

Special Meeting AGENDA
City Council Meeting
City of Middleton, Idaho

Date: Tuesday September 8, 2020

Time: 2:30 p.m.


Location: **City Hall, 1103 W Main Street, Middleton, Idaho**

Call-to-order, roll call, Pledge of Allegiance, Invocation

Action Items

1. **2nd Reading:** Consider adopting Ordinance No. 633: An Ordinance of the City of Middleton, Canyon County, Idaho, amending Title 5 of the Middleton city code updating general provisions, modifying and updating land use, setback table, subdivision of land, road standards and recreational vehicle park requirements, making other minor modifications and providing an effective date.
2. **Middleton Rural Fire District: 2nd Reading:** Consider adopting Ordinance No. 634: AN ORDINANCE AMENDING THE CITY OF MIDDLETON CITY CODE BY THE ADDITION OF A NEW CHAPTER 18 TO TITLE 1 PROVIDING FOR MIDDLETON RURAL FIRE DISTRICT DEVELOPMENT IMPACT FEES
3. **The City of Caldwell Fire Department & Caldwell Rural Fire District Impact Fee: 2nd Reading:** Consider adopting Ordinance No. 635: AN ORDINANCE AMENDING THE CITY OF MIDDLETON CITY CODE BY THE ADDITION OF A NEW CHAPTER 19 TO TITLE 1 PROVIDING FOR CALDWELL RURAL FIRE PROTECTION DISTRICT DEVELOPMENT IMPACT FEES
4. Consider approving bid from Irvco Asphalt/Gravel for Sawtooth Lake Drive Crossing Project in an amount not to exceed \$775,119.36 – Bruce Bayne

Public Comments, Mayor and Council Comments, Adjourn

Posted by: 
Jennica Reynolds, Deputy Clerk

Date: September 4, 3:00 p.m.

Please contact the City Clerk at (208) 585-3133 if you have special needs or require assistance.

Ordinance No. 633

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, AMENDING THE MIDDLETON CITY CODE TITLE 5, CHAPTER 1, SECTION 5 UPDATING HEAVY INDUSTRIAL STANDARDS; AMENDING TITLE 5, CHAPTER 2, SERCTION 4, TABLE 1 TO UPDATING CERTAIN LAND USE STANDARDS; UPDATING TITLE 5, CHAPTER 2, SECTION 3, TABLE 2 WITH REVISED NOTES; UPDATING PLAT APPLICATION SUBMISSION REQUIREMENTS; AND UPDATING REQUIRED ROAD IMPROVEMENTS, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Middleton, Idaho, is a municipal corporation organized and operating under the laws of the State of Idaho, and

WHEREAS, the City of Middleton, Idaho, seeks to update the provisions of its zoning and subdivision ordinances; and

WHEREAS, the City held a public hearing, noticed and conducted in accordance with Idaho law, before the city council on September 2, 2020; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIDDLETON, IDAHO, AS FOLLOWS:

Section 1: Middleton City Code Title 5, Chapter 1, Section 5 ZONING DISTRICTS is hereby amended to read as follows:

5-1-5: ZONING DISTRICTS:

M-2 (Heavy Industrial): The purpose of the M-2 (Heavy Industrial) Zone is to accommodate more intense industrial, ~~and~~ manufacturing uses, mini-warehouse storage and recreational vehicle (RV) parks.

Section 2: Middleton City Code Title 5, Chapter 2, Section 4, Table 1 is hereby amended, in part, to read as follows:

Use ^{1,2}	A-R	C-1	C-2	C-3	M-1	M-2	R-1	R-2	R-3	R-4	R-4T	M-F	M-U
Mini ware-house storage				A	A	AS							S
Mining/mineral extraction	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	AS	AS	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>
Recreational vehicle (RV) park				A	A	<u>S</u>							

Notes:

3. Agriculture or horticulture, including the raising of fowl, poultry and animals, except hogs, billygoats and roosters, not exceeding a total of 4 on any lot or acre. Further provided that no horse, cow, emu or usual large farm animal shall be maintained on any lot ~~which is~~ less than one-half (1/2) acre in size; and providing that buildings and enclosures housing such large farm animals shall be not less than 30 feet from any property line; and at least 50 feet from all residential structures.

