



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: March 17, 2015

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 8034 amending the capital facilities impact fee in Section 4-20-62, “and Chapter 8–9, B.R.C. 1981 by the addition of a new affordable housing linkage fee on non-residential development, and setting forth related details.

PRESENTER/S

Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Tom Carr, City Attorney
David Gehr, Deputy City Attorney

EXECUTIVE SUMMARY

The purpose of this item is second reading of an ordinance (**Attachment A**) that would put in place a citywide housing linkage fee based upon the analysis in the [2009 TischlerBise Development Excise Tax Study](#) (pp. 16-20). City Council approved first reading of the ordinance on March 3. A housing linkage fee is charged on new non-residential uses to mitigate impacts on the demand for affordable housing created by those uses. The 2009 study is the basis for the existing linkage fee in the DT-5 zoning district, currently only applied to the commercial floor area resulting from the downtown floor area ratio (FAR) bonus for office space. This fee is anticipated to be in place for an interim period until a new comprehensive housing linkage fee study is completed later this year. The impact fee is based on the Boulder Valley Comprehensive Plan (BVCP) goal of ten percent permanently affordable housing. See BVCP, § 7.02, p. 49 (2010).

Impact fees are assessed at the time of building permit application and paid prior to final inspection. The ordinance has a proposed effective date of July 6, providing a window of time for projects with approved site reviews to apply for building permit without being required to pay the fee. **Attachment B** includes a list of site review approvals that have not yet applied for a building permit. **Attachment C** includes the

city's current Development Excise Tax, Housing Excise Tax and Capital Facility Impact Fee rates.

In addition to action on the housing linkage fee, staff is requesting council feedback on next steps (see "Next Steps section of this memo) for preparing new studies to support a comprehensive update of the city's current impact fees and excise taxes. **Attachment D** includes a memorandum from Carson Bise, president of TischlerBise, as a follow up to his discussion with City Council on February 10 and the community forum on February 11.

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt Ordinance No. 8034 amending the capital facilities impact fee in Section 4-20-62, "and Chapter 8-9, B.R.C. 1981 by the addition of a new affordable housing linkage fee on non-residential development, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The proposed fee would increase the costs of constructing non-residential square footage in the city. It would increase the city's ability to address workforce housing needs.
- Environmental – The fee would not have a direct impact on environmental issues.
- Social – The fee will provide additional funding to the city's affordable housing program, helping to mitigate impacts on the housing needs of lower income persons in the community. It will help non residential development mitigate the impacts that it has on Boulder's permanently affordable housing stock.

OTHER IMPACTS

- Fiscal - This fee would provide more funding for the city's affordable housing program.
- Staff time – Implementation of the fee would be possible within the city's current work plan.

BACKGROUND

Community members have expressed concerns that the economic recovery in the past few years combined with increased housing costs have only further increased the need for low, moderate and middle income housing in the community in addition to impacting city infrastructure.

Additionally, concerns have also been raised about the extent to which development-related fees and taxes are fully implementing the city's policy that "growth pay its own

way.” Policy 1.30 *Growth to Pay Fair Share of New Facility Costs* of the Boulder Valley Comprehensive Plan states that “... Growth will be expected to pay its own way, with the requirement that new development pay the cost of providing needed facilities and an equitable share of services, including affordable housing, and to mitigate negative impacts such as those to the transportation system.”

The city contracted with the firm of TischlerBise in 2008 to prepare a Development Excise Tax and Impact Fee study in order to evaluate all of the components of the city’s Development Excise Tax and consider potential changes related to impact fees. The impetus for the study was that the Development Excise Tax and Housing Excise Tax were at or near the limits the city could charge based on the ballot item approved by the voters, and the belief was that the level of the excise taxes did not cover the growth-related costs for the services included. While the studies were intended to address issues related to excise taxes, they were completed using impact fee study methods. The study describes the revenue needs of the city that result from new development. For affordable housing, it recommends using a cost per square foot of nonresidential development as an approach to collecting revenue necessary to mitigate the impacts created by new development.

As a result of the 2009 study and council direction:

1. At the beginning of 2010, the city implemented capital facility impact fees and allocated DET capacity to address growth-related costs for fire, human services, library, police, municipal facilities, parks and recreation capital improvements, transportation, and parkland. This was a significant change to the city’s development-related tax/ fee structure and, due to concerns about the overall cost increase in fees and taxes (including Plant Investment Fees for the various city utilities), City Council reduced the Education Excise Tax to zero. In addition, City Council approved placing an increase to the Housing Excise Tax (based on the rates in the 2009 study) on the ballot. The ballot item did not pass. A copy of the ballot measure ordinance can be found in **Attachment E**. The vote on the matter was 7,181 (42%) in favor of the measure and 9,780 (58%) opposed.
2. In 2011, City Council amended Section 9-8-1 Table 8-2 “Floor Area Additions” B.R.C. 1981 to allow for floor area additions of up to a maximum of 1.0 for commercial uses in DT-5 zone district and establish a housing linkage fee that would apply to the additional commercial square footage.

The changes implemented in 2010 put in place *impact fees* to fund growth-related capital improvements for a number of city services formerly included in the DET. See Chapter 8-9, “Capital Facilities Impact Fee,” B.R.C. 1981. Prior to 2010, the city had in place *excise taxes* approved by the voters in 1998. Impact fees and excise taxes are both used to fund capital improvements and address impacts of new development. An impact fee must be based on a study that establishes the nexus between the impact of development, amount of the fee and how the funds will be spent (see additional information below). An excise tax requires approval by the voters of the proposed tax.

