

**ORDINANCE NO. 792**

**AN ORDINANCE AMENDING CHAPTER 4 OF THE DACONO MUNICIPAL CODE REGARDING TRANSPORTATION IMPACT FEES FOR RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENT.**

**WHEREAS**, pursuant to Article XX, Section 6 of the Colorado Constitution and state law, including but not limited to C.R.S. § 29-20-101 *et seq.*, and as a condition of issuance of a development permit, the City has the authority to impose an impact fee or other similar development charge to fund expenditures by the City on capital facilities needed to serve new development; and

**WHEREAS**, the City Council finds that tax and other revenues generated from new residential development does not generate sufficient funds to provide necessary capital facilities to accommodate and serve new development; and

**WHEREAS**, the City Council finds that an equitable impact fee consistent with the requirements of applicable law is one of the preferred methods for the City to regulate land development to ensure new development pays a proportionate fair share of the costs of the needed capital facilities, allowing the City to make the necessary capital facility expenditures to serve new development; and

**WHEREAS**, by Ordinance No. 641 adopted on December 13, 2004, the City Council adopted impact fees to be paid by new residential development and established provisions for the collection and expenditure of such impact fees, which ordinance was codified in Chapter 4, Article 4 of the Dacono Municipal Code; and

**WHEREAS**, Section 4-130 of the Dacono Municipal Code requires periodic review of the City's impact fees to ensure that (1) the demand and cost assumptions underlying the impact fees are still valid; (2) the resulting impact fees do not exceed the actual costs of constructing capital facilities that are of the type for which the fees are paid and that are required to serve new impact-generating development; (3) the monies collected or to be collected in each impact fee trust account have been paid and are expected to be spent for capital facilities for which the fees were paid; and (4) the capital facilities for which the fees are to be used will benefit the development paying the fees; and

**WHEREAS**, in 2008 City staff has undertaken a review of the impact fees as required by D.M.C. § 4-130 by reassessing the City's capital needs, updating cost estimates, and reviewing changes in development projections and impacts for the City since Ordinance No. 641 was adopted, in order to determine the capital facilities needed to serve new development and the proportional costs of such facilities that may be charged to proposed development through impact fees, which review was summarized in the *2008 Revised Impact Fee Analysis* dated November

20, 2008 accompanying this ordinance, and thereafter the City Council by Ordinance No. 723 adopted on December 8, 2008 adopted revised impact fees to be paid by new residential development; and

**WHEREAS**, in accordance with Section 4-130 of the Dacono Municipal Code, City staff has again undertaken a review of the impact fees for arterial roadways by reassessing the City's capital needs, updating cost estimates, and reviewing changes in development projections and impacts for the City since Ordinance No. 723 was adopted, in order to determine the capital facilities needed to serve new development and the proportional costs of such facilities that may be charged to proposed development through impact fees, which review is summarized in the *City of Dacono Field Inventory, Regional Transportation and Drainage Impact Fee Analysis* dated November 2014 (the "2014 Analysis") accompanying this ordinance; and

**WHEREAS**, the City Council finds the demand and cost assumptions underlying the City's arterial roadway impact fees warrant revision as set forth in the 2014 Analysis and the City Council finds it necessary and appropriate that the amount of such impact fees and their applicability to non-residential development be revised as set forth herein; and

**WHEREAS**, the City Council further finds the arterial roadway impact fees, as amended by this ordinance, do not exceed the actual costs of constructing capital facilities that are of the type for which the fees are paid and that are required to serve new impact-generating development; of the impact fee monies spent since adoption of Ordinance No. 641, such fees have only been spent for capital facilities for which such fees were paid; impact fee monies to be collected in the future are likewise expected to be spent only for capital facilities for which the fees were paid; such capital facilities that have been constructed with impact fee monies have benefitted those developments that paid the fees; and future impact fee monies paid will fund capital facilities that will benefit those developments that paid the fees.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DACONO, COLORADO:**

**Section 1.** The Transportation Impact Fee set forth in Exhibit A of Ordinance No. 723, *Impact Fee Schedule (2008)*, is hereby replaced with the fees set forth in Exhibit A attached hereto.

**Section 2.** Section 4-100(c) of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

**Sec. 4-100. Short title, authority and applicability.**

(c) Application. This article shall apply to the development of any new residential dwelling unit within the territorial limits of the City, except as exempted pursuant to the provisions hereof. This Article shall not apply to any

residential development for which the applicant has submitted a complete building permit application prior to the January 1, 2005 effective date of the ordinance enacting this article, or to any non-residential development for which the applicant has submitted a complete building permit application prior to the effective date of Ordinance No. 792.

**Section 3.** The following definitions in Section 4-104 of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

**Sec. 4-104. Definitions.**

*Commencement of impact-generating development* means development that occurs upon the approval of a rezoning, a special review use permit, a preliminary subdivision plat, a final subdivision plat, a minor subdivision plat or the issuance of a building permit, whichever occurs first after January 1, 2005, the effective date of the ordinance enacting this article, with regard to residential development, or after the effective date of Ordinance No. 792 with regard to non-residential development.

