

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2020-34

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4
5 AN ORDINANCE

6 AMENDING SECTION 14-8.14(C) SFCC 1987 TO ADD A REFERENCE TO THE
7 IMPACT FEE SERVICE AREA; AMENDING SECTION 14-8.14(E) TO ADOPT A NEW
8 IMPACT FEE SCHEDULE AND CLARIFY APPROPRIATE LAND USE CATEGORIES
9 AS THEY RELATE TO IMPACT FEE COLLECTION; AMENDING SECTION 14-8.14(G)
10 TO ADD A REFERENCE TO THE IMPACT FEE SERVICE AREA; AMENDING
11 SECTION 14-8.14(J) TO ADD A REFERENCE TO THE IMPACT FEE SERVICE AREA;
12 ADDING A SERVICE AREA MAP AS EXHIBIT F IN THE APPENDIX TO THE LAND
13 DEVELOPMENT CODE; AND ESTABLISHING AN EFFECTIVE DATE.

14
15 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

16 Section 1. Subsection 14-8.14(C) of the Land Development Code (being Ord. No.
17 2011-37, § 11, as amended) is amended to read:

18 (C) Fee Assessment and Collection

19 (1) For development within the service area, as defined in subsection 14-
20 8.14(J)(6), the assessment for impact fees occurs on the date a *plat* or *development* plan
21 receives final approval, from the *city* or the *state* construction industries division or, in the
22 absence of a *plat* or plan, the date of the *development permit application*. Impact fees
23 collected within four (4) years of the date of assessment shall be based on the impact fee
24 schedule in effect at the time of assessment. After the expiration of the four (4)-year period,
25 the new *development* shall be subject to the fee schedule in effect at the time of *application*

1 for a construction *permit*. No action on the part of the city is required for assessment to
2 occur. It shall be the responsibility of the applicant for a construction *permit* to present
3 evidence of the date of *plat* or *development* plan approval in order for the fees to be based
4 on the previous impact fee schedule. After the impact fee has been paid, no refunds will be
5 provided based on the differences in the fee schedules. An applicant must pay all fees
6 according to one (1) fee schedule only and may not mix the various fees from the schedules.

7 (2) For development within the service area, as defined in Subsection 14-
8 8.14(J)(6), the collection of impact fees shall occur at the time of issuance of a construction
9 *permit* according to the fee schedule in effect for the *development*.

10 **Section 2. Subsection 14-8.14(E) of the Land Development Code (being Ord. No.**
11 **2011-37, § 11, as amended) is amended to read:**

12 (E) **Fee Determination**

13 (1) A person who applies for a construction *permit*, except those exempted
14 or preparing an independent fee calculation study, shall pay impact fees in accordance with the
15 following fee schedule. If a credit is due pursuant to Section 14-8.14(I), the amount of the credit
16 shall be deducted from the amount of the fee to be paid.

17 (2) Beginning January 1, 2021, the city shall assess the scheduled values in
18 the fee schedule set forth in subsection 14-8.14(E)(3). On January 1, 2022, and at the beginning
19 of each subsequent calendar year, the city shall implement phased fee increases by adding an
20 additional twelve percent (12%) to the scheduled values in the fee schedule each year until a
21 new fee schedule is approved or until after the fees are increased in 2025. The capital
22 improvements advisory committee shall review and, if deemed necessary, recommend to the
23 governing body changes to the impact fee schedule no later than September 30, 2023.

24 (3) The fee schedule in this Subsection 14-8.14(E)(3), as increased each
25 year pursuant to subsection 14-8.14(E)(2), shall be used and its fees assessed

1 on *plats* and *development* plans that receive final approval from the *city* or from
2 the *state* construction industries division, except where the *permit* is issued for a subdivision or
3 for a *development* plan that is still subject to a prior fee schedule available and on file in the
4 Land Use Department.