Linkage fee Implementation in the DT-5 Zone District

The base FAR in the DT-5 is 1.7. Prior to 2011, developments in the Downtown could be approved for up to 2.7 FAR (a 1.0 FAR addition) if the additional square footage was for housing (.5) and/or structured parking (.5). In 2011, this “FAR bonus” provision in the code was amended to also allow additional square footage above the 1.7 base FAR for commercial uses. This change also put in place the city’s first “linkage fee” for affordable housing, with the floor area addition subject to the established fee. The purpose of the change was to provide the opportunity for “Class A” office space in the downtown where there was very little available, particularly larger office floor plates.

The linkage fee is intended to offset some of the affordable housing impacts that the additional floor area would have on the community. The DT-5 linkage fee is currently set at \$9.53 per square foot and has been applied to four downtown developments that have opted to use the commercial FAR bonus. Approximately \$875,000 has been collected from the linkage fee into the city’s affordable housing program.

Background on Impact Fees

An “impact fee” is a one time fee to fund capital improvements necessitated by new development. Boulder has been using impact fees since as early as the 1950’s with the adoption of plant investment fees for water and wastewater under its home rule authority. Colorado law now explicitly authorizes municipalities to impose impact fees to defray the cost of any improvements that are necessary to accommodate new developments and also sets out requirements for the adoption of impact fees including:

1. The fee is for capital facilities needed to serve new development
2. The amount of the fee must be based upon “the reasonable impacts of proposed development on existing capital facilities” and must be assessed at a level no greater than necessary to defray the impacts directly related to the proposed development
3. A “capital facility” is “any improvement or facility that: (a) is directly related to any service that a local government 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 pursuant to resolution or ordinance.”
4. An impact fee cannot be imposed to remedy any deficiency in capital facilities that exists without regard to the proposed development.
5. The fee needs to be based on a study that quantifies the impacts.
6. The fee needs to be accounted for separately and earmarked for the capital expenses for which they were collected.

The impact fee statute can be found at § 29-20-104.5, C.R.S.

ANALYSIS

Current Impact Fee and Excise Tax Rates

Attachment C includes the city’s current tax/fee schedule for the Development Excise Tax (DET), Housing Excise Tax (HET), and Capital Facility Impact Fees.

Implementation of a Housing Linkage Fee Citywide based on the 2009 TischlerBise Study

The following chart shows the rates included in the proposed ordinance, which are based on the 2009 study adjusted for cost increases. The table below includes all of the categories of uses that would be included based on the 2009 study. Please note that for certain uses the fee would be based on demand indicators such as number of rooms, beds or students as opposed to square footage. This would be an interim measure until a new linkage fee study is prepared.

Nonresidential (Floor Area)

| | <i>Fee per sq. ft.</i> |
|-------------------|------------------------|
| Retail/Restaurant | \$6.96 |
| Business Park | \$7.70 |
| Office | \$9.53 |
| Hospital | \$8.23 |
| School | \$2.24 |
| Mini-Warehouse | \$0.09 |
| Warehousing | \$3.11 |
| Light Industrial | \$5.62 |

Other Nonresidential

| | <i>Fee per Demand Indicator</i> |
|------------------------|---------------------------------|
| Nursing Home (per bed) | \$877.64 |
| Day Care (per student) | \$389.60 |
| Lodging (per room) | \$1,072.44 |

The funds collected would be placed in a dedicated fund and may be used to create additional permanently affordable housing that contributes to achieving the city’s goal of increasing the proportion of permanently affordable housing units to an overall goal of at least ten percent of the total housing stock.

Since the fee is assessed at building permit, council members requested information on the standard or threshold for a complete building permit application. Applicants must submit materials that comply with the “[Building Permit Submittal Checklist](#)” to be considered complete.

Effective Date of the Ordinance

At the February 3 City Council meeting, council members indicated that, at the time the subject ordinance is brought forward, the appropriate effective date would need to be determined. Considerations identified include: fairness to applicants who have approved site reviews, potential impact to the viability of projects, providing a window of time for

projects to apply for building permit prior to the fee being effective, and past practice when adopting new fee schedules.

Staff has a proposed an effective date in the ordinance of July 6. This provides a four month window from first reading to the fee becoming effective, which would provide adequate time for those currently moving forward with projects to complete Technical Document Review and apply for a permit. The period of time from site review approval to building permit application is highly variable. Following site review approval, a project normally completes Technical Document Review prior to applying for a building permit. The Tec Doc process takes on average two months to complete.

Council members requested additional information on the projects with site review approval that have not yet applied for a building permit, including date of approval. **Attachment B** includes this information. The linkage fee would apply to net new square footage and to a change in use of existing square footage. Therefore, for example, in the case of the Eads/ Golden Buff project, the previously existing hotel rooms and non-residential square footage is credited. The linkage fee put in place at this time would be updated by the new study, with the appropriate fee level established based on updated data and analysis. Of the projects in **Attachment B**, five are currently in the Tec Doc review process.

Fee changes have either been adopted by ordinance as part of the annual budget adoption and then take effect the first business day of the new year or, when adopted through a separate ordinance, usually become effective 30 days after adoption.

In the case of code changes, some more complex amendments such as the compatible development code changes, took effect 90 days after adoption, and the 2012 building codes became effective 120 days after adoption due to concerns around the energy codes.

Non-residential development in recent years

Staff calculated how much revenue would have been collected over the past few years had the city implemented a citywide housing linkage fee at the time the linkage fee was implemented for the FAR bonus in the DT-5 zone in late 2011.

Based on analysis of building permit records, city staff estimates that between November 1, 2011 and the end of 2014, the city would have assessed between \$7 and \$8 million in fees on approximately one million square feet of new non-residential development. At current subsidy levels this amount would support the creation of 100-120 permanently affordable housing units. This preliminary analysis was based on additional square footage of nonresidential space included in building permit applications from November 2011 through the end of December 2014 (subtracting out the square footage that paid the existing linkage fee and some of the larger projects that had existing buildings on the site). Since the fee varies by type of non-residential use, this is a rough estimate and staff was not able to go back through every permit and verify the specific nature of the use. A more in depth analysis of the uses, square footage by uses, and demolitions would be needed to develop a more refined estimate. Impact fees are assessed on net new square footage and also for change in use.

