for credit or reimbursement, KCEMSS must review the request and determine whether the land or System Improvements meet the requirements of this Section and Idaho Code § 67-8209. If a credit or reimbursement is due, KCEMSS and the Applicant will negotiate an agreement, in good faith, setting forth the amount of credit or reimbursement due the Applicant, the time and form of the credit or reimbursement, and a term not exceeding ten (10) years. KCEMSS must complete its review and determination of an application within thirty (30) days after receipt of an application for credit or reimbursement.

E. Valuation. Credit or reimbursement will be given for the present value of the land dedication or improvement as follows:

1. Credit for qualifying land dedications will, at the Applicant's option, be valued at one hundred percent (100%) of the most recent assessed value for such land as shown in the records of the county assessor, or the fair market value established by a private appraiser acceptable to KCEMSS in an appraisal paid for by the Applicant.

2. Credit for qualifying acquisition or construction of System Improvements will be valued by KCEMSS at the present value of such improvements based on complete engineering drawings, specifications, and construction cost estimates submitted by the Applicant to KCEMSS. KCEMSS will 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 KCEMSS as a more accurate measure of the value of the offered System Improvements to KCEMSS.

F. Credits Exceeding Fee Amounts Due. If the credit due to an Applicant exceeds the KCEMSS Impact Fee that would otherwise be due from the Applicant pursuant to this Chapter, the Applicant may choose to receive such credit in the form of either:

1. A credit against future KCEMSS Impact Fees for the same category of System Improvements; or

2. A reimbursement from KCEMSS Impact Fees paid by future Development that impacts the System Improvements contributed or dedicated by the Applicant.

G. Final Determination of Credit and Payment of Reimbursement. KCEMSS's determination of whether a credit or reimbursement is due is final, and KCEMSS is solely responsible for the determination and payment of any reimbursement to the Applicant.

14.17.090: PAYMENT OF FEES:

A. Payment of Impact Fee. The KCEMSS Impact Fees assessed by this Chapter will be paid to the City at the times listed in Coeur d'Alene Municipal Code § 14.03.010. The KCEMSS Impact Fees will be calculated by the City based on the Fee Schedule in effect at the time the application is submitted.

B. Transfer of Collected Fees to KCEMSS. All KCEMSS Impact Fees collected by the City will be transferred to KCEMSS monthly.

C. Certification of Amount. After the KCEMSS Impact Fees for a proposed Development have been calculated as authorized by this Chapter, the Applicant may request that the City or KCEMSS, whichever calculated the fee, provide a certification of the amount of KCEMSS Impact Fees for that Development. Within thirty (30) days after receiving such request, the City or KCEMSS, whichever calculated the fee, will issue a written certification to the Applicant of the amount of the KCEMSS Impact Fees due for the Development. The certification will be binding so long as there is no material change to the Development or to the adopted impact fee schedule prior to the issuance of permits. The certification must include an explanation of the calculation of the KCEMSS Impact Fees, including an explanation of factors considered under Idaho Code § 67-8207, and specify the System Improvement(s) for which the KCEMSS Impact Fees are intended to be used.

D. Payment Under Protest. Development ~~a~~Approval will not be granted until the required KCEMSS Impact Fees have been paid. The Applicant may elect to pay the fees under protest and seek a refund from KCEMSS.

14.17.100: METHODOLOGY FOR CALCULATING KCEMSS IMPACT FEES:

KCEMSS Impact Fees must be based on a study, prepared by KCEMSS in accordance with generally accepted accounting principles and meeting the requirements of Idaho Code § 67-8207, and the Capital Improvement Plan prepared by KCEMSS meeting the requirements of Idaho Code § 67-8208.

14.17.110: REFUNDS:

KCEMSS must refund KCEMSS Impact Fees to the Applicant, or their successor in interest, within ninety (90) days of a request by the Applicant, or their successor in interest, for a refund if a refund is required under Idaho Code § 67-8211. The refund must include interest as provided in Idaho Code § 67-8211(3).

14.17.120: KCEMSS ACCOUNTING FOR IMPACT FEES:

A. Trust Account. Prior to the City transferring Impact Fees to KCEMSS, KCEMSS must establish a trust account, meeting the requirements of Idaho Code § 67-8210(1). Upon confirmation that KCEMSS has established the necessary trust account, the City will begin remitting Impact Fees to KCEMSS. KCEMSS must maintain an impact fee trust account while the City is collecting impact fees on its behalf.

B. Expenditures. All expenditures of Impact Fees by KCEMSS must be in accordance with Idaho Code § 67-8210.

C. Annual Capital Budget. KCEMSS must annually adopt a capital budget.

D. Review and Modification of Capital Improvement Plans. KCEMSS will update and revise its Capital Improvement Plan as required by Idaho Code § 67-8208(2).

E. Audit. KCEMSS must, as part of its annual audit process, prepare an annual report meeting the requirements of Idaho Code § 67-8210(3). A copy of the report must be provided to the City.

14.17.130: APPEALS; PROTESTS; MEDIATION:

A. Filing an Appeal. Any Applicant that is required to pay a KCEMSS Impact Fee, or who claims a right to receive a refund, reimbursement, exemption, or credit under this Chapter, and who is dissatisfied with a decision made either by the City or by KCEMSS, may appeal such decision by filing a written notice of appeal with KCEMSS within thirty (30) days after the date of the relevant decision, or the date on which the Applicant submitted a payment of the KCEMSS Impact Fee under protest, whichever is later. The appeal request must include a statement describing why the Applicant believes that the appealed decision was in error, together with copies of any documents that the Applicant believes support the claim. A copy of the appeal must also be provided to the City at the time of filing the appeal.

B. Evaluation of Appeal. The Board must hear the appeal at a properly noticed hearing of the Board within sixty (60) days after receipt of a written notice of appeal. The Applicant may attend and present evidence relevant to the appeal. The City and KCEMSS may also attend and present evidence. The Applicant has the burden of establishing that the decision was in error. The criteria to be used by the Board in considering the appeal shall be:

1. Whether the decision or interpretation made by the City or KCEMSS, or the alternative decision or interpretation offered by the Applicant, more accurately reflects the intent of this Chapter that new Development in the City pay its proportionate share of the costs of System Improvements to KCEMSS facilities; and
2. Whether this Chapter has been correctly applied.

The Board must issue a decision upholding, reversing, or modifying the decision being appealed within thirty (30) days after hearing the appeal. The decision of the Board is the final decision on the matter and the City will be bound by the decision regarding the amount of impact fees to be paid.

C. Mediation. The Applicant and KCEMSS may elect to mediate any disagreement related to the payment of KCEMSS Impact Fees by a qualified independent mediator. The mediation may take place at any time during the appeal process and the costs will be split equally between the Applicant and KCEMSS. The City may participate in the mediation and will be bound by any agreement reached at mediation regarding the amount of impact fees to be paid.