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| FEE SCHEDULE | | | | | | |
|--|---------------|--------------|--------------|-------------|---------------|--------------|
| Land Use Type | Unit | Roads | Parks | Fire | Police | Total |
| Single-Family Detached (Heated) | | | | | | |
| 1,500 sq. ft. or less | Dwelling | \$2,246 | \$1,080 | \$206 | \$65 | \$3,596 |
| 1,501-2,500 sq. ft. | Dwelling | \$2,367 | \$1,162 | \$222 | \$70 | \$3,821 |
| 2,501-3,000 sq. ft. | Dwelling | \$2,487 | \$1,244 | \$237 | \$75 | \$4,043 |
| 3,001 sq. ft. or more | Dwelling | \$2,624 | \$1,338 | \$254 | \$81 | \$4,297 |
| Accessory Dwelling | Dwelling | \$1,171 | \$740 | \$141 | \$45 | \$2,096 |
| Multi-Family | Dwelling | \$1,373 | \$880 | \$168 | \$53 | \$2,474 |
| Mobile Home Park | Space | \$1,261 | \$1,796 | \$342 | \$108 | \$3,508 |
| Nonresidential | G.F.A. | | | | | |
| Retail/Commercial | 1,000 sq. ft. | \$3,269 | \$0 | \$250 | \$79 | \$3,598 |
| Office | 1,000 sq. ft. | \$2,790 | \$0 | \$121 | \$39 | \$2,950 |
| Industrial | 1,000 sq. ft. | \$1,114 | \$0 | \$52 | \$17 | \$1,183 |
| Warehouse | 1,000 sq. ft. | \$578 | \$0 | \$24 | \$8 | \$609 |
| Mini-Warehouse | 1,000 sq. ft. | \$282 | \$0 | \$5 | \$2 | \$288 |
| Public/Institutional | 1,000 sq. ft. | \$1,266 | \$0 | \$56 | \$18 | \$1,340 |

1 (4) The *land use director* shall determine the fee to be collected as a
2 condition of construction *permit* approval based on the applicable fee schedule in
3 Subsection 14-8.14(E)(3) above and the provisions of this Subsection 14-8.14(E)(4), or on the
4 basis of an independent fee calculation study pursuant to Subsection 14-8.14(F).

5 (a) The determination of the appropriate land use category shall be
6 based on the following.

7 (i) Single-Family Detached means a *single-family*
8 *dwelling*, which may consist of a *manufactured home* or *mobile home*, and which is detached
9 from other units.

10 (ii) Accessory Dwelling Unit means a dwelling unit
11 complying with the provisions of Subsection 14-6.3(D)(1).

12 (iii) Multi-Family means a *multiple-family dwelling* which,
13 for the calculation of impact fees, includes duplexes, triplexes, and any other structures which
14 are not considered to be detached from other residential dwellings.

15 (iv) Retail/Commercial means an establishment engaged in
16 the selling or rental of goods, services, lodging or entertainment to the general public. Such uses
17 include, but are not limited to, shopping center or mall, *alcoholic beverage sales*
18 *activities* , *antique shop* , *bed and breakfast inn* , *boarding house* , *commercial recreational use*
19 *or structure*, *drive-in*, *equipment rental or leasing*, *filling station*, *flea market*, *florist*, *garden*
20 *center*, *gift shop*, *grocery store*, *hotel*, *laundromat*, *motel*, *nightclub*, *personal service*
21 *establishment*, *pet service establishment*, *pharmacy*, *repair garage*, *residential suite hotel or*
22 *motel*, or *retail establishment*.

23 (v) Office means a building not located in a shopping
24 center and exclusively containing establishments providing executive, management,
25 administrative or professional services, and which may include ancillary services for office

1 workers, such as a restaurant, coffee shop, newspaper or candy stand, or child care facilities.
2 Such uses include, but are not limited to, real estate, insurance, property management,
3 investment, employment, travel, advertising, secretarial, data processing, telephone answering,
4 telephone marketing, music, radio and television recording and broadcasting studios;
5 professional or consulting services in the fields of law, architecture, design, engineering,
6 accounting and similar professions; interior decorating consulting services; medical and dental
7 offices and clinics, including veterinarian clinics; and business offices of private companies,
8 utility companies, trade associations, unions and nonprofit organizations. Specific examples
9 include *business services* (excluding equipment rental and leasing), *arts and crafts*
10 *studio, clinic, funeral home, veterinary establishment and vocational school*.

11 (vi) Industrial/Manufacturing means an establishment
12 primarily engaged in the fabrication, assembly or processing of goods. Typical uses include
13 manufacturing plants, welding shops, wholesale bakeries, commercial laundries, commercial
14 greenhouses, food and drug manufacturing, dry cleaning plants, and bottling works. Specific
15 uses include *light assembly and manufacturing* and *manufacturing*.