NEXT STEPS

Preparation of New Studies

A high priority work plan item for 2015 is to contract with firms to prepare the studies necessary to update the city's development-related impact fees and excise taxes. Based on discussions with City Council and the suggestions from Carson Bise of TischlerBise (**Attachment D**), staff is recommending moving forward to issue an RFP that would contain the three main components below, with firms having the ability to bid on all or one or more of the components:

1. Update of the Impact Fee study for all of the components of the Capital Facility Impact Fee and update the Park land component of the Excise Tax Study.
2. Preparation of a study that would calculate a multi-modal impact fee that includes cost components for roads, intersection improvements, bike lanes, trails, transit and other multi-modal improvements based on the city's Transportation Master Plan. Some of the multi-modal infrastructure that could be considered includes first and final mile amenities, technology such as real time information displays, wayfinding, transit stop and station amenities, and potentially transit vehicles if they meet the state impact fee statute requirements to be considered a capital improvement.
3. Preparation of a study that would calculate a citywide housing linkage fee. The study should address the purpose of a linkage fee as it relates to the city's housing goals and objectives, its relationship to other city housing funding sources, and consideration of the need for mitigating impacts to middle income housing. The Housing Boulder initiative will likely result in new housing goals that may inform the impact fee study. Therefore, staff thinks it would be helpful to move forward with the RFP now and request that the consultant provide advice to the city on whether it is advisable to wait until the Housing Strategy is completed to prepare the study itself. Depending on the timing, the selected consultant could potentially provide advice to the city as the Housing Strategy is developed.

Among the issues that will need to be considered as the studies are developed and reviewed will be whether to implement all of the components as impact fees or to retain some of them as excise taxes and ask voters to approve changes to the existing excise taxes. Additionally, the RFP will request that respondents include a proposed process for stakeholder involvement.

ATTACHMENTS

- A: Ordinance No. 8034
- B: Recently Approved Site Review Projects that have not yet applied for Building Permits
- C: City of Boulder current Development Excise Tax (DET), Housing Excise Tax (HET), and Capital Facility Impact Fee
- D: Memorandum from TischlerBise
- E: Ordinance No. 7679

ORDINANCE NO. 8034

AN ORDINANCE AMENDING THE CAPITAL FACILITIES IMPACT FEE IN CHAPTER 4-20-62, AND CHAPTER 8-9, B.R.C. 1981 BY THE ADDITION OF A NEW AFFORDABLE HOUSING LINKAGE FEE ON NON-RESIDENTIAL DEVELOPMENT, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Table 3 in Subsection 4-20-62(a), B.R.C. 1981, is amended to read:

4-20-62. - Capital Facility Impact Fee.

(a) Impact Fee Rate: No person engaged in nonresidential or residential development in the city shall fail to pay a development impact fee. Fees shall be assessed and collected according to the standards of Chapter 8-9, "Capital Facility Impact Fee," B.R.C. 1981, and the following rates:

Table 3: Impact Fee Rates for Nonresidential

| Nonresidential Uses | Impact Fee Rates Per Square Foot of Nonresidential Floor Area | | | | |
|---------------------|---|--------|--------|---------------------------|------------------------|
| | Municipal Facilities | Police | Fire | <u>Affordable Housing</u> | Total |
| Retail/Restaurant | \$0.14 | \$0.50 | \$0.40 | <u>\$6.96</u> | \$1.048.00 |
| Business Park | \$0.17 | \$0.11 | \$0.10 | <u>\$7.70</u> | \$0.388.08 |
| Office | \$0.21 | \$0.17 | \$0.59 | <u>\$9.53</u> | \$0.9710.50 |
| Hospital | \$0.18 | \$0.15 | \$0.51 | <u>\$8.23</u> | \$0.849.07 |
| School | \$0.04 | \$0.08 | \$0.13 | <u>\$2.24</u> | \$0.252.49 |
| Mini-Warehouse | \$0.00 | \$0.02 | \$0.00 | <u>\$0.09</u> | \$0.020.11 |
| Warehousing | \$0.07 | \$0.04 | \$0.04 | <u>\$3.11</u> | \$0.153.26 |
| Light Industrial | \$0.12 | \$0.06 | \$0.08 | <u>\$5.62</u> | \$0.265.88 |

| Other Nonresidential Uses | Impact Fee Rates for Other Nonresidential Uses Based on Unique Demand Indicators | | | | |
|---------------------------|--|---------|---------|---------------------------|------------------------------------|
| | Municipal Facilities | Police | Fire | <u>Affordable Housing</u> | Total |
| Nursing Home (per bed) | \$19.80 | \$22.00 | \$53.89 | <u>\$877.64</u> | \$95.69 <u>973.33</u> |
| Day Care (per student) | \$7.70 | \$19.80 | \$24.19 | <u>\$389.60</u> | \$51.69 <u>441.29</u> |
| Lodging (per room) | \$24.19 | \$52.80 | \$67.10 | <u>\$1072.44</u> | \$144.09 <u>1216.53</u> |

(b) Additional Floor Area—Affordable Housing Linkage Fee. Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, permits floor area components above the base floor area in the DT-5 zoning district. No person engaged in nonresidential development that is associated with constructing additional floor area components permitted under the requirements of Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, shall fail to pay a housing linkage fee of \$9.53 per sq. ft. for such floor area.

Section 2. Section 8-9-1, B.R.C. 1981, is amended to read:

8-9-1. Purpose and legislative intent.

