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Comments: **Green** is explanatory, **Blue** is for discussion, **Red** is for issues remaining to be addressed

Article 14-8: DEVELOPMENT AND DESIGN STANDARDS

14-8.9 OUTDOOR LIGHTING

(A) —Purpose

The purpose of this section is to regulate outdoor lighting in order to: reduce light pollution; reduce or prevent glare; reduce or prevent light trespass; conserve energy; promote a sense of safety and security; and ensure aesthetically appropriate outdoor lighting in keeping with the character of Santa Fe.

(B) —Applicability and General Provisions

(1) —All new outdoor lighting fixtures luminaires installed on private or City property and on City property after the effective date of this section shall comply with this section. ~~This section does not apply to interior lighting.~~

(2) —All outdoor lighting fixtures luminaires existing and legally installed and operative before the effective date of this section are exempt from these requirements.

(3) —If a nonconforming fixture luminaire is replaced, the replacement fixture luminaire shall meet the requirements of this section ~~chapter~~. Modifications to nonconforming luminaires ~~fixtures~~ in Historic Districts shall also comply with Section ~~§~~ 14-5.2.

~~(4) — Compliance for single family residences shall be enforced on a complaint basis.~~

Comment [CLG1]: duplicative of enforcement procedures

~~(5) — In the event of a conflict with any other section of this chapter, the more stringent requirement shall apply.~~

Comment [CLG2]: duplicative of conflict provisions

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~~(64)~~ —Agencies of the County, State, and federal governments are encouraged to comply with the provisions of this section.

~~(75)~~ —This section ~~does not apply~~ to street lighting as well as other types of lighting.

~~(C)~~ — **Submittals**

(1) Applications for building permits or applications for review by the Historic Design Review Board, which include the installation or replacement of outdoor lighting fixtures for *new construction*, additions, or remodeling, shall ~~provide evidence of compliance with the requirements of this section. The submittal shall contain the following information:~~

Comment [CLG3]: the "evidence" is already specified

(a) —Plans indicating the location, type, and height of luminaires including both *building* and ground mounted luminaires fixtures;

(b) —A description of the luminaires, including lamps, poles or other supports, and shielding devices, which may be provided as catalogue cuts from the manufacturer;

(c) —Photometric data, such as that furnished by the manufacturer, showing the angle of light emission; and;

~~(d) — Additional information as may be required by the Land Use Department in order to determine compliance with this section.~~

Comment [CLG4]: general provisions cover this already

(2) —Applications for single-family *residential* or other projects where no lamp exceeds 160 watts shall not be required to comply with paragraph (1) above.

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(D) —General Standards

(1) —The following type of lamps are permitted and shall be shielded as follows:

TABLE 14-8.9-1: Lamp Types and Required Shielding

Comment [CLG5]: replace "fixture" with "luminaire"

Lamp Type	Required Shielding
Low pressure sodium	Yes
High pressure sodium	Yes
Metal halide	Yes
Mercury vapor	*
Fluorescent, quartz-halogen, & incandescent over 160 watts (per fixture)	Yes
Incandescent 160 watts or less (per fixture)	No
Glass tubes filled with neon**, argon, or krypton	No
Any light 50 watts or less (per fixture)	No
Other sources***	Yes

NOTES:
Mercury vapor shall be permitted only for the purpose of lighting landscaping and shall be limited to 100 watts per fixture. The lamp shall not be visible from public view. For the purposes of this section "public view" shall mean visible to the average person from any public street, way or place.
**Neon is further restricted in Historic Districts as set forth in §14-8.10(H)(10).
***May be approved by the planning and land use director if located outside the Historic Districts or may be approved by the Historic Design Review board if located inside the Historic Districts.

(2) Illumination levels and uniformity shall be in accordance with current recommended practices of the Illuminating Engineering Society of North America (IESNA) as available from the Land Use Department. Recommended standards of the Illuminating Engineering Society IESNA shall not be exceeded.

(3) —All outdoor lighting fixtures luminaires shall be designed, installed, located and maintained such that nuisance glare onto adjacent properties or streets shall be minimized to

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the greatest extent practical. Disabling glare onto adjacent properties or streets **is not allowed** shall not be permitted.

~~_____ This section may be enforced on the basis of a formal complaint filed in writing with the Land Use Department.~~

Comment [CLG6]: duplicative of enforcement provisions

(4) —Except for certain *structures* in the Historic Districts or landmark structures, which are regulated by §14-8.10(H), accent lighting shall be directed onto the *building* or object and not toward the sky or onto adjacent properties. -Direct light emissions shall not be visible above the roof line or beyond the *building* edge.

~~(E) —~~Searchlights~~ **Maximum Illumination Standards**~~

Comment [CLG7]: Revisions for more comprehensive max standards

~~(1) Illumination levels shall not exceed the standards in Table 14-8.9-2.~~

Table 14-8.9-2 Average Maintained Horizontal Footcandles at Grade

Average Maintained Horizontal Footcandles at Grade		
Area	Commercial	Residential
<u>Sidewalks</u>	<u>1.0</u>	<u>0.2</u>
<u>Pedestrian Area</u>	<u>2.0</u>	<u>0.5</u>
<u>Parking Lots</u>	<u>1.0</u>	<u>-</u>
<u>Building Entrances</u>	<u>5.0</u>	<u>-</u>
<u>Building Grounds</u>	<u>1.0</u>	<u>-</u>
<u>Public Spaces</u>	<u>3.0</u>	<u>-</u>
<u>The maximum illumination at any point shall not exceed the allowed average by more than 1.5 Footcandles.</u>		

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(2) In all cases the average maintained footcandles at residential property lines shall be 0.

(3) Higher levels of illumination may be appropriate for specific or unusual applications. Requests for higher permitted levels may be considered for individual projects or locations. An applicant for illumination levels higher than those in Table 14-8.9-2 shall justify the request in writing to the Land Use Director, who shall have sole authority to grant or deny the request. Additional standards of the Illuminating Engineering Society of North AMERICAN (IESNA) shall be the preferred justification for consideration.