*Development* means any construction of a new residential dwelling unit or non-residential structure, any improvement or expansion of an existing non-residential structure or improvement or expansion of an existing residential structure which creates a new residential dwelling unit or any change in the use of land, which creates a new residential dwelling unit.

*Impact Fee Analysis* means the 2004 *Impact Fee Analysis* prepared by City staff and dated November 16, 2004, as the same may from time to time be updated, amended or replaced by subsequent studies undertaken pursuant to Section 4-130 of this Code, and all other additional materials prepared in connection with such analysis and this Article.

*Regional Transportation and regional transportation capital facilities* means facilities that consist of all existing or planned arterial roads and related improvements as outlined in the City transportation master plan, including all engineering work, design studies, land surveys, alignment studies, permitting work, land costs and construction related to all necessary features for any road in the transportation master plan, undertaken to accommodate additional traffic resulting from new impact-generating development in the City. Such features that are part of the regional transportation capital facilities include but are not limited to (a) new through lanes; (b) new bridges; (c) new drainage facilities in conjunction with new road construction; (d) traffic signals, including new and upgraded signalization; (e) curbs, gutters, sidewalks, medians and shoulders in

conjunction with new road construction; (f) relocation of utilities to accommodate new road construction; (g) the construction and reconstruction of intersections; (h) the widening of existing roads; (i) bus turnouts; (j) acceleration and deceleration lanes; (k) interchanges; ~~and~~ (l) traffic control devices; and (m) irrigation improvements, consisting of culverts in road crossings. For the purposes of this Article, site-related improvements shall not constitute regional transportation capital facilities.

**Section 4.** Section 4-106(a) of the Dacono Municipal Code is hereby amended to read as follows (words to be deleted ~~stricken~~; words to be added underlined):

**Sec. 4-106. Development impact fees imposed.**

(a) Obligation to pay and time of payment. After January 1, 2005, the effective date of the ordinance enacting this Article, with regard to residential development, and after the effective date of Ordinance No. 792, with regard to non-residential development, any person who causes the commencement of impact-generating development shall be obligated to pay impact fees pursuant to the terms of this Article. The obligation to pay impact fees shall run with the land. The amount of the impact fees shall be determined in accordance with Section 4-110 below and paid to the City at the time and as a condition of issuance of a building permit ~~for the new residential dwelling unit constituting development.~~ If any credits are due pursuant to this Article, they shall be determined at that time.

**Section 5.** If any portion of this Ordinance is held to be invalid for any reason, such decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

**Section 6.** The repeal or modification of any provision of the Municipal Code of the City of Dacono by this Ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

**Section 7.** All other ordinances or portions thereof inconsistent or conflicting with this Ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

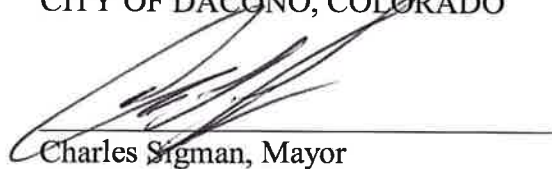
**Section 8.** This Ordinance shall become effective as set forth in Section 3-8(a) of the City of Dacono Home Rule Charter, except that the increased impact fees for residential development shall become effective on August 1, 2015.

**INTRODUCED, READ, ADOPTED ON FIRST READING, AND ORDERED PUBLISHED BY TITLE THIS 9<sup>th</sup> day of February, 2015.**

**PUBLIC HEARING AND SECOND READING WILL BE THE 23<sup>rd</sup> day of February, 2015 AT 6:00 P.M. AT DACONO CITY HALL, 512 CHERRY STREET, DACONO, CO.**

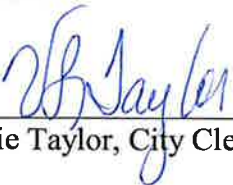
**READ, ADOPTED ON SECOND READING, APPROVED, SIGNED, AND ORDERED PUBLISHED BY TITLE THIS 23<sup>rd</sup> day of February, 2015.**

CITY OF DACONO, COLORADO



Charles Sigman, Mayor

ATTEST:



Valerie Taylor, City Clerk

Summary of Ordinance No. 792, "AN ORDINANCE AMENDING CHAPTER 4 OF THE DACONO MUNICIPAL CODE REGARDING RESIDENTIAL IMPACT FEES": Adopts revised impact fees to be paid by new residential development.

**EXHIBIT A**  
**Impact Fee Schedule (2015)**

Transportation Impact Fee	\$3,629 per residential unit
Transportation Impact Fee	\$8,754 per acre non-residential development*
Drainage Impact Fee	\$ 497 per residential unit
Drainage Impact Fee	\$ 1,198 per acre non-residential development*
Regional Parks and Trails Impact Fee	\$1,769 per residential unit
City Hall Facilities Impact Fee	\$ 175 per residential unit

\*Minimum impact fee amount for development less than 1-acre