(a) Purpose: The purpose of this chapter is to charge an impact fee to applicants for nonresidential and residential development in the City to fund capital improvements needed to address demand attributable to new development for police, fire, library, human services, general municipal facilities and parks and recreation. The purpose of this section is to also charge an impact fee to applicants for nonresidential development in the city attributable to new development for affordable housing.

(b) Legislative Intent: The city council recites the following legislative findings and statements of intent that were taken into consideration in the adoption of this chapter:

- (1) The fees collected pursuant to this chapter are not intended to fund operation, maintenance or replacement costs or otherwise fund the general costs of government.
- (2) The capital facility impact fee applies regardless of the value of the property developed. The capital facility impact fee shall be imposed in addition to the development excise taxes imposed by chapters 3-8 and 3-9 and water, sanitary sewer and storm water and flood management plant investment fees imposed by sections 11-1-52, "Water Plant Investment Fee," 11-2-33, "Wastewater Plant

Investment Fee," and 11-5-11, "Storm Water and Flood Management Utility Plant Investment Fee," B.R.C. 1981, or other fees, taxes or charges of the City.

(3) The capital facility impact fee established in this chapter and section 4-20-62, "Capital Facility Impact Fee," B.R.C. 1981, is based in part on the methodology in the "Development Impact Fee Study" prepared by Tischler-Bise, Fiscal, Economic & Planning Consultants, dated January 8, 2009.

(4) The portion of the capital facility impact fee for affordable housing established in this chapter and section 4-20-62, "Capital Facility Impact Fee," B.R.C. 1981, is based in part on the methodology in the "Development Excise Tax" prepared by Tischler-Bise, Fiscal, Economic & Planning Consultants, dated January 9, 2009. The methodology used in that study is an approach based on the Boulder Valley Comprehensive Plan goal of at least ten percent of the total existing housing stock as permanently affordable housing. The fee is intended to defray the costs of providing permanently affordable housing that is associated with non-residential development.

(45) The city council finds that the development impact fee study and this chapter define classifications that are generally applicable to broad classes of property; quantifies the reasonable impacts of proposed development on capital facilities; and establishes charges at a level no greater than necessary to defray such impacts directly related to proposed development.

(56) The city council intends that the impact fees collected pursuant to this chapter are to be used to fund expenditures for capital facilities attributable to new development.

Section 3. The definition of "capital facility classification" in Section 8-9-2, B.R.C.

1981, is amended to read:

8-9-2. - Definitions.

Capital facility classification means each separate municipal capital facility area for which the capital facility impact fee is charged, including library, parks and recreation, human services, affordable housing, municipal facilities, police and fire.

Section 4. Section 8-9-5, B.R.C. 1981, is amended to read:

8-9-5. - Capital Facility Impact Fee to be Earmarked.

- (a) The city shall establish and maintain an impact fee account for each category of public facility for which an impact fee is imposed. Each such account must be clearly identified as to the category of public facility for which the impact fee has been imposed.
- (b) The city shall reflect the historical allocation of the impact fee in each annual budget. The funds collected will be allocated according to the following public facility categories; library, parks and recreation, human services, affordable housing, municipal facilities, police and fire and shall be used exclusively for the purpose of capital improvements related to each particular category.

Section 5. The increase in fees described in this ordinance shall be applied to all building permit applications that are made to the city on or after July 6, 2015.

Section 6. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 7. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 3rd day of March, 2015.

Mayor

Attest:

City Clerk

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READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 17th day of March, 2015.

Mayor

Attest:

City Clerk

Recently Approved Site Review Projects that have not yet applied for Building Permits

| Project | Use | Pre-existing non-residential | Total non residential I SF | Net new non-residential | Site Review Approval Date | Estimated Fees |
|--|---|--|--|---|---------------------------|---|
| 1725 28 th (Eads / Golden Buff) | Hotels, Office & Retail | 112-room Golden Buff Lodge (demolished), 10,625 sf restaurant (approximate) and 1,380 sf Eads building | 375 hotel rooms, 42,900 office, retail | 263 rooms, 30,895 sf office and retail | Feb. 19, 2013 | \$536,781 |
| 1750 14 th (James Travel) | Residential & Office | 10,379 sf | 20,600 sf office | 10,221 sf | Nov.3, 2014 | \$97,406 |
| 2655 N. 63 rd (Western Disposal) | Industrial | 0 sf | 110,000 sf | 110,000 sf | Oct. 18, 2014 | \$618,200 |
| 2550 Canyon (Residence Inn) | Hotel | 5,818 sf (demolished) | 163 hotel rooms | 163 hotel rooms | Sept. 29, 2014 | \$134,314 |
| 5675 Arapahoe (Flatirons Storage) | Self Service and Climate Controlled Storage | 18,898 sf | 187,000 sf | 168,102 sf | Jan. 5, 2015 | \$0 |
| 2930 Pearl (Pearl Place: Google) | Office | 61,000 sf (to be demolished) | 330,000 sf | 269,000 sf Phase I = 147,567 sf Phase II = 121,433 sf | Jan.5, 2015 | Phase I = \$1,406,314 Phase II = 1,157,256 |
| 2880 Wilderness (Boulder Beer Expansion) | Brewery | 15,022 sf | 16,599 sf | 1,577 sf | Dec. 12, 2014 | \$9,919 |
| 1215 Cedar (Washington Village II) | Attached & Detached Dwelling Units with Office | 29,016 sf school (10,624 sf converted to residential/18,392 sf demolished) | 2,650 sf office | 2,650 sf | April 3, 2014 | \$25,255 |
| 3365 Diagonal (Kum & Go) | Gas Station & Convenience Store | 2980 sf (to be demolished) | 4,992 sf | 2,012 sf | June 23, 2014 | \$14,004 |
| 2200 Broadway (Trinity Commons) | Residential, Community Meeting Space and Office | 0 sf | 5,015 meeting space and office | 5,015 sf | June 3, 2014 | \$47,793 |

EXCISE TAXES

Section 3-8-3, and Section 3-9-2

Development Excise Taxes fund the cost of future capital improvements. The Housing Excise Tax was established to promote the development and provision of housing in the city that is affordable to low-income people.