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~~Searchlights shall be permitted in the Historic Districts. In and outside Historic Districts searchlights may be approved as a special use permit by the City Manager or his or her designee and shall be operated for no more than three hours and no later than midnight.~~

(F) —Maintenance

~~It shall be the responsibility of the property owner or tenant to properly maintain illumination levels and required shielding.~~

(G) —Further Restrictions

~~The City reserves the right to further restrict outdoor lighting, including but not limited to restriction-sonf pole height and level of illumination, when it is deemed to be in the best public interest in keeping with the stated purpose of this section.~~

14-8.10 SIGNS

(G) General Requirements for Signs According to District

(10) Additional sign regulations in SC District

No sign intended to be read from off the premises shall be permitted in an SC district, except:

Comment [CLG8]: 14-8.10 is outside the scope of this project; however new subsection 10 added here because it was relocated from 14-4 SC District regulations

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(a) One sign with one square foot of surface area for each lineal foot of lot adjacent to a public street for the purpose of general identification of the entire premises, as " shopping center," in any event not to exceed 150 square feet; and

(b) One sign for each full line department store, junior department store and supermarket with one square foot of surface area for each one lineal foot of building frontage, not to exceed 80 square feet. Such signs shall refer only to the name and nature of the business conducted in the building and to goods and services offered and shall be mounted flat against the wall or window of the building. No sign may project more than one foot from the wall to which it may be attached. Other signs compatible with the design of the shopping center may be approved by the Planning Commission after submittal of a plan showing the dimensions and design of the sign.

14-8.11 SANTA FE HOMES PROGRAM (SFHP)*

(A) Authority

The Santa Fe Homes Program is enacted pursuant to the authority set forth in §26-1.2.

(B) Adoption of the Santa Fe Homes Program

The Governing Body has adopted the Santa Fe Homes Program as set forth in §26-1.

(C) Responsibilities

The Land Use ~~Director~~ Department staff shall:

(1) Administer and enforce all planning and land use ordinances that apply to *development* requests that are subject to this section.

(2) Require, as part of the *development* review process, the applicant to prepare and submit a SFHP proposal to the Office of Affordable Housing to assure compliance with the SFHP Ordinance.

(3) Administer provisions for *development* incentives in the *development* review process as set forth in this section.

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(4) Record the SFHP agreements with the respective subdivision plat or development plan at the County Clerk's office.

(5) Where applicable, invoke sanctions for noncompliance with SFHP agreements at the request of the City Manager.

(D) Applicability

_____(1) Except as set forth in this paragraph, the SFHP shall apply to any *application for development* including, but not limited to, annexation, rezoning, subdivision plat, increase in density, development plan, extension of or connection to City utilities for land outside the City limits, and building permits which propose ~~two~~ **2** or more *dwelling units* or buildings or portions of buildings which may be used for both *nonresidential* and *residential* purposes and manufactured home lots. SFHP applies to the *residential* portion of the *development*.

(a) The SFHP applies to *new construction* and to the conversion of existing rental units to ownership units.

(b) The SFHP shall not apply to a family transfer as set forth in §14-3.7(E)(3)(b) or a division of land into 2 lots as set forth in §142.3(E)(1)(a).

(c) It shall be the responsibility of the applicant to determine the applicability of SFHP to the proposed *development* and comply with the requirements of SFHP.

_____(2) The SFHP shall apply to *dwelling units* in vacation time share projects.

(3) The SFHP shall not apply to the following:

(a) Any development or portion thereof which is subject to any formal, written and binding agreement entered into prior to August 15, 2005, with the City or Santa Fe County which if within said agreement the signatories agreed to provide affordable housing or payment in lieu thereof; or

(b) Dwelling units or manufactured home lots for an elementary, middle, or high school, community college, private 4-year college or related institutions where coursework leads to an associate of arts, bachelors or vocational degree or certification, hospital or similar institution to be used exclusively by its employees or enrolled students and their families. If the dwelling units are no longer exclusively used by its employees or enrolled students and their families, the SFHP shall apply at the time the units are converted.

-_____(4) Petitioners for annexations and the Office of Affordable Housing shall negotiate all terms for providing affordable housing on site including the distribution of

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development types and the number of SFHP units required or alternate means of compliance. The number of SFHP units required or alternate means of compliance may be in excess of that required by SFHP. These terms shall be included in the annexation agreement. To the extent practicable, all other SFHP requirements shall apply to annexations. In no case shall the agreement provide for less affordable housing or a lesser in-lieu contribution than required by SFHP. As the property is developed, a separate SFHP agreement in compliance with the annexation agreement shall be recorded with each subdivision plat or development plan.

(5) All provisions of the prior ordinance, titled Housing Opportunity Program (HOP), remain in full force and effect with respect to any and all agreements executed by the City and others which were required by HOP or incorporated HOP provisions by reference. However, the Office of Affordable Housing shall be responsible for administering such agreements according to the administrative procedures for the SFHP ordinance until such time as all obligations under such agreements have been satisfied except for sale prices or rental rates. Sale prices and rental rates shall be based upon the prior HOP administrative procedures and annually updated by staff.

(E) Presubmission Conference, Santa Fe Homes Program Proposals and Agreements

Presubmission conferences, SFHP proposals and SFHP agreements shall be required as set forth in §26-1.

(F) Santa Fe Homes Program Requirements

Thirty percent of the total number of *dwelling units or manufactured home lots* in an SH-IP development shall be SFHP units and meet all requirements of §26-1 SFCC 1987. Fifteen percent of the total number of *dwelling units or manufactured home lots* offered for rent in an SFHIP development shall be SFIP units and meet all requirements of §26-1 SFCC 1987.

Comment [CLG9]: typo in original?

Comment [CLG10]: typo in original?

(G) Development Incentives

(1) Density Bonus

(a) Any developer who is subject to and complying with SFHP shall be entitled to an additional density bonus of 15 percent over the density allowed by the zoning district.

(b) A density bonus is the right to build the described percentage of residential units, in addition to those that are otherwise allowed by the zoning district, in accordance with the following standards and procedures:

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(i) Base units allowed shall mean the total number of units that would otherwise be allowed by the zoning district.

