

IMPACT FEE

TOWN OF FRISCO
COUNTY OF SUMMIT
STATE OF COLORADO
RESOLUTION 07-05

A RESOLUTION ADOPTING ADMINISTRATIVE RULES AND REGULATIONS FOR THE
ASSESSMENT, COLLECTION AND ADMINISTRATION OF THE SUMMIT COMBINED
HOUSING AUTHORITY DEVELOPMENT IMPACT FEE

WHEREAS, the Summit Combined Housing Authority ("Authority") has been formed as provided for pursuant to Section 29- 1-204.5, Colorado Revised Statutes, to effect the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs pursuant to a multi-jurisdictional plan in order to provide dwelling accommodations at rental prices or purchase prices within the means of families of low or moderate income and to provide affordable housing projects or programs for employees of employers located within the jurisdiction of the authority; and

WHEREAS, in accordance with Section 29-1-204.5(2), C.R.S., the Authority was formed, and administrative and procedural protocols established, pursuant to the First Amended Intergovernmental Agreement among Summit County, Colorado and the Towns of Breckenridge, Dillon, Frisco and Silverthorne, Colorado, (the "IGA"), which IGA was approved and executed by each individual local government, including the Town of Frisco, participating in the Authority; with said IGA setting forth specific measures regarding the exercise of jurisdiction and the retention of certain powers and responsibilities by each individual member entity; and

WHEREAS, on November 7, 2006 the voters of Summit County, Colorado approved the Summit Combined Housing Authority Referred Measure 5A, which measure authorizes a temporary sales and use tax of one eighth of one percent (.125%), and a development impact fee ("Impact Fee") of two dollars or less per square foot of new construction to be used for affordable housing purposes, with the duration of the Impact Fee being 10 years; and

WHEREAS, this Resolution is adopted by the Town Council of the Town of Frisco, Colorado ("Town") to implement the Town's assessment, collection and administration of the Summit Combined Housing Authority Development Impact Fee within the boundaries of the Town as contemplated by: (i) Section 10(f) of the IGA; and (ii) Section 4 of Resolution 06-05 ("A Resolution Providing For The Assessment, Collection And Administration Of The Housing Development Impact Fee For Affordable Housing Purposes Approved By The Voters Of Summit County, Colorado, And Adopting Findings, Policies And Procedures In Support Thereof"), adopted by the Authority on December 6, 2006; and

WHEREAS, this Resolution describes, clarifies and provides details on how the Impact Fee will be collected, administered and assessed by the Town and lists the specific types of developments or projects which are exempted from the Impact Fee requirements.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FRISCO, THAT:

Section 1. Applicability of Impact Fee. The Impact Fee applies to all development projects for which a building permit is applied for on and after January 1, 2007, unless exempted from payment of the Impact Fee pursuant to Section ~~X23~~ of this Resolution. Without limiting the generality of the foregoing, the Impact Fee applies to: (i) the "new construction" of a building or structure for which a building permit is required under the Town's building or

technical codes; and (ii) the construction of an addition to an existing building or structure for which a building permit is required under the Town's building or technical codes.

Section 2. Responsibility for Administration and Collection of Impact Fee. The Impact Fee will be administered and collected by the Town's Community Development Department ("Department"). The Department will determine the square footage of a project for purposes of calculating the required Impact Fee, and will make all other determinations and interpretations regarding Impact Fee administration required to properly implement this Resolution, including, but not limited to, the calculation of any applicable credit under Section 7 of this Resolution.

Section 3. When Impact Fee Due. On all new construction, the Impact Fee is due and must be paid to the Town prior to issuance of a Certificate of Occupancy. For any addition or alteration, the Impact Fee is due and must be paid to the Town prior to building permit issuance.

Section 4. Calculation of Impact Fee. The Impact Fee will be calculated based upon the type of development authorized to be constructed by the building permit, and total square footage proposed to be constructed as authorized by the building permit.

Section 5. Determination of Square Footage. The following rules shall apply to the determination of the square footage of a building or structure that is subject to the Impact Fee:

- A. Total square footage is determined by measuring to the exterior of exterior walls;
- B. Total square footage will be calculated based on the Town of Frisco Building Construction and Housing Standards (as adopted by reference in Section 65-1 of Chapter 65 of the Code of the Town of Frisco, Colorado (the "Code")), and the Department's policies, procedures and methods of calculating square footage under the Building Construction and Housing Standards.
- C. Notwithstanding the foregoing, for the purpose of calculating total square footage, the following rules will apply:
 - (i) Finished and unfinished spaces will be counted toward overall square footage.
 - (ii) Stairs will be counted for all levels, minus one level.
 - (iii) Attics and crawl spaces will not be counted toward overall square footage.