Development and Housing Excise Taxes are assessed on new residential and nonresidential development and nonresidential additions. Excise taxes are paid prior to final inspection for new construction, or at the time of permit issuance for all other types of construction. The tax rate in effect at the time of application applies.

| Tax Name | Nonresidential | Residential | |
|-------------------------------|------------------------|-----------------------------------|--|
| | <i>Per Square Foot</i> | <i>Per Detached Dwelling Unit</i> | <i>Per Attached Dwelling Unit or Mobile Home</i> |
| Development Excise Tax | | | |
| Park Land | N/A | \$1,144.84 | \$795.98 |
| Transportation | \$2.48 | \$2,226.93 | \$1,650.29 |
| Total | \$2.48 | \$3,371.77 | \$2,446.27 |
| Housing Excise Tax | \$0.51 | \$0.23 per square foot | \$0.23 per square foot |

CAPITAL FACILITY IMPACT FEES

Section 4-20-62

Capital facility impact fees will be collected for capital improvements to serve new development. Residential development will be charged impact fees based on unit size. Residential additions will be charged on net additional square footage. Non-residential development will be charged impact fees based on square footage by type of use. Redevelopment will be charged for net new square footage and a change of use. Capital facility impact fees are paid prior to final inspection for new construction, or at the time of permit issuance for all other types of construction. The tax rate in effect at the time of application applies.

Impact Fee Rates for Single Family Residential per Dwelling Unit

| Square Feet | Library | Parks & Recreation | Human Services | Municipal Facilities | Police | Fire | TOTAL |
|-------------|---------|--------------------|----------------|----------------------|--------|-------|---------|
| 900 or less | \$218 | \$1,489 | \$70 | \$133 | \$139 | \$99 | \$2,148 |
| 901-1000 | \$252 | \$1,728 | \$80 | \$154 | \$162 | \$115 | \$2,491 |
| 1001-1100 | \$282 | \$1,935 | \$91 | \$172 | \$182 | \$127 | \$2,789 |
| 1101-1200 | \$310 | \$2,126 | \$100 | \$189 | \$199 | \$140 | \$3,064 |
| 1201-1300 | \$335 | \$2,301 | \$109 | \$205 | \$216 | \$154 | \$3,320 |
| 1301-1400 | \$359 | \$2,463 | \$116 | \$219 | \$231 | \$163 | \$3,551 |
| 1401-1500 | \$382 | \$2,616 | \$123 | \$232 | \$244 | \$173 | \$3,770 |
| 1501-1600 | \$402 | \$2,758 | \$130 | \$247 | \$258 | \$183 | \$3,978 |

Impact Fee Rates for Single Family Residential per Dwelling Unit (con't)

| Square Feet | Library | Parks & Recreation | Human Services | Municipal Facilities | Police | Fire | TOTAL |
|--------------------|----------------|-------------------------------|-----------------------|-----------------------------|---------------|-------------|--------------|
| 1601-1700 | \$421 | \$2,893 | \$136 | \$257 | \$271 | \$191 | \$4,169 |
| 1701-1800 | \$442 | \$3,017 | \$141 | \$268 | \$282 | \$200 | \$4,350 |
| 1801-1900 | \$458 | \$3,135 | \$148 | \$279 | \$294 | \$209 | \$4,523 |
| 1901-2000 | \$474 | \$3,248 | \$154 | \$289 | \$304 | \$216 | \$4,685 |
| 2001-2100 | \$489 | \$3,354 | \$158 | \$298 | \$313 | \$222 | \$4,834 |
| 2101-2200 | \$505 | \$3,457 | \$163 | \$308 | \$325 | \$229 | \$4,987 |
| 2201-2300 | \$519 | \$3,554 | \$167 | \$315 | \$333 | \$235 | \$5,123 |
| 2301-2400 | \$533 | \$3,649 | \$172 | \$326 | \$343 | \$241 | \$5,264 |
| 2401-2500 | \$545 | \$3,738 | \$176 | \$333 | \$350 | \$249 | \$5,391 |
| 2501-2600 | \$559 | \$3,824 | \$181 | \$341 | \$357 | \$254 | \$5,516 |
| 2601-2700 | \$570 | \$3,906 | \$185 | \$348 | \$366 | \$259 | \$5,634 |
| 2701-2800 | \$582 | \$3,986 | \$188 | \$354 | \$374 | \$265 | \$5,749 |
| 2801-2900 | \$593 | \$4,064 | \$191 | \$361 | \$381 | \$270 | \$5,860 |
| 2901-3000 | \$604 | \$4,138 | \$194 | \$368 | \$388 | \$275 | \$5,967 |
| 3001-3100 | \$614 | \$4,208 | \$197 | \$375 | \$394 | \$280 | \$6,068 |
| 3101-3200 | \$625 | \$4,279 | \$201 | \$381 | \$401 | \$285 | \$6,172 |
| 3201-3300 | \$635 | \$4,346 | \$205 | \$388 | \$408 | \$289 | \$6,271 |
| 3301-3400 | \$645 | \$4,413 | \$209 | \$393 | \$414 | \$294 | \$6,368 |
| 3401-3500 | \$653 | \$4,476 | \$212 | \$399 | \$419 | \$297 | \$6,456 |
| 3501-3600 | \$663 | \$4,538 | \$215 | \$405 | \$424 | \$301 | \$6,546 |
| 3601-3700 | \$673 | \$4,598 | \$217 | \$409 | \$429 | \$304 | \$6,630 |