(ii) In calculating any bonus unit(s), the base units allowed in the development shall be multiplied by 15 percent. If the result is other than a whole number, the number shall be rounded down if less than 0.5, and rounded up if 0.5 or more.

(c) Any such bonus will not require an amendment to the General Plan or approval by the Governing Body unless appealed pursuant to §14-3.17.

(d) Except where the Planning Commission may be authorized to grant a variance or waiver as set forth in Chapter XIV, such a density increase shall not negate, supersede or limit other City code provisions that limit the number of units that can be built on the site.

(2) Fee Waivers

Fees for SFHP developments subject to and complying with the SFHP requirements shall be reduced as follows:

(a) Development review and building permit fees shall be reduced proportionately to the number of SFHP units certified by the Office of Affordable Housing; and

(b) Impact fees as set forth in §14-8.14 and utility expansion charges as set forth in Chapters XXII and XXV SFCC 1987 shall be reduced at the time of building permit application for SFHP units.

(3) *Other

*Editor's Note: Repeal of this paragraph is effective January 1, 2010.

(H) Enforcement

Enforcement of the Santa Fe Homes Program shall occur as set forth in §§14-11.5 and 26-1.19.

(I) Appeals

Any applicant aggrieved by a final action of the Land Use Director regarding the SFHP provisions may file an appeal pursuant to §14-3.17.

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14-8.12 RELOCATION OF GUNNISON'S PRAIRIE DOGS

(A) Purpose and Intent

It is the purpose and intent of the Gunnison's Prairie Dog relocation regulations to protect the diminishing populations of Gunnison's Prairie Dogs by ensuring their safe and humane relocation prior to the development of property within the city of Santa Fe to appropriate and protected habitat areas as designated by the city.

(B) Applicability

Except for single-lot, single-family residential development, compliance with these regulations is required for any public or private proposed development or phase of development approval, prior to grading or any other disturbance of property where Gunnison's Prairie Dogs are located. However, for family transfers, and all projects defined as development types 'A' and 'B' as set forth in this chapter, at no time shall the property owner or developer be responsible for relocation expenses, costs or fees that amount to more than one thousand five hundred (\$1500.00) dollars per acre. This amount shall be subject to periodic review at the discretion of the City Manager and may be amended to reflect increased costs due to inflation or other circumstances.

(C) Exemptions

- (1) An exemption from these regulations may be granted by the ~~Planning and~~ Land Use Director or his or her designee under the following circumstances:
 - (a) There is no City-approved property available for a proposed relocation of Gunnison's Prairie Dogs; or
 - (b) There is no City-certified relocater available within a reasonable time as determined by the City for a proposed relocation; or
 - (c) A City-certified relocater determines that the timing of the proposed project is such that the start of construction operations, including grading or other disturbance of property where Gunnison's Prairie Dogs are located, would have to be delayed more than 60 days.
- (2) The ~~Planning and~~ Land Use Director or his or her designee may require written verification or other proof of such circumstances prior to granting an exemption from these regulations.

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(D) Appeals

An appeal pursuant to the granting or denial of an exemption to the Gunnison's Prairie Dog relocation regulations shall be pursuant to §14-3.17.

(E) Violations and Penalties

Violations of any provision of this section shall be punishable in accordance with ~~Article 11 of Chapter 14,~~ [Section 14-11.5](#).

(F) City Approved Lands

The Ccity shall approve relocation sites which are:

- (1) Private lands protected as wildlife habitat by a conservation easement held in a land trust or other conservation organization; or protected by organizational by-laws or other legal vehicles; or
- (2) Public lands protected for the purpose of indefinite, long-term prairie dog habitation; or
- (3) Private or public lands which meet best management practices criteria for suitability.

(G) Certified Trappers/Relocators

The Ccity shall certify Gunnison's Prairie Dog trappers/relocators to be hired by owners or developers of private property who meet the following minimum requirements:

- (1) Training by a qualified and experienced trapper/relocator in:
 - (a) Two trapping methods (flushing and live trapping); and
 - (b) Two methods of relocation (use of existing holes and augured holes); and
 - (c) Participation and attendance at a day of orientation to include prairie dog facts and proper techniques for trapping and relocating; and
 - (d) Fifteen days of on-the-job training in both trapping and relocating; ~~and~~
- (2) Written verification of the above by the trainer.

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- (3) A person considered to be a qualified and experienced trainer shall at a minimum have had the training described above.
- (4) Certification is considered a privilege and shall not be construed as a property right. Failure to comply with Santa Fe City Code will authorize the city manager at his or her discretion to withdraw such certification.

(H) General Requirements

- (1) Intent. It is prohibited to intentionally destroy or otherwise harm the Gunnison's Prairie Dog on any lands within the City of Santa Fe at any time in relation to an applicable development herein unless an exemption has been granted.
- (2) Procedures and submittals
 - (a) Pre-application inspection. As a pre-application requirement, an inspection of the site for prior grading and the existence of prairie dogs shall be performed by ~~city staff~~ the Land Use Director. If prairie dogs are found on the property, then the owner or developer shall contact a certified trapper/relocator who shall develop a relocation schedule and plan.
 - (b) Submittals. The owner or developer shall submit a relocation schedule and plan for review and approval as part of any development submittal which addresses all of the requirements listed in this section before any development of property takes place. Approval of the plan is required before a grading permit or any other building permit is issued by the City.
 - (c) The preferred relocation times are June 15th through September 15th. The Gunnison's Prairie Dog may also be relocated in April, but may not be relocated or otherwise disturbed between May 1st and June 15th, which is ~~its~~ the breeding season ~~of the Gunnison's Prairie Dog~~, unless exempted under section 14-8.12(C). Owners and developers of property shall make every effort to coordinate their development stages and operations with this schedule.
 - (d) Only a person certified by the City as a prairie dog trapper/relocator may perform the relocation services.
 - (e) The property owner or developer is responsible for all relocation expenses, costs, and fees related to the relocation of Gunnison's Prairie Dogs.