Section 6. Impact Fee Schedule. The Impact Fee schedule is as follows:

A. Single Family Residences:

- 1,499 square feet or less - \$.0
- 1,500 to 2,499 square feet - \$.50 per square foot
- 2,500 to 3,499 square feet - \$1.00 per square foot
- 3,500 to 4,999 square feet - \$1.50 per square foot
- 5,000 + square feet - \$2.00 per square foot

Includes detached single family residences. The Impact Fee also applies to: (i) new additions to existing detached single family structures; and (ii) accessory structures attached or detached to single family residences (e.g., accessory units, sheds, garages).

B. All Other Residential Structures:

- 999 square feet or less - \$.0
- 1,000 to 1,499 square feet - \$.50 per square foot
- 1,500 to 2,499 square feet - \$1.00 per square foot
- 2,500 + square feet - \$2.00 per square foot

Includes: apartments, condominiums, condo/hotels, hotel/lodges, fractional ownership time shares, townhouses, and other multi-unit and multi-family units (as defined in Zoning Definitions, Section 5 of Chapter 180 of the Frisco Town Code), common areas/amenity buildings within residential components not classified as commercial structures, managers units, garages, storage buildings, and additions to these types of structures.

C. Commercial or Industrial Structures:

- \$2.00 per square foot

Includes: all commercial buildings and outbuildings to be built on the property (e.g., garages, sheds, etc.).

D. Mixed Use Structures: For structures that are mixed use (e.g., commercial/residential buildings) the Impact Fee will be applied as follows:

- Residential area will be charged the Impact Fee for "All Other Residential Structures."
- Commercial area will be charged the Impact Fee for "Commercial or Industrial Structures."
- Common areas solely related to residential use will be charged the Impact Fee for "All Other Residential Structures."
- Portions of mixed-use buildings that contain common areas used for both residential and commercial purposes will be charged the Impact Fee for "Commercial or Industrial Structures."

E. Multiple Types of Structures On One Lot:

- All buildings constructed on the same lot, parcel, or subdivision will be charged the Impact Fee based on the "type" of building permit issued for that structure.

F. Redevelopments/Scrape-Offs:

- Where a building or multiple buildings are demolished and the site is redeveloped, the entire square footage of the new development will be

considered new construction and will be subject to the Impact Fee schedule set forth above for the type of units constructed.

- For redevelopments/scrape-offs that are subject to the Impact Fee, the Town will consider a credit against the required payment of the Impact Fee for a project that either maintains existing deed restricted employee housing units or that proposes the replacement of previously existing deed restricted employee housing units, provided that such units mitigate at least 40% of the employee generation associated with the redevelopment. In order to qualify for this credit the already existing deed restricted units must be restricted, in a form and substance acceptable to the Town Attorney, so as to be permanently affordable at 80% AMI.

- G. Impact Fee Not Calculated Incrementally. As provided for in the Authority's Resolution 06-05, the Impact Fee for all categories of structures listed above will be applied to the total square footage of a structure or addition, not in increments. For example, a 3,000 square foot house would pay \$1.00 per square foot, or \$3,000. as opposed to the 3,000 square foot house paying \$.50 per square foot for the first 2,500 square feet and \$1.00 per square foot for the next 500 square feet, or \$1,750. The Impact Fee for additions will only apply to the square footage of new construction in the addition.

Section 7. Exemptions. An Impact Fee will not be required to be paid for the following categories of development:

- A. Change of Use. A change of use without adding additional square footage or space (Commercial or Residential) will not result in the assessment of the Impact Fee.
- B. Residential or Commercial Remodels. Commercial or residential interior remodels that do not involve the construction of additional square footage will not result in the assessment of an Impact Fee.
- C. Deed-Restricted Affordable Housing.
- (i) Any residential housing structure (or portion of a structure) which is deed restricted or otherwise properly restrained from open market sale or use to ensure that it is properly characterized as affordable housing, as such term is defined by the Code, are exempt for the Impact Fee.
 - (ii) Existing or proposed projects that include deed-restricted units or other affordable/employee housing requirements may be given a level of credit to offset or mitigate the total Impact Fee assessed. To evaluate and determine the level of credit assessed, the percent of deed-restricted or employee/affordable housing units will be evaluated in relation to the total project impacts and overall square footage of development.
- D. Deed-Restricted Low or Moderate Income Housing. Any residential housing structure which is deed restricted or otherwise properly restrained from open market sale or use to ensure that it is properly characterized as low income housing or moderate income housing, as such terms have been defined in accordance with the interpretation of the Colorado Division of Housing, pursuant

to Section 24-32-717(4), et. seq., C.R.S., will be exempt from the imposition of the development impact fee.