Impact Fee Rates for Multifamily Residential per Dwelling Unit

| Square Feet | Library | Parks & Recreation | Human Services | Municipal Facilities | Police | Fire | TOTAL |
|--------------------|----------------|-------------------------------|-----------------------|-----------------------------|---------------|-------------|--------------|
| 600 or less | \$229 | \$1,573 | \$73 | \$139 | \$148 | \$171 | \$2,333 |
| 601-700 | \$278 | \$1,904 | \$90 | \$168 | \$179 | \$207 | \$2,826 |
| 701-800 | \$319 | \$2,192 | \$103 | \$194 | \$205 | \$238 | \$3,251 |
| 801-900 | \$356 | \$2,445 | \$116 | \$218 | \$229 | \$267 | \$3,631 |
| 901-1000 | \$390 | \$2,671 | \$125 | \$237 | \$251 | \$291 | \$3,965 |
| 1001-1100 | \$419 | \$2,875 | \$136 | \$256 | \$270 | \$313 | \$4,269 |
| 1101-1200 | \$448 | \$3,062 | \$143 | \$273 | \$287 | \$334 | \$4,547 |
| 1201-1300 | \$473 | \$3,234 | \$152 | \$288 | \$302 | \$353 | \$4,802 |
| 1301-1400 | \$494 | \$3,394 | \$160 | \$302 | \$318 | \$370 | \$5,038 |
| 1401-1500 | \$517 | \$3,543 | \$166 | \$314 | \$332 | \$388 | \$5,260 |
| 1501-1600 | \$537 | \$3,680 | \$173 | \$328 | \$345 | \$402 | \$5,465 |

Impact Fee Rates for Nonresidential

| | | Impact Fee Rates Per Square Foot of Nonresidential Floor Area | | | |
|---|---------------------------|---|----------------------|--------------------|---------------------|
| | | <i>Municipal Facilities</i> | <i>Police</i> | <i>Fire</i> | <i>TOTAL</i> |
| <i>Nonresidential Uses</i> | Retail / Restaurant | \$0.14 | \$0.50 | \$0.40 | \$1.04 |
| | Business Park | \$0.17 | \$0.11 | \$0.10 | \$0.38 |
| | Office | \$0.21 | \$0.17 | \$0.59 | \$0.97 |
| | Hospital | \$0.18 | \$0.15 | \$0.51 | \$0.84 |
| | School | \$0.04 | \$0.08 | \$0.13 | \$0.25 |
| | Mini- Warehouse | \$0.00 | \$0.02 | \$0.00 | \$0.02 |
| | Warehousing | \$0.07 | \$0.04 | \$0.04 | \$0.15 |
| | Light Industrial | \$0.12 | \$0.06 | \$0.08 | \$0.26 |
| | | Impact Fee Rates for Other Nonresidential Uses Based on Unique Demand Indicators | | | |
| | | <i>Municipal Facilities</i> | <i>Police</i> | <i>Fire</i> | <i>TOTAL</i> |
| <i>Other Nonresidential Uses</i> | Nursing Home (per bed) | \$19.80 | \$22.00 | \$53.89 | \$95.69 |
| | Day Care (per student) | \$7.70 | \$19.80 | \$24.19 | \$51.69 |
| | Lodging (per room) | \$24.19 | \$52.80 | \$67.10 | \$144.09 |

Affordable Housing Linkage Fee (DT-5 nonresidential density bonus only) Nonresidential developments in the DT-5 zoning district that receive a density bonus (additional floor area) are assessed an affordable housing linkage fee of **\$9.53** per square foot for the bonus floor area. This fee is due prior to the issuance of a building permit.

MEMORANDUM

TO: Susan Richstone, Deputy Director of Community Planning and Sustainability
City of Boulder, Colorado

FROM: Carson Bise, AICP
TischlerBise, Inc.

DATE: February 26, 2015

SUBJECT: Follow Up and Suggested Next Steps from Public Meetings

The purpose of this memorandum is to summarize my thoughts on the direction the City of Boulder should take in reference to pursuing various fee study updates. These thoughts are based on my interaction with Boulder City Council, city staff, and members of the public who attended the Community Forum on Paying for Growth. Areas of analysis are discussed in turn.

IMPACT FEE STUDY UPDATE

The City of Boulder currently collects impact fees for libraries, human services, parks and recreation, municipal services, police and fire. Transportation, park land and affordable housing are structured as Excise Taxes. It has been seven years since the City of Boulder's Impact Fee and Excise Tax Study was updated. In the years between the last update and now, there has been tremendous change, not only in the economic climate facing the nation and the City of Boulder, but also City's interest in further exploring issues related to ensuring the mitigation of the impacts of new development.

For example, in the seven years that have passed since the last Impact Fee and Excise Study process, the local economy and the City's budgetary/financial position have improved dramatically, as have the amount and type of development pressures the City is currently experiencing. Both of these factors are compelling reasons for an update to the Impact Fee and Excise Tax Study, as the methodologies should reflect the current development base, current projections of future development for the next five to ten years, planned capital improvements, as well as current funding arrangements.

Transportation Impact Fee

The City of Boulder currently collects an excise tax for transportation, rather than an impact fee. As discussed during my presentation to the City Council, an excise tax is primarily a revenue raising tool, whereas an impact fee is a land use regulation intended to fund growth-related infrastructure. Regardless of whether the City elects to continue with an excise tax in the future, or switch to an

impact fee, the methodology used should reflect the current thinking related to transportation in an urban, redevelopment setting that the City of Boulder operates within. Current transportation planning thought recognizes that significant national demographics changes, shifting market preferences for walkable urbanism, and the importance of place making are compelling local governments to encourage redevelopment in urban and suburban centers where there is existing infrastructure capacity. On average, urban residential development has fewer persons and vehicles available per unit, relative to suburban residential development; thus lowering vehicular trip generation rates. Urban settings also provide options for walking, biking, and transit travel, thus lowering the vehicular mode share. Finally, mixed land use (vertical and horizontal), more compact development, and a better jobs-housing balance work together to reduce average trip lengths in urban areas.