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- (f) Upon completion of the prairie dog relocation, the owner or developer shall submit written notice to the city from the certified relocater hired for the relocation work that the relocation has occurred.

(I) Additional Requirements

If any development of the property does not occur within one year of the plat or development plan approval or the issuance of a building or grading permit, and reestablishment of the Gunnison's Prairie Dog colony occurs, the applicant shall again be required to be in compliance with the requirements as set forth in this section.

(J) Effective Date of Ordinance

This ordinance shall become effective 30 days after its adoption by the governing body.

14-8.13 ANNUAL WATER BUDGET

Comment [CLG11]: This is being worked on separately and so is not in the scope of this project

14-8.14 IMPACT FEES

(A) Short Title and Applicability

(1) This section may be known and cited as the "Impact Fee Ordinance," and is referred to herein as "this section."

(2) The provisions of this section shall apply to all of the territory within the planning and platting jurisdiction of the City of Santa Fe.

(B) Intent

In order to respond to the increasing demand for capital improvements that are related to the actual impact of new *development*, the Governing Body deems essential the imposition of impact fees on new development within the City. It is the intent of the Governing Body to:

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(1) Promote the health, safety and general welfare of the people of the City of Santa Fe and to enable the City to accommodate orderly growth and development;

(2) To provide for the imposition and collection of an impact fee upon new development within the City to serve the demand for capital facilities and public improvements; and

(3) To insure that new development contributes its proportionate share of the cost of capital expenditures necessary to provide public facilities and infrastructure that has a rational nexus to the proposed development.

(C) Fee Assessment and Collection

(1) The assessment for impact fees occurs on the date a plat or development plan receives final approval, from the City or State of New Mexico Construction Industries Division, or, in the absence of a plat or plan, the date the building permit is applied for. Impact fees collected within 4 years of the date of assessment shall be based on the impact fee schedule in effect at the time of assessment. After the expiration of the 4-four year period the new development shall be subject to the fee schedule in effect at the time of application for a building permit. No action on the part of the City is required for assessment to occur.

(2) Collection of impact fees shall occur at the time of issuance of a building permit, according to the fee schedule in effect for the *development*.

(D) Exemptions, Waivers and Reimbursements

(1) Certain types of permits for new construction shall be exempt from the terms of this section. An exemption shall be claimed at the time of building permit application. The impact fee administrator shall determine the validity of any claim for exemption pursuant to the criteria set forth. The following shall be exempt from the terms of this section:

(a) Alterations of, or additions to, existing *residential* uses where no additional *dwelling units* are created.

(b) Replacement of a destroyed, partially destroyed or moved *residential building or structure* with a new *building or structure* of the same use, of the same size and with the same number of *dwelling units*.

(c) Replacement of destroyed, partially destroyed or moved *non-residential building or structure* with a new *building or structure* of the same *gross floor area* and use.

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(d) Building permits for new *residential* units that are part of a master plan, development plan or subdivision plat where land is dedicated to the City for the purpose of providing park land, according to §14-8.15 shall be exempt from park impact fees.

(e) Parking garages or parking lots shall not be charged an impact fee.

(2) Application for waivers of impact fees shall be made at the time of application for a building permit. Applications shall be reviewed by the Office of Affordable Housing. Impact fees shall be waived for:

(a) Santa Fe homes or Santa Fe rental units as defined in Section 26-1 SFCC 1987;

(b) Housing opportunity program home or housing opportunity program rental unit subject to a valid housing opportunity program agreement; or

(c) A low priced dwelling unit as defined in Article 26-2 SFCC 1987.

(d) The impact fee calculation for any approved waiver shall be tracked by the Land Use Director for accounting purposes.

(3) When a *dwelling unit* for which impact fees have been paid is later deemed by the City to qualify for the waiver described in paragraph (2) above, it is entitled to a full reimbursement of the impact fees paid.

(4) In order to promote the economic development of the City or the public health, safety, and general welfare of its residents, the Governing Body may agree to pay some or all of the impact fees imposed on a proposed new development or redevelopment from funds of the City other than impact fees from other developments.

(5) Governmental entities shall pay all impact fees imposed under this section.

(E) Fee Determination

(1) Any person who applies for a building permit, except those exempted or preparing an independent fee calculation study, shall pay impact fees in accordance with one of the following fee schedules. If any credit is due pursuant to paragraph (1), the amount of such credit shall be deducted from the amount of the fee to be paid.

(a) "New" Fee Schedule. The fee schedule in this paragraph (E)(1)(a), also referred to as the "New" fee schedule, shall be used and its fees assessed on plats and development plans that receive final approval from the City or New Mexico Construction

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Industries Division after June 30, 2008. This "New" fee schedule shall also be applied to building permits issued after June 30, 2008, except where the permit is issued for a subdivision or for a development plan that is still subject to the "Old" fee schedule.

NEW FEE SCHEDULE

Land Use Type	Unit	Roads	Parks	Fire	Police	Total
<u>Residential</u>						
Single Family Detached Dwelling or Manfctd Home						
Heated Living Area:						
(0 to 1,500 sq. ft.)	Dwelling	\$1,850	\$1,111	\$125	\$44	\$3,130
(1,501 to 2,000 sq. ft.)	Dwelling	\$2,100	\$1,214	\$136	\$48	\$3,498
(2,001 to 2,500 sq. ft.)	Dwelling	\$2,183	\$1,328	\$150	\$53	\$3,714
(2,501 to 3,000 sq. ft.)	Dwelling	\$2,248	\$1,379	\$155	\$55	\$3,837
(3,001 to 3,500 sq. ft.)	Dwelling	\$2,309	\$1,418	\$159	\$56	\$3,942
(3,501 to 4,000 sq. ft.)	Dwelling	\$2,359	\$1,444	\$163	\$58	\$4,024
(more than 4,000 sq. ft.)	Dwelling	\$2,424	\$1,495	\$169	\$59	\$1,147
Accessory dwelling unit (Attached or Detached)						
Heated Living Area:						
(0 to 500 sq. ft.)		\$518	\$324	\$37	\$13	\$891
(501 to 1,000 sq. ft.)		\$1,036	\$647	\$73	\$26	\$1,782
(1,001 to 1,500 sq. ft.)		\$1,554	\$971	\$110	\$39	\$2,674
Other (Apts., Condos, Townhomes, etc.)	Dwelling	\$1,554	\$971	\$110	\$39	\$2,674
Hotel/Motel	Room	\$1,203	\$0	\$82	\$29	\$1,314
<u>Retail/Commercial</u>						
	G.F.A.					
Shopping Center/General Retail	1000 sq. ft.	\$4,597	\$0	\$221	\$78	\$4,896