16 (vii) Warehouse means an establishment primarily engaged
17 in the display, storage and sale of goods to other firms for resale, as well as activities involving
18 significant movement and storage of products or equipment. Such uses include, but are not
19 limited to, wholesale distributors, storage warehouses, moving and storage firms, trucking and
20 shipping operations, and major mail processing centers. Specific uses include *commercial*
21 *stable, junkyard, outdoor storage, salvage yard, warehouse, and wholesale operations*.

22 (viii) Mini-Warehouse means *mini-storage units*.

23 (ix) Public/Institutional means a governmental, quasi-
24 public, or institutional use, or a non-profit recreational use, not located in a shopping center.
25 Such uses include, but are not limited to, elementary, secondary, or higher educational

1 establishments, day care centers, hospitals, mental institutions, nursing homes, assisted living
2 facilities, fire stations, city halls, courthouses, post offices, jails, libraries, museums, places of
3 religious worship, military bases, airports, bus stations, fraternal lodges, and parks and
4 recreational buildings. Specific examples include *child day-care facility, club, college or*
5 *university, community residential corrections program, continuing care community, electric*
6 *facilities, extended care facility, group residential care facility, hospital, human services*
7 *establishment, institutional building, museum, personal care facility for the elderly, private*
8 *club or lodge, public utility, recreational facility, religious assembly, sheltered care*
9 *facility, and transportation terminal.*

10 (b) If the type of new *development* for which a
11 construction *permit* is requested is not specified on the fee schedule, the *land use director* shall
12 determine the fee on the basis of the fee applicable to the most nearly comparable type of land
13 use on the fee schedule.

14 (c) The impact fees for development of land outside
15 of *buildings* that increases the demand for capital facilities is determined by application of the
16 fee for the corresponding type of *building*. In particular, the *building* square footage for a
17 retail/commercial use shall include indoor or outdoor sales areas or inventory storage areas,
18 growing area for a garden center/nursery, and any drive-through kiosk and associated queuing
19 lane with or without a roof. If the *land use director* determines that *development* of land outside
20 of *buildings* is intended for seasonal usage that reduces the increased demand for capital
21 facilities, the *land use director* may reduce impact fees charged for the *development* of land
22 outside of *buildings* by up to seventy-five percent (75%) of the original assessment.

23 (d) Impact fees shall be assessed and collected based on the
24 primary use of the *building* as determined by the *land use director*. Uses that are distinct and
25 separate from the primary use, which are not merely ancillary to the primary use and are one

1 thousand (1,000) square feet or greater, will be charged the impact fee category based on the
2 distinct and separate use.

3 (e) Where a permit is to be issued for a *building* "shell" and
4 the *land use director* is unable to determine the intended use of the *building*, the *land use*
5 *director* shall assess and collect impact fees according to the zoning district in which
6 the *building* is to be located as follows:

7 (i) C-2 and all SC zones - "Retail/Commercial";

8 (ii) HZ zone - "Office";

9 (iii) C-1 and C-4 - "Office"; and

10 (iv) I-1 and I-2 - "Industrial/Manufacturing".

11 (f) If there is an increase in the amount of the impact fee
12 calculation once a tenant improvement *permit* is submitted, the difference from what was paid
13 at the time of the shell *permit* and the tenant improvement fee calculation shall be paid prior to
14 issuance of the construction *permit*. If the fee schedule determination for the square footage of
15 the use identified in the tenant improvement construction *permit* results in a net decrease from
16 what was paid at the time of the shell *permit*, there shall be no refund of impact fees previously
17 paid.

18 (g) Live/work *developments* containing *dwelling units* in
19 combination with *nonresidential* floor area in a common *building* shall pay impact fees for
20 each *dwelling unit* according to the *residential* fee rate for "Multi-Family" and for the *gross*
21 *floor area* intended for *nonresidential* use according to the "Office" fee rate. If the initial
22 Live/Work construction *permit* application is for a shell construction *permit*, the *land use*
23 *director* shall collect impact fees at the "Office" fee rate. If *dwelling units* are added as a use
24 within the *building* after the *building* has been charged impact fees at a *nonresidential* fee rate,
25 and there is no increase in *gross floor area*, the *land use director* shall collect only the required

1 park impact fees for the *dwelling units* at the fee rate for "Multi-Family" at the time of
2 the *dwelling unit permit application*.