As shown in the table below, traditional, transportation impact fees were designed with a suburban worldview and designed to increase capacity for vehicle travel. Traditional impact fees are typically uniform across the entire jurisdiction, are driven by generic formulas, tend to focus on 20-year master plans or build-out guesstimates, and are designed to fund infrastructure that will move vehicles.

In contrast, the basis of "next-generation" transportation impact fees is the recognition that impact fees can actually function like a land-use regulation to help shape development patterns. Planning and policy objectives drive next-generation transportation impact fees, which vary geographically to reflect cost differences, and are intended to move people rather than vehicles alone. The evidence is very compelling that next-generation transportation fees must differentiate between urban and suburban areas.

| <i>Traditional Impact Fees</i> | <i>Next Generation Impact Fees</i> |
|--|---|
| "pay to play" revenue source | contractual arrangement to build improvements |
| driven by generic formulas | driven by plans and policy |
| long range to buildout | five to ten year planning horizon |
| one and done | ongoing planning and budgeting process |
| suburban focus | apply transect concept |
| uniform across jurisdiction | vary geographically |
| moving vehicles | moving people |
| vehicle trips | inbound vehicle miles of travel |
| one size fits all | residential by dwelling size |
| loose cost analysis and generous credits | specific improvements with a funding strategy |

Source: TischlerBise.

In calculating a "next generation" impact fee for the City of Boulder, TischlerBise strongly believes that the goal should be to calculate a multi-modal impact fee that includes costs components not only for any needed road capacity and intersection improvements, but also bike lanes, sidewalks, trails, transit

and other multi-modal improvements. The city's updated Transportation Master Plan provides the foundation for this next generation fee.

COMMERCIAL LINKAGE FEE

From conversations with City staff and Council members there seems to be significant interest in establishing a commercial linkage fee as way to ensure new development's impact on the needs for affordable housing are met. As part of TischlerBise's 2008 Impact Fee and Excise Tax Study a housing Excise Tax methodology was developed. The council referred a measure to the voters, which was ultimately defeated.

The City more recently adopted a linkage fee, using the methodology developed by TischlerBise, for projects to get additional floor area the Downtown. Prior to the adoption of the linkage fee downtown, only housing was eligible to receive the additional floor area. Additionally, at an upcoming City Council meeting City will consider implementing the 2008 Housing Excise Tax amount calculated by TischlerBise as a linkage fee, on a Citywide basis, as an interim measure, until an updated commercial linkage fee methodology can be calculated. The methodology used in the 2008 housing Excise Tax Study was similar to the approach used for the calculation of impact fees. The housing linkage fee was based on the goal that the City maintains at least ten percent of its existing housing stock as permanently affordable housing. The approach in the 2008 study was a plan based impact fee methodology that would charge new nonresidential development only for the cost of its projected impact on provision of affordable housing due to growth. The costs in the 2008 study reflect new growth's share of the City's anticipated costs to provide affordable housing. Any existing deficiencies in affordable housing in the City were anticipated to be addressed through other regulatory approaches and/or financial sources.

This interim linkage fee should be adequate in the short term. However, given the changes in the economy discussed previously, particularly as it relates to housing costs, salaries by industry, as well as the need to integrate a commercial linkage fee into the City's overall Housing Strategy, an updated linkage fee study should be prepared. An issue of paramount importance is revisiting the purpose of a linkage as it relates to goals and objectives related to housing, including the consideration of the need for mitigating impacts to middle income housing.

Please let me know if you have any questions about this memorandum.

ORDINANCE NO. 7679

AN ORDINANCE SUBMITTING A BALLOT ISSUE TO THE VOTERS AT THE TUESDAY, NOVEMBER 3, 2009 ELECTION, INCREASING THE HOUSING EXCISE TAX ON NEW DEVELOPMENT, OTHER THAN ON RESIDENTIAL DWELLING UNIT DEVELOPMENT, TO PROVIDE AFFORDABLE HOUSING FOR PEOPLE WITH LOW INCOMES; REPEALING PORTIONS OF THE EXISTING HOUSING EXCISE TAX ON RESIDENTIAL DEVELOPMENT; AND SETTING FORTH RELATED DETAILS.

The City Council finds and recites that:

A. In 1998 the voters approved a Housing Excise Tax to raise money for the provision of affordable housing for people who live and work in the city.

B. A diverse housing stock is necessary in this community in order to serve people of all income levels and to provide the opportunity for working people to have better access to jobs and upgrade their economic status.

C. A housing shortage for persons of very low-, low- and moderate-income is detrimental to the public health, safety and welfare. The inability of such persons to reside within the city negatively affects the community's jobs/housing balance and has serious and detrimental transportation and environmental consequences.

D. The Housing Excise Tax has historically been levied on development of new residential dwelling units. The city's inclusionary zoning regulations, reflected in chapter 9-13 of the Boulder Revised Code, also apply to that development.

E. Imposing the Housing Excise Tax on development other than residential dwelling unit development is appropriate because both residential and non-residential development generate jobs and the need for very low-, low-, and moderate-income housing in the city. However, residential dwelling unit development already contributes to the provision of affordable housing through the inclusionary zoning regulations.

F. If the voters approve this ordinance, the tax rates set forth herein will become the maximum Housing Excise Tax rates for new development other than residential dwelling unit development, and the current Housing Excise Tax on new residential dwelling units will be eliminated.

1 **G.** The purpose of this ordinance is to shift the tax burden from new residential
2 dwelling units to other categories of new development.