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Auto Sales/Service	1000 sq. ft.	\$2,180	\$0	\$221	\$78	\$2,479
Bank	1000 sq. ft.	\$4,948	\$0	\$221	\$78	\$5,247
Convenience Store w/Gas Sales	1000 sq. ft.	\$8,778	\$0	\$221	\$78	\$9,077
Health Club, Recreational	1000 sq. ft.	\$4,394	\$0	\$221	\$78	\$4,693
Movie Theater	1000 sq. ft.	\$10,412	\$0	\$221	\$78	\$10,711
Restaurant, Sit- Down	1000 sq. ft.	\$5,083	\$0	\$221	\$78	\$5,382
Restaurant, Fast Food	1000 sq. ft.	\$11,064	\$0	\$221	\$78	\$11,363
Restaurant, Pkgd Food	1000 sq. ft.	\$4,597	\$0	\$221	\$78	\$4,896
<u>Office/Institutional</u>	G.F.A.					
Office, General	1000 sq. ft.	\$2,429	\$0	\$124	\$44	\$2,597
Medical Building	1000 sq. ft.	\$3,903	\$0	\$124	\$44	\$4,071
Nursing Home	1000 sq. ft.	\$1,354	\$0	\$124	\$44	\$1,522
Church	1000 sq. ft.	\$1,521	\$0	\$124	\$44	\$1,689
Day Care Center	1000 sq. ft.	\$3,202	\$0	\$124	\$44	\$3,370
Elementary/Sec- Educational Facility	1000 sq. ft.	\$586	\$0	\$124	\$44	\$754
Educational Facility Dorm Rooms	1000 sq. ft.	\$1,203	\$0	\$82	\$29	\$1,314
<u>Industrial</u>	G.F.A.					
Industrial, Manufacturing	1000 sq. ft.	\$1,610	\$0	\$74	\$26	\$1,710
Warehouse	1000 sq. ft.	\$1,147	\$0	\$47	\$16	\$1,210
Mini- Warehouse	1000 sq. ft.	\$417	\$0	\$47	\$16	\$480

G.F.A. - Gross Floor Area; fees shown for non-residential uses are per 1,000 square feet of gross floor area.

(b) "Old" Fee Schedule. The fee schedule in this paragraph (E)(1)(b), also referred to as the "Old" fee schedule, shall be used and its fees assessed on plats and development plans that receive final approval from the City or New Mexico Construction Industries Division on or before June 30, 2008, which assessment shall be valid for a period not to exceed 4four years from the date of the subdivision or development plan approval. The "Old" fee schedule shall also be applied to building permits issued on or before June 30, 2008.

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Comments: **Green** is explanatory, **Blue** is for discussion, **Red** is for issues remaining to be addressed

OLD FEE SCHEDULE

Land Use Type	Unit	Roads	Parks	Fire	Police	Total
S-F Detached Dwelling or Guesthouse						
Heated Living Area						
(0 to 1,500 sq. ft.)	Dwelling	\$1,135	\$767	\$118	\$29	\$2,049
(1,501 to 2,000 sq. ft.)	Dwelling	\$1,527	\$1,128	\$165	\$40	\$2,860
(2,001 to 2,500 sq. ft.)	Dwelling	\$1,820	\$1,397	\$212	\$52	\$3,481
(2,501 to 3,000 sq. ft.)	Dwelling	\$2,053	\$1,614	\$259	\$63	\$3,989
(3,001 to 3,500 sq. ft.)	Dwelling	\$2,247	\$1,793	\$306	\$75	\$4,421
(3,501 to 4,000 sq. ft.)	Dwelling	\$2,414	\$1,946	\$353	\$86	\$4,799
(more than 4,000 sq. ft.)	Dwelling	\$2,560	\$2,080	\$400	\$98	\$5,138
Other (Apts., Condos, S.F. Attached)	Dwelling	\$1,485	\$863	\$94	\$61	\$2,503
Hotel/Motel	Room	\$2,017	\$0	\$182	\$61	\$2,260
Retail/Commercial	G.F.A.					
Shopping Center/General Retail	1000 sq. ft.	\$3,893	\$0	\$182	\$61	\$4,136
Auto Sales/Service	1000 sq. ft.	\$3,123	\$0	\$182	\$61	\$3,366
Bank	1000 sq. ft.	\$5,249	\$0	\$182	\$61	\$5,492
Convenience Store w/Gas Sales	1000 sq. ft.	\$7,336	\$0	\$182	\$61	\$7,579
Health Club, Recreational	1000 sq. ft.	\$2,814	\$0	\$182	\$61	\$3,057
Movie Theater	1000 sq. ft.	\$8,730	\$0	\$182	\$61	\$8,973
Restaurant, Sit-Down	1000 sq. ft.	\$4,248	\$0	\$182	\$61	\$4,491
Restaurant, Fast Food	1000 sq. ft.	\$9,247	\$0	\$182	\$61	\$9,490

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Office/Institutional	G.F.A.					
Office, General	1000 sq. ft.	\$2,191	\$0	\$182	\$61	\$2,434
Medical Building	1000 sq. ft.	\$3,503	\$0	\$182	\$61	\$3,746
Nursing Home	1000 sq. ft.	\$981	\$0	\$182	\$61	\$1,224
Church	1000 sq. ft.	\$1,632	\$0	\$182	\$61	\$1,875
Day Care Center	1000 sq. ft.	\$3,404	\$0	\$182	\$61	\$3,647
Elementary/Sec. School	1000 sq. ft.	\$534	\$0	\$182	\$61	\$777
Industrial	G.F.A.					
Industrial, Manufacturing	1000 sq. ft.	\$1,557	\$0	\$182	\$61	\$1,800
Warehouse	1000 sq. ft.	\$1,109	\$0	\$182	\$61	\$1,352
Mini-Warehouse	1000 sq. ft.	\$386	\$0	\$182	\$61	\$629

G.F.A. - Gross Floor Area; fees shown for nonresidential uses are per 1,000 square feet of gross floor area.