3 (h) If a construction *permit application* changes or intensifies the
4 use of an existing *building*, increases the *gross floor area* of an existing *building*, or replaces
5 an existing *building* with a new *building* and new use, the fee shall be based on the net increase
6 in the fee for the new use or increase as compared to what the current fee would be for the
7 previous use or floor area. If the proposed change results in a net decrease in the fee there shall
8 be no refund of impact fees previously paid.

9 (i) "G.F.A." in the fee schedule refers to *gross floor area*.

10 **Section 3. Subsection 14-8.14(G) of the Land Development Code (being Ord. No.**
11 **2011-37, § 11, as amended) is amended to read:**

12 (G) **Use of Fees**

13 (1) An "impact fee fund" that is distinct from the general fund of the *city* is
14 created, and the impact fees received shall be deposited in the following interest-bearing accounts
15 of the impact fee fund:

- 16 (a) fire impact fee account;
- 17 (b) police impact fee account;
- 18 (c) parks impact fee account; and
- 19 (d) roads impact fee account.

20 (2) The impact fee accounts shall contain only those impact fees collected
21 pursuant to this Section 14-8.14 for the type of facilities reflected in the title of the account, plus
22 accrued interest.

23 (3) The money in each impact fee account shall be used only for the following:

24 (a) to acquire or construct *capital improvements* or *facility expansions*
25 of the type reflected in the title of the account, located within the service area, as defined in

1 Subsection 14-8.14(J)(6), and identified in the *capital improvements plan*;

2 (b) to pay debt service on the portion of any current or future general
3 obligation bond or revenue bond used to finance *capital improvements* or *facility expansions* of the
4 type reflected in the title of the account and identified in the *capital improvements plan*;

5 (c) planning, surveying, and engineering fees paid to an independent
6 qualified professional who is not an *employee* of the *city* or *county* for services provided for and
7 directly related to the construction of *capital improvements* or *facility expansions*;

8 (d) fees actually paid or contracted to be paid to an independent
9 qualified professional, who is not an *employee* of the *city*, for the preparation or updating of a
10 *capital improvements plan*;

11 (e) up to three percent (3%) of total impact fees collected for
12 administrative costs for *city* personnel, for professional services related to impact fee
13 assignment/distribution, or for reporting to the capital improvements advisory board;

14 (f) refunds as provided in Subsection 14-8.14(H); and

15 (g) credits as provided in Subsection 14-8.14(I).

16 **Section 4. Subsection 14-8.14(J) of the Land Development Code (being Ord. No.**
17 **2011-37, § 11, as amended) is amended to read:**

18 **(J) Miscellaneous Provisions**

19 (1) Nothing in this Section 14-8.14 shall restrict the *city* from requiring the
20 construction of reasonable project improvements required to serve the *new development* project,
21 whether or not the improvements are of a type for which credits are available under Subsection 14-
22 8.14(I).

23 (2) The *land use director* shall maintain accurate records of the impact fees paid,
24 including the name of the *person* paying the fees, the project for which the fees were paid, the date
25 of payment of each fee, the amounts received in payment for each fee, the amount of any credits

1 provided against the fees or refunds paid and any other information the *city* deems appropriate or
2 necessary for the accurate accounting of the fees. Records shall be available for review by the
3 public during normal *business* hours and with reasonable advance notice.

4 (3) If an impact fee has been calculated and paid based on a mistake or
5 misrepresentation, it shall be recalculated and paid as follows:

6 (a) the amount overpaid by an *applicant* shall be refunded by the *land*
7 *use director* to the *applicant* within thirty (30) days after the approval of the recalculated amount;

8 (b) the amount underpaid by the *applicant* shall be paid to the *land use*
9 *director* within thirty (30) days after the acceptance of the recalculated amount; and

10 (c) in the case of an underpayment or nonpayment of impact fees, the
11 *city* shall not issue any additional *permits* or approvals for the project for which the impact fee was
12 previously underpaid until such underpayment is corrected and, if amounts owed to the *city* are not
13 paid within the thirty (30)-day period, the *city* may also issue a stop work order or rescind any
14 *permits* issued in reliance on the previous payment of the impact fee.