3 **H.** If the voters approve this ballot measure, the City Council will be authorized to
4 adopt such laws as are necessary to further the purposes of this ordinance.

5 **I.** It is appropriate for voters to approve collection, retention and expenditure of the
6 full amount collected from the Housing Excise Tax.

7 **J.** The increased revenue that will be generated for affordable housing is necessary
8 for the continued provision of critically important housing within the city.

9 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
10 OF BOULDER, COLORADO:**

11 Section 1. A general municipal coordinated election will be held in the city of Boulder,
12 county of Boulder and state of Colorado, on Tuesday, November 3, 2009, between the hours of
13 7 a.m. and 7 p.m.

14 Section 2. At that election, there shall be submitted to the electors of the city of Boulder
15 entitled by law to vote the question of whether to authorize an increase in the Housing Excise
16 Tax; repeal a portion of the existing Housing Excise Tax; and collect, retain and spend the
17 revenues generated from such tax notwithstanding any state revenue or expenditure limitations,
18 pursuant to an ordinance consistent with the ballot question to be adopted by City Council.

19 The official ballot shall contain the following ballot title, which shall also be the
20 designation and submission clause for the measure:
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BALLOT ISSUE NO. _____

CHANGES TO HOUSING EXCISE TAX

SHALL CITY OF BOULDER HOUSING EXCISE TAXES BE INCREASED FOR NEW DEVELOPMENT TO PRODUCE APPROXIMATELY \$1,250,000 (IN THE FIRST YEAR) ANNUALLY; AND

PURSUANT TO ORDINANCE NUMBER 7679 AND FUTURE CITY COUNCIL ACTION:

SHALL THE PURPOSE OF THIS MEASURE BE TO SHIFT THE TAX BURDEN FROM NEW RESIDENTIAL DWELLING UNITS TO OTHER CATEGORIES OF NEW DEVELOPMENT; AND

SHALL THE EXISTING HOUSING EXCISE TAX BE ELIMINATED ON RESIDENTIAL DWELLING UNITS; AND

SHALL THE HOUSING EXCISE TAX ON NEW DEVELOPMENT OTHER THAN RESIDENTIAL DWELLING UNITS BE RAISED TO BETWEEN \$3.00 AND \$7.00 PER SQUARE FOOT BASED UPON THE FOLLOWING LAND USE CLASSIFICATIONS:

- COMMERCIAL USES
- INDUSTRIAL AND GENERAL NON RESIDENTIAL USES
- INSTITUTIONAL USES; AND

SHALL THE CITY COUNCIL BE AUTHORIZED TO PHASE IN THE NEW TAX RATES OVER FIVE YEARS OR MORE AND MAKE THE TAX SUBJECT TO AN ANNUAL INCREASE BEGINNING IN 2015 BASED UPON AN INDEX RELATED TO THE COST OF PRODUCING HOUSING IN THE AREA; AND

SHALL THE CITY COUNCIL BE AUTHORIZED TO REDUCE OR WAIVE ANY PORTION OF THE HOUSING EXCISE TAX WHEN DETERMINED TO BE IN THE PUBLIC INTEREST; AND

SHALL APPROVAL BE GRANTED FOR THE COLLECTION, RETENTION AND EXPENDITURE OF ALL REVENUES RECEIVED FROM SUCH TAX NOTWITHSTANDING ANY STATE REVENUE OR EXPENDITURE LIMITATION?

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1 **Section 3.** The City Council will amend chapter 3-9 “Housing Excise Tax,” B.R.C. 1981,
2 as soon as practical after the passage of this measure to include the following elements:

- 3 1. The existing Housing Excise Tax on residential development shall be eliminated;
- 4 2. The Housing Excise Tax as approved by the voters may be imposed on all new
5 development other than residential dwelling unit development;
- 6 3. The tax rates shall be phased in between January 1, 2010 and December 31, 2014,
7 up to the amounts listed, or in such lesser amount or over such longer period as
8 may be determined by the City Council;
- 9 4. The Housing Excise Tax rates may be increased by application of an index related
10 to the cost of producing housing in the area applied to the maximum rate each
11 year commencing in 2015;
- 12 5. The procedures by which the taxes will be assessed and collected;
- 13 6. Definitions of the taxation categories and other terms will be provided;
- 14 7. The Housing Excise Tax may be reduced or waived by City Council when
15 determined to be in the public interest;
- 16 8. Credit offsets may be provided for uses in place prior to the assessment of the
17 new Housing Excise Tax provisions.

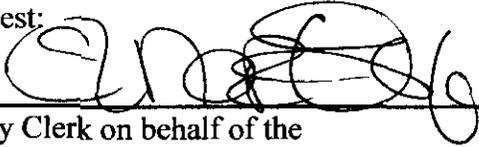
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21 **Section 4.** The maximum tax rate for 2010-2014 for new development other than
22 residential dwelling unit development shall be the following amounts for the following
23 categories assessed on a per square foot of floor area basis:

| | |
|--|--------|
| 24 Commercial | \$7.00 |
| 25 Industrial and General Non-Residential | \$5.00 |
| 26 Institutional | \$3.00 |

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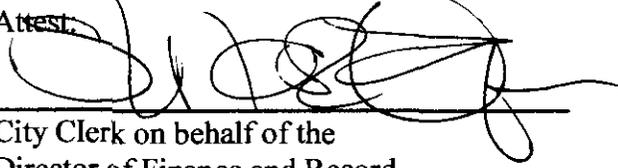
READ ON SECOND READING, AMENDED AND ORDERED PUBLISHED BY
TITLE ONLY this 4th day of August 2009.


Mayor

Attest:

City Clerk on behalf of the
Director of Finance and Record

READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED
BY TITLE ONLY this 18th day of August 2009.


Mayor

Attest:

City Clerk on behalf of the
Director of Finance and Record