 (2) If the type of new *development* for which a building permit is requested is not specified on the fee schedule, the impact fee administrator shall determine the fee on the basis of the fee applicable to the most nearly comparable type of land use on the fee schedule. The following will be used as guidance for impact fee determination when the specific use is not identified in the fee chart.

 (a) Residential

 i. Any home occupation business shall be charged according to the fee schedule for the appropriate residential category.

 ii. The Hotel/Motel Ancillary Use fee shall apply to meeting rooms, lobby area and general use areas of the facility. Retail and restaurant square footage shall be charged under the commercial use category.

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(b) Retail/Commercial

i. The general retail fee is to be used for a hair salon, laundromat, dry cleaner, garden center/nursery retail display area, gas station without a convenience store and inventory storage for a retail business (including growing area for a garden center/nursery).

ii. The bank fee assessment shall include the square footage of any drive-thru kiosk and parking area with or without a roof.

iii. The restaurant fast food fee shall include square footage for the drive-thru kiosk and parking area with or without a roof.

iv. The packaged food restaurant fee is to be used for a restaurant or bar that does not have any food preparation facilities.

(c) Office/Institutional

i. The office general fee is to be used for a studio that is not residential and not retail.

ii. The office general fee is to be used for a medical office that does not have any medical equipment (such as an office for psychiatry).

iii. the medical office fee shall be used for an animal hospital.

iv. The nursing home fee shall be used for an assisted living facility.

(d) Industrial

i. Warehouse fee is to be used for an animal shelter, storage (not inventory storage) or maintenance equipment.

ii. Mini-warehouse fee is to be used for a single storage unit or for multiple storage units.

(3) Impact fees shall be assessed and collected based on the primary use of the *building* as determined by the impact fee administrator. Uses that are distinct and separate from the primary use which are not merely ancillary to the primary use and are 1,000 square feet or greater will be charged the impact fee category based on the distinct and separate use.

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

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- (a) C-2 and all SC zones - "Shopping Center/General Retail" fee rate;
- (b) HZ zone - "Medical Building" fee rate;
- (c) C-1, C-4 and all other nonresidential zones - "Office, General" fee rate.
- (d) Tenant Improvement Permits.

If there is an increase in the amount of the impact fee calculation once the tenant improvement permit is submitted, the difference from what was paid at the time of the shell permit and the tenant improvement fee calculation shall be paid prior to issuance of the building permit. If the fee schedule determination for the square footage of the use identified in the tenant improvement building permit results in a net decrease from what was paid at the time of the shell permit, there shall be no refund of impact fees previously paid.

Comment [CLG12]: confirm that this is legally acceptable with City Attorney

(54) Live/work *developments* containing *dwelling unit(s)* in combination with *nonresidential* floor area in a common *building* shall pay impact fees for each *dwelling unit* according to the *residential* fee rate for "Other" and for the *gross floor area* intended for *nonresidential* use according to the "Office, General" fee rate. If the initial Live/Work *building* permit application is for a shell *building* permit the impact fee administrator shall collect impact fees at the "Office, General" fee rate. If *dwelling units* are added as a use within the *building* after the *building* has been charged impact fees at a *nonresidential* fee rate, and there is no increase in *gross floor area*, the impact fee administrator shall collect only the required park impact fees for the *dwelling units* at the residential fee rate for "Other" at the time of the *dwelling unit* permit application.

(65) If a building permit application changes the use of an existing *building*, increases the *gross floor area* of an existing *building*, or replaces an existing *building* with a new *building* and new use, the fee shall be based on the net increase in the fee for the new use and/or increase as compared to what the current fee would be for the previous use or floor area. In the event that the proposed change results in a net decrease in the fee, there shall be no refund of impact fees previously paid.

(F) Independent Fee Calculation

(1) The impact fee administrator may require an independent fee calculation for any proposed *development* interpreted by the impact fee administrator as not one of those types listed on the fee schedule or as one that is not comparable to any land use on the fee schedule.

(2) The preparation and cost of the independent fee calculation study shall be the sole responsibility of the applicant.

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(3) The independent fee calculation study shall be based on the same service standards and facility costs used in the impact fee capital improvements plan, and shall document the methodologies and assumptions used.

(4) An independent fee calculation study submitted by an applicant for the purpose of calculating a road impact fee shall address all three factors relevant to the generation of service units, namely: trip generation rates, primary trip factors and average trip lengths.

(5) After review, the impact fee administrator shall approve or reject the conclusions of the independent fee calculation study.

(G) Use of Fees

(1) An impact fee fund that is distinct from the general fund of the City is hereby created, and the impact fees received will be deposited in the following interest-bearing accounts of the impact fee fund:

- (a) Fire Impact Fee Account;
- (b) Police Impact Fee Account;
- (c) Parks Impact Fee Account; and
- (d) Roads Impact Fee Account.

(2) Road impact fees ~~collected according to the "Old" or "New" fee schedule~~ shall be deposited into the "Roads" Impact Fee Account and Park impact fees ~~collected according to the "Old" or "New" fee schedule~~ shall be deposited into the "Parks" Impact Fee Account.

(3) The impact fee accounts shall contain only those impact fees collected pursuant to this section for the type of facilities reflected in the title of the account, plus any interest that has accrued or may accrue from time to time on such amounts.