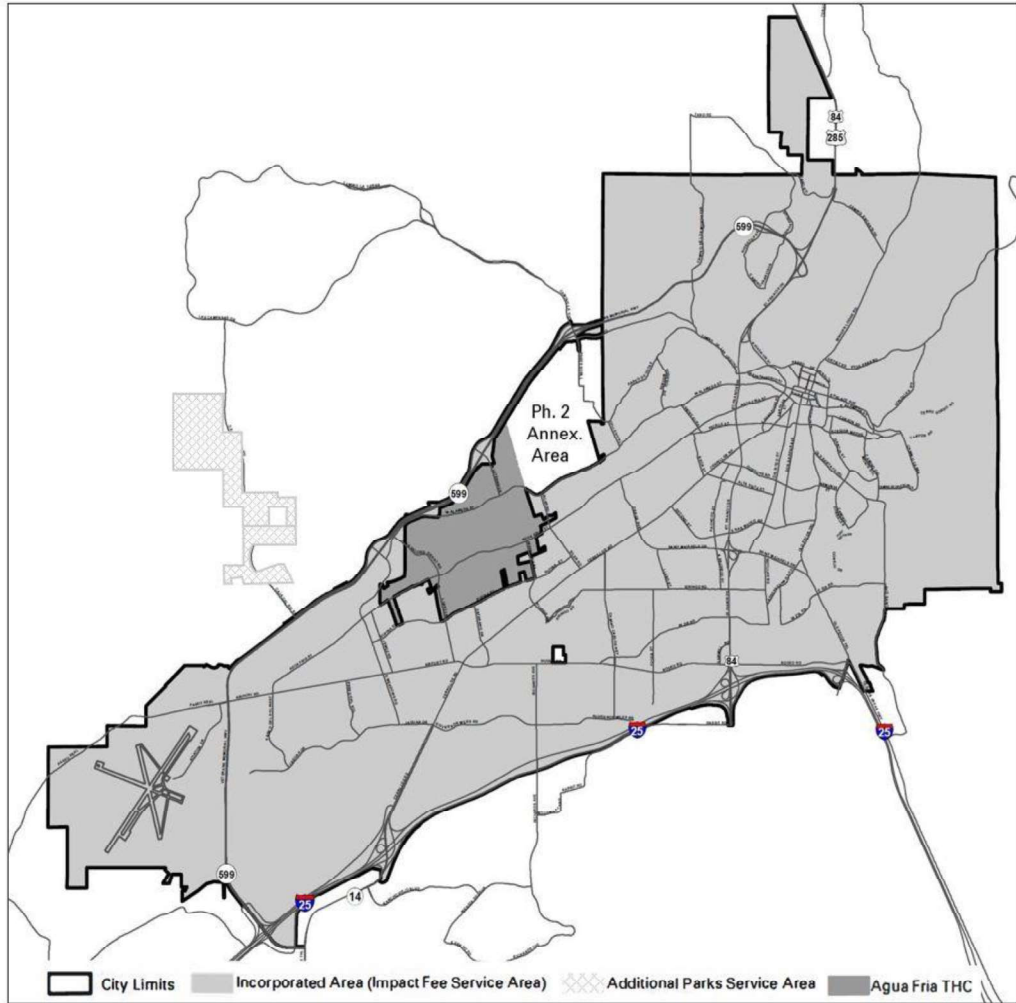
15 (4) A determination made by the *land use director* may be appealed to the city
16 manager within thirty (30) days from the date of the determination. The city manager's decision is
17 final.

18 (5) Furnishing false information on any matter relating to the administration of
19 this Section 14-8.14, including the furnishing of false information regarding the expected size, use,
20 or impacts from a proposed *new development*, is a violation of this Section 14-8.14. The *city* may
21 issue a stop work order or rescind any *permits* issued in reliance on the previous payment of such
22 impact fee.

23 (6) The service area for the road, fire, and police impact fees is the
24 incorporated area of the city, as may change over time with annexation. The service area for the
25 parks impact fee is the incorporated area plus the city-owned land in the unincorporated area known

1 as the municipal recreation complex and the Marty Sanchez golf course.

2 **Section 5. A new Exhibit F in the Appendix to the Land Development Code is**
3 **ordained to read:**



21 **Section 6. Effective Date.** This ordinance shall become effective on January 1, 2021.

22 PASSED, APPROVED, and ADOPTED this 9th day of December, 2020.

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ALAN WEBBER, MAYOR

ATTEST:


YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:


ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2020/Ordinances/2020-34 Impact Fee Schedule Update