

West's Colorado Revised Statutes Annotated
Title 29. Government--Local
Land Use Control and Conservation
Article 20. Local Government Regulation of Land Use (Refs & Annos)
Part 1. Local Government Land Use Control Enabling Act (Refs & Annos)

C.R.S.A. § 29-20-104.5

§ 29-20-104.5. Impact fees--definition

Effective: June 8, 2016

Currentness

(1) Pursuant to the authority granted in section 29-20-104(1)(g) and as a condition of issuance of a development permit, a local government may impose an impact fee or other similar development charge to fund expenditures by such local government or a fire and emergency services provider that provides fire protection, rescue, and emergency services in the new development on capital facilities needed to serve new development. No impact fee or other similar development charge shall be imposed except pursuant to a schedule that is:

(a) Legislatively adopted;

(b) Generally applicable to a broad class of property; and

(c) Intended to defray the projected impacts on capital facilities caused by proposed development.

(2)(a) A local government shall quantify the reasonable impacts of proposed development on existing capital facilities and establish the impact fee or development charge at a level no greater than necessary to defray such impacts directly related to proposed development. No impact fee or other similar development charge shall be imposed to remedy any deficiency in capital facilities that exists without regard to the proposed development.

(b) A local government shall confer with any fire and emergency services provider that provides fire protection, rescue, and emergency medical services in a new development, together with the owner or developer of the development, to assess and determine whether there should be an impact fee or other similar development charge imposed to defray the impacts to the fire and emergency services provider.

(c) If a local government, in its sole discretion, elects to impose an impact fee or other similar development charge to fund the expenditures by a fire and emergency services provider for a capital facility, then the local government and fire and emergency services provider shall enter into an intergovernmental agreement defining the impact fee or other similar development charge and the details of collection and remittance.

(d) A local government that imposes an impact fee or other similar development charge to fund the expenditures by a fire and emergency services provider for a capital facility shall pay the impact fees or other similar development charges collected to the fire protection and emergency service provider.

(3) Any schedule of impact fees or other similar development charges adopted by a local government pursuant to this section shall include provisions to ensure that no individual landowner is required to provide any site specific dedication or improvement to meet the same need for capital facilities for which the impact fee or other similar development charge is imposed. A local government shall not impose an impact fee or other similar development charge on an individual landowner to fund expenditures for a capital facility used to provide fire, rescue, and emergency services if the landowner is already required to pay an impact fee or other similar development charge for another capital facility used to provide a similar fire, rescue, and emergency service or if the landowner has voluntarily contributed money for such a capital facility.

(4) As used in this section, the term “capital facility” means any improvement or facility that:

(a) Is directly related to any service that a local government or a fire and emergency services provider is authorized to provide;

(b) Has an estimated useful life of five years or longer; and

(c) Is required by the charter or general policy of a local government or fire and emergency services provider pursuant to a resolution or ordinance.

(5) Any impact fee or other similar development charge shall be collected and accounted for in accordance with part 8 of article 1 of this title. Notwithstanding the provisions of this section, a local government may waive an impact fee or other similar development charge on the development of low- or moderate-income housing or affordable employee housing as defined by the local government.

(6) No impact fee or other similar development charge shall be imposed on any development permit for which the applicant submitted a complete application before the adoption of a schedule of impact fees or other similar development charges by the local government pursuant to this section. No impact fee or other similar development charge imposed on any development activity shall be collected before the issuance of the development permit for such development activity. Nothing in this section shall be construed to prohibit a local government from deferring collection of an impact fee or other similar development charge until the issuance of a building permit or certificate of occupancy.

(7) Any person or entity that owns or has an interest in land that is or becomes subject to a schedule of fees or charges enacted pursuant to this section shall, by filing an application for a development permit, have standing to file an action for declaratory judgment to determine whether such schedule complies with the provisions of this section. An applicant for a development permit who believes that a local government has improperly applied a schedule of fees or charges adopted pursuant to this section to the development application may pay the fee or charge imposed and proceed with development without prejudice to the applicant's right to challenge the fee or charge imposed under rule 106 of the Colorado rules of civil procedure. If the court determines that a local government has either imposed a fee or charge on a development that is not subject to the legislatively enacted schedule or improperly calculated the fee or charge due, it may enter judgment in favor of the applicant for the amount of any fee or charge wrongly collected with interest thereon from the date collected.

(8)(a) The general assembly hereby finds and declares that the matters addressed in this section are matters of statewide concern.

(b) This section shall not prohibit any local government from imposing impact fees or other similar development charges pursuant to a schedule that was legislatively adopted before October 1, 2001, so long as the local government complies with subsections (3), (5), (6), and (7) of this section. Any amendment of such schedule adopted after October 1, 2001, shall comply with all of the requirements of this section.

(9) If any provision of this section is held invalid, such invalidity shall invalidate this section in its entirety, and to this end the provisions of this section are declared to be nonseverable.

Credits

Added by Laws 2001, 2nd Ex.Sess., Ch. 7, § 4, eff. Nov. 6, 2001. Amended by Laws 2016, Ch. 259, § 3, eff. June 8, 2016.

C. R. S. A. § 29-20-104.5, CO ST § 29-20-104.5

Current through signed legislation effective Jan. 31, 2022 of the Second Regular Session, 73rd General Assembly (2022). Some statute sections may be more current. See credits for details.

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