(4) The monies in each impact fee account shall be used only for the following:

- (a) To acquire or construct capital improvements or facility expansions of the type reflected in the title of the account and identified in the capital improvements plan;
- (b) To pay debt service on the portion of any current or future general obligation bond or revenue bond used to finance capital improvements or facility expansions of the type reflected in the

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title of the account and identified in the capital improvements plan;

- (c) Planning, surveying and engineering fees paid to an independent qualified professional who is not an employee of the municipality or county for services provided for and directly related to the construction of capital improvements or facility expansions;
- (d) Fees actually paid or contracted to be paid to an independent qualified professional, who is not an employee of the City, for the preparation or updating of a capital improvements plan;
- (e) Up to 3 percent of total impact fees collected for administrative costs for City personnel, for professional services related to impact fee assignment/distribution or for reporting to the Capitol Improvements Advisory Board.
- (f) As described in paragraph (H), Refunds; or
- (g) As described in paragraph (I), Credits.

(H) Refunds

(1) Upon the request of an owner of the property for which an impact fee has been paid, any monies in the impact fee fund, paid for that property, that have not been spent within seven~~7~~ years after the date on which such fee was paid shall be returned to the current owner of record as listed with the County Assessor with interest since the date of payment.

- (a) Monies in each impact fee account shall be considered to be spent in the order collected, on a first in/first out basis.
- (b) Interest shall be calculated from the date of collection to the date of refund at the statutory rate as set forth in section 56-8-3 NMSA 1978.
- (c) Requests shall be filed with the City within 30 days of the eligibility for the refund.
- (d) Response to a request for a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the current owner of the property within 30 days of the date the refund was requested.

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- (e) All refunds shall be made to the current owner of the property at the time the refund is paid.
- (f) Notwithstanding the above, if the impact fees were paid by a government entity, notice shall be given to and the refund shall be made to the government entity.

(2) If an applicant has paid an impact fee required by this section and the building permit later expires without the possibility of further extension, and the development activity for which the impact fee was imposed did not occur and no impact has resulted, then the applicant who paid such fee shall be entitled to a refund of 97 percent of the fee paid, without interest. In order to be eligible to receive such refund, the applicant who paid such fee shall submit an application for such refund within 30 days after the expiration of the permit or extension for which the fee was paid.

(I) Credits

(1) Credit against the impact fees shall be provided for contributions made by developers toward the cost of capital improvements or facility expansions identified in the Impact Fees Capital Improvements Plan and eligible for funding with impact fees pursuant to the provisions of this section.

- (a) Credits for eligible improvements shall become effective when the payment has been made, the land has been dedicated in fee simple to the City or the improvements have been completed and have been accepted by the City.
- (b) No credit will be applied to the road impact fee for improvements to the major roadway system that primarily serve traffic generated by the development project, such as acceleration/deceleration lanes into and out of the project.
- (c) No credit will be applied to the road impact fee for installation of a traffic signal or intersection improvement at the intersection of a public street and a private road or driveway.

(2) In order to receive credit for eligible improvements, the developer shall submit complete engineering drawings, specifications, and construction cost estimates to the impact fee administrator. The impact fee administrator shall determine the amount of credit due based on the information submitted, or where such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the impact fee administrator.

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(3) The Planning Commission, BCDDRC or Governing Body may approve a credit for eligible improvements as a condition of approval for a plat, development plan or other similar application.

Comment [CLG13]: New provision clarifying authority over credits.

(43) To qualify for an impact fee credit, the developer shall enter into an impact fee credit agreement with the City prior to plat or plan recordation. **The approved impact fee credit shall be identified on the plat to be used at the time of building permit in the fee calculation.** The impact fee credit agreement shall specify the following:

- (a) The amount of the credit;
- (b) How the credit will be allocated within the development project; and
- (c) How the developer will be reimbursed for the cost of in-kind contributions that exceed the amount of impact fees due from the development project.

(54) In the event that the new development for which credits have been issued is sold to different owners, the credits usable by each new owner shall be calculated in terms of each owner's percentage share of the impact fees against which the credits were issued that would otherwise be due from the entire new development.

(65) The right to claim credits shall run with the land and may be claimed only by owners of property within the new development for which the land was dedicated or the improvement was made. Credits issued for a particular new development shall not be transferable to another development.

(76) Credits provided pursuant to this section shall be valid for 10 years from the effective date of the impact fee credit agreement.

(87) In the absence of an impact fee credit agreement specifically providing otherwise, no reimbursement shall be made to a developer for the amount of credit due in excess of impact fees otherwise due from the development.

(J) Miscellaneous Provisions

(1) Nothing in this section shall restrict the City from requiring the construction of reasonable project improvements required to serve the new development project, whether or not such improvements are of a type for which credits are available under paragraph (I), Credits.

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(2) The impact fee administrator shall maintain accurate records of the impact fees paid, including the name of the person paying such fees, the project for which the fees were paid, the date of payment of each fee, the amounts received in payment for each fee, the amount of any credits provided against the fees or refunds paid, and any other matters that the City deems appropriate or necessary for the accurate accounting of such fees. Records shall be available for review by the public during normal business hours and with reasonable advance notice.

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

- (a) Any amounts overpaid by an applicant shall be refunded by the impact fee administrator to the applicant within 30 days after the approval of the recalculated amount.
- (b) Any amounts underpaid by the applicant shall be paid to the impact fee administrator within 30 days after the acceptance of the recalculated amount.
- (c) In the case of an underpayment or nonpayment of impact fees, the City shall not issue any additional permits or approvals for the project for which the impact fee was previously underpaid until such underpayment is corrected, and if amounts owed to the City are not paid within such 30 day period, the City may also issue a stop work order or rescind any permits issued in reliance on the previous payment of such impact fee.

(4) Any determination made by the impact fee administrator charged with the administration of any part of this section may be appealed to the Land Use ~~Department~~ Director within 30 days from the date of the decision appealed. The Land Use Department director's decision shall be final.

(5) Furnishing false information on any matter relating to the administration of this section, including without limitation the furnishing of false information regarding the expected size, use, or impacts from a proposed new development, shall be a violation of this section. The City may issue a stop work order or rescind any permits issues in reliance on the previous payment of such impact fee.