- E. Other Exemptions. The Town Council may grant additional exemptions and waivers of the Impact Fee when deemed to be in the public interest due to special circumstances or unique situations, including, but not limited to, when a proposed development provides alternative employee housing mitigation not otherwise addressed by these policies.

Section 8. Credit For Previously Restricted Housing Units. The Town will consider a credit against the required payment of the Impact Fee for a project that mitigates 40% of its employee generation by deed restricting employee units (at not less than 350 square feet of housing per employee). In order to qualify for this credit the units must be restricted, in a form and substance acceptable to the Town Attorney, so as to be permanently affordable at 80% AMI.

Section 9. Right To Appeal To Town Council.

- A. Any person aggrieved by the decision of the Department with respect to the assessment, administration and collection of the Impact Fee under this Resolution will have the right to appeal such decision to the Town Council.
- B. An appeal to the Town Council may be taken by the appealing party filing a written notice of appeal with the Town Manager within ten (10) days after the Department's written decision from which the appeal is taken. If written decision of the Department is personally served upon the appealing party, the time for the filing of the appeal commences on the date the appealing party receives the written decision. If the written decision of the Department is transmitted to the appealing party by mail, the time for the filing of the appeal commences on the date of the mailing of the written decision. No additional time for filing a notice of appeal will be granted to an appealing party because the decision of the Department was served on the appealing party by mail. The Town Council has no jurisdiction to hear or consider an appeal which is not timely filed in accordance with this Section.
- C. The Town Council will conduct a de novo hearing on the appeal at a regular or special Town Council meeting held within thirty (30) days of date of the filing of the notice of appeal, unless the appealing party agrees to a longer time.
- D. Except as set forth in this Section 9 to the contrary, the substantive and procedural requirements set forth section 180-46 of the Code shall apply to any Town Council appeal hearing pursuant to this Section 9.
- E. The decision of the Town Council in any appeal hearing under this Section 9 is the final decision of the Town for purposes of determining the right of an aggrieved party to appeal to a court of law.

Section 10. Future Revisions to Regulations. The Town intends for its application of the Impact Fee to be generally consistent with the way the other municipalities in Summit County, together with Summit County Government and the Summit Combined Housing Authority, are implementing the Impact Fee. Accordingly, this Resolution may be amended in

the future when necessary to reflect any administrative interpretation of the other Summit County jurisdictions which the Town determines to be appropriate for inclusion in this Resolution.

Section 11. Distribution of this Resolution. The Town Manager shall ensure that a copy of this Resolution is made available to any interested party upon request, and the Department shall ensure that a copy of this Resolution is made available to development applicants at the time application is made.

Section 12. This Resolution shall become effective upon its adoption.

APPROVED AND ADOPTED THIS 13TH DAY OF FEBRUARY, 2007 BY THE TOWN COUNCIL FOR THE TOWN OF FRISCO, COLORADO.

TOWN OF FRISCO:

Bernie Zurbruggen, Mayor

ATTEST:

Deborah Wohlmuth, Town Clerk

Memorandum

P.O. BOX 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL
FROM: JULIE SUTOR, EXECUTIVE ASSISTANT
RE: RESOLUTION 07-05, DEVELOPMENT IMPACT FEES
DATE: FEBRUARY 13, 2007

Summary Statement: The attached resolution eliminates legal ambiguity associated with the impact fee guidelines related to the multijurisdictional housing authority intergovernmental agreement. It also clearly outlines the Town's ability to retain local control over the implementation of the impact fees.

Background: The Summit Combined Housing Authority has been formed to create affordable housing opportunities in Summit County pursuant to a multijurisdictional intergovernmental agreement. In the November 2006 election, the voters approved a sales tax and a development impact fee to fund such opportunities.

This resolution implements the Town's assessment, collection and administration of the impact fee inside the Town boundaries. It also describes, clarifies and provides details on such processes. Lastly, it lists the specific types of projects which are exempted from impact fee requirements.

Staff Recommendation: On that basis, it is my recommendation that the Frisco Town Council approve Resolution 07-05.