(K) Annual Report / Periodic Updates

The Capital Improvements Advisory Committee (CIAC) shall make an annual report to the Governing Body on impact fee revenues obtained during the previous year, current impact fee fund amounts, CIP projects under construction

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that are using impact fee revenues, the effects of impact fees on new housing prices and new affordable housing as well as any perceived inequities in implementing the plan or imposing the impact fee. The land use assumptions and capital improvements plan on which the impact fees imposed by this section are based shall be updated at least every 5 years. The five-year period begins on the day the capital improvements plan is adopted. The City shall review its current land use assumptions and shall cause an update of the capital improvements plan to be prepared in accordance with the Development Fees Act, sections 5-8-1 to 5-8-42 NMSA 1978.

14-8.15 DEDICATION AND DEVELOPMENT OF LAND FOR PARKS, OPEN SPACE, TRAILS AND RECREATIONAL FACILITIES

Comment [CLG14]: dedication language in 14-4 to be deleted, superceded herein

(A) Purpose

- (1) The Governing Body deems it in the best interest of the City and its citizens that adequate provision is made for parks, open space, trails, and recreational facilities, and for City maintenance thereof.
- (2) These regulations shall provide standards for the dedication of land or easements to the City to assist in implementing of the City's Parks, Open Space, Trails and Recreation Master Plan.
- (3) These regulations shall provide standards based upon the average number of persons per housing unit according to Census 2000 which is 2.0 persons per unit for the City of Santa Fe.
- (4) Land dedicated for neighborhood parks shall be based upon a rate of three~~3~~ acres per 1,000 persons, or per 500 housing units.
- (5) Land dedicated for regional parks, community parks, open space and trails shall be based upon a rate of twelve~~12~~ acres per 1,000 persons, or per 500 housing units.
- (6) For usable park land, park dedication should result in a park area of no less than 1 acre.
- (7) Land or easements dedicated for public, nonmotorized trails may be used to satisfy the requirement for dedication of regional parks under paragraph (5) above, and to establish an interconnected regional transportation system.

Comment [CLG15]: check for revisions in Census 2010

(B) Applicability

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- (1) Except as limited in paragraph (B)(3) below, this section shall apply to applications for subdivision or *development* approvals that create new residential lots or dwelling units submitted after the effective date of this section.
- (2) Developments which are part of an annexation plat, master plan or similar document which dedicated park land in compliance with § 14-8.15 are not required to comply at time of individual subdivision or plan approval.
- (3) Public, nonmotorized trail dedication requirements set forth in § 14-8.15(D) shall only apply to all subdivision for residential lots and development plan approvals for *nonresidential* uses requiring approvals by the Planning Commission or the Summary Committee.

(C) Land Dedication Requirements; Park Development Requirement

- (1) Any master plan, development plan or subdivision proposing 167 or more single family *residential lots* shall dedicate park land to the City according to the requirements set out in § 14-8.15(C)(3).
- (2) For any other *development* proposing *dwelling units*, the City shall require land to be dedicated for either neighborhood parks or regional parks or both, unless the amount of land or type of land is not suitable for public parks, open space or recreational facilities. Where the City determines that no land is to be dedicated for neighborhood parks, then neighborhood park impact fees shall be collected according to § 14-8.14. Where the City determines that no land is to be dedicated for regional parks, then regional park impact fees shall be collected according to § 14-8.14.
- (3) Where land is to be dedicated to the City for parks, open space and recreational facilities, the amount of land dedicated shall be calculated as follows, in accordance with § 14-8.15(A)(4) and (5):
 - (a) Neighborhood Parks ~~— six one-thousands~~ (0.006) acres per new *housing unit*;
 - (b) Regional & Community Parks, Open Space and Trails ~~— twenty-four one thousands~~ (0.024) acres per new *housing unit*.
- (4) The City shall determine the suitability and location of land to be dedicated as set forth in the Parks, Open Space, Trails and Recreation Master Plan, as well as the type, size and dimensions of land dedicated.
- (5) Land dedicated shall be suitable for public use including but not limited to community, neighborhood, special use and pocket parks; open space; recreational facilities for *passive and active recreation* and sports, playgrounds, and trails.

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- (6) Land to be dedicated shall be specified at the time of final subdivision plat or final development plan approval and it shall be clearly written on the plat or plan the specific category of park impact fees to be waived at time of building permit.
- (7) The developer shall be responsible for the *development* of all neighborhood and regional park land dedicated to the City. The park land shall be developed in accordance with the City's minimum landscaping and equipment standards (playground, ball courts, sports fields, paved trails, benches, picnic tables, etc.) for each type of park created.

(D) Public, Nonmotorized Trail Dedication Requirements

- (1) Dedications to the City for the purpose of public, nonmotorized trails shall be made either by the dedication of fee simple land or by dedication of a public easement as determined by City staff. Such dedications are required wherever the approved Parks, Open Space, Trails and Recreation Master Plan indicates a trail within or along the property line of a parcel to which § 14-8.15 applies. The City may, at its discretion, also require trail dedication where it can be demonstrated that public trail use has occurred continuously for a period of 10 years or more, as demonstrated by City staff through aerial photography supplemented by written testimony from affected parties.
- (2) Staff shall determine the width of the required dedication based on the type of trail, existing topography and current City standards. The alignment of the trail may be modified by staff from that shown in the Parks, Open Space, Trails and Recreation Master Plan in order to accommodate preservation of natural resources, address drainage and topography, improve public access, or to accommodate design goals of the property owner as long as the connections between public rights-of-ways, open space or parks shown on the Parks, Open Space, Trails and Recreation Master Plan is accomplished.
- (3) The dedication for the trail shall be shown on the subdivision plat or final development plan.
- (4) If the area dedicated for a trail is in partial fulfillment toward the regional park land dedication requirements, then the City at its discretion may prorate the fee that would ordinarily be required.
- (5) The developer shall be responsible for the development of the trail in accordance with City's standards. The City is responsible for maintenance of the trail upon inspection and acceptance of the improvements.

14-8.16 RESERVED

14-8.17 RESERVED

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14-8.18 SCHOOL REQUIREMENTS

Comment [CLG16]: no change to current regulations adopted June 11, 2008 as Ordinance 2008-32