Section 3: Middleton City Code Title 5, Chapter 2, Section 3, Table 2 is hereby amended to read as follows:

District	Requirements ⁷								
	Maximum Density (Units/Gross Acres)	Maximum Height	Front ^{3, 5}	Rear ⁶	Side ^{3, 6}	Side Street ^{3, 6}	Interior Lot Area (Sq. Ft.)	Minimum Lot Width ¹	Maximum Lot Coverage ²
A-R	0.2	35'	35'	30'	12'	35'	2 acres	150'	20%
C-1 ⁴		35'	10'	0'	0'	10'	0		90%
C-2 ⁴		35'	10'	0'	0'	10'	0		90%
C-3 ⁴		45'	10'	0'	0'	10'	0		90%
M-1 ⁴		45'	10'	0'	0'	10'	0		90%
M-2 ⁴		45'	10'	0'	0'	10'	0		90%
R-1	1.0	35'	35'	30'	12'	35'	20,000	100'	50%
R-2 ⁹	2.0	35'	25'	30'	12'	35'	15,000	90'	50%
R-3 ⁹	3.0	30'	25'	20'	10'	20'	8,000	75'	60%
R-4	4.0	30'	25'	20'	10'	20'	6,000 ⁸	60'	60%
R-4T	4.0	20'	25'	20'	6/7'	20'	5,500	55'	60%
M-F	12.0	35'	20'	20'	12'	20'	3,500 ⁸		75%

M-U	12.0	35'	20'	20'	12'	20'	3,500 ⁸		75%
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Notes:

9. See section 5-4-11-2 of this Code.

Section 4: Middleton City Code Title 5, Chapter 5, Section 3, TRAFFIC IMPACT ANALYSIS is hereby amended to read as follows:

All subdivisions containing more than twenty five (25) equivalent dwelling units shall provide a traffic impact analysis, prepared and stamped by a licensed traffic engineer and submitted with the preliminary plat application. A traffic impact analysis may be required with an application for any development as deemed necessary on a case by case basis. An analysis may be waived if traffic impacts are mitigated through provisions identified in a development agreement. The analysis shall be reviewed and approved by the city.

Section 5: Middleton City Code Title 5, Chapter 4, Section 4, Subsections A and PRELIMINARY PLAT is hereby amended to read as follows:

5-4-4: PRELIMINARY PLAT:

- A. Application: In addition to the application requirements in subsection 1-14-2A of this Code, an applicant shall file with the City: a copy of the complete application, fees, ~~and one~~ (1) electronic full-size PDF copy, and three full-sized copies of the preliminary plat with data as required in this section, and a title report or commitment for title insurance, including schedule B, indicating the nature of the applicant's ownership of land included in the preliminary plat. The City, at least fifteen (15) calendar days before the initial public meeting, shall mail to landowners within three hundred feet (300') of the external boundaries of the lands to be subdivided a notice that the City received an application, the number of acres and proposed number of residential, non-residential, and total lots, proposed land uses, and the dates and times that the application can be reviewed at City offices. After all City comments are addressed by the applicant, and prior to any public meeting about the plat, the applicant shall submit one (1) electronic full-size PDF copy to the City.
- 1. Form Of Presentation: The information hereinafter required as part of the preliminary plat submitted shall be shown graphically or by note on plans and may comprise several sheets showing various elements or required data. All mapped data for the same plat shall be drawn at the same standard engineering scale, having not more than one hundred feet to an inch (1" = 100'). Whenever practical, scales shall be adjusted to produce an overall drawing measuring twenty four inches by thirty six inches (24" x 36"), but not exceeding forty two inches by sixty inches (42" x 60").
- 2. Identification And Descriptive Data: The following existing and proposed information shall be shown on the preliminary plat or submitted separately:

- a. Proposed name of subdivision and its location by section, township and range, centered at the top, if possible; reference by dimension and bearing to a section corner, quarter section corner, or recorded monument.
- b. The following information constituting the name block shall be listed along the right edge, if possible: subdivision name, revision data, name, address and phone number of property owner(s), subdivider, engineer or surveyor who prepared the plat.
- c. If the subdivision is to be developed in phases, phase lines, numbers and development data per phase shall be shown on the plat. If changed during development, the subdivider shall obtain City approval of an amended preliminary plat prior to filing an application for final plat.
- d. Scale, north arrow and date of preparation including dates of any subsequent revisions.
- e. Vicinity map drawn to a maximum scale of one inch equals one thousand feet (1" = 1,000'), clearly showing proposed subdivision configuration in relationship to adjacent subdivisions, roads, parks, schools, waterways, etc.
- f. Topography based on current USGS datum shown on the same map as the proposed subdivision layout. Contour lines shown at two foot (2') intervals, referenced to an established bench mark, including location and elevation.
- g. Location of water wells, streams, canals, irrigation laterals, private ditches, drains, washes, lakes or other water features; direction of flow; and the regulatory floodplain and floodway boundaries.
- h. Location, widths and names of all existing and proposed: platted roads, easements, alleys and bicycle/pedestrian pathways, arrows indicating direction of slopes, type of surface, curb, gutter and/or sidewalks, connections to adjoining lots, and other important features such as railroads, utility rights-of-way and easements of public record, public areas, and permanent structures such as water wells, septic systems and drainfields.
- i. Name of any recorded adjacent subdivision, and owner of land not in a subdivision, having a common boundary with the lot.
- j. By note, the existing zoning classification of the lot and adjacent land. If the plat includes land for which multi-family, commercial or industrial use is proposed, such areas shall be clearly designated together with existing zoning classification.
- k. By note: the total acreage of the subdivision; the total number of lots, cumulative and by phase; the total number of buildable lots by phase; and the total number of common area lots by phase.

- l. The subdivision boundary shall be based on an actual field survey including professional stamp. Boundary problems shall be resolved and nonbuildable remnant parcels are prohibited. Show any public dedications of rights-of-way or easements.
- m. Names of all property owners adjacent to the exterior boundary of the proposed subdivision.
- n. Location and type of utility systems, such as: stormwater, sewer, water, streetlights, fiber and fire hydrants.
- o. Typical lot dimensions to scale; dimensions of all corner lots and lots of curvilinear sections of roads; each lot, block and phase numbered consecutively and individually.
- p. Designation of all land to be dedicated for public use with purpose indicated. Designation of all land to be used for a common purpose and designate the purpose, including the intended beneficiary and person or entity responsible to maintain the property.
- q. Identify any special development area as defined in section [5-4-13](#) of this chapter.
- r. Applicant is responsible to review comprehensive plan maps (including transportation, schools and recreation maps) and include on the preliminary plat respective transportation, school and recreation improvements. ~~If a transportation improvement that is identified on the transportation map is entirely on the applicant's property, then the City may pay to design the improvement and pay up to forty five percent (45%) of the cost of construction; the applicant shall pay for the remaining construction costs.~~ Applicant shall pay its prorata share of any improvements recommended by a City approved traffic ~~study~~ impact analysis before the City approves the final plat or final plat of the first phase.

3. Proposed Utility Methods:

- a. Sewage Disposal: The subdivider shall furnish the subdivision design flows and any special operation of the sanitary sewage facilities proposed. A preliminary layout and statement as to the type of facilities proposed shall appear on the preliminary plat.
- b. Water Supply: The subdivider shall furnish the design, operation, volume and quality of the water supply requested and facilities proposed. A preliminary layout and statement as to the type of facilities proposed shall appear on the preliminary plat.
- c. Stormwater Disposal: The subdivider shall furnish the design and operation of the stormwater disposal system. A statement as to the type of facilities proposed and an indication of the area to be used for treatment/disposal shall appear on the preliminary plat. All stormwater is to be managed on site.
- d. Irrigation System: A statement describing the proposed irrigation system, point of delivery, and preliminary layout shall appear on the preliminary plat.

Section 6: Middleton City Code Title 5, Chapter 4, Section 7, Subsections A and I, FINAL PLAT is hereby amended to read as follows:

5-4-7: FINAL PLAT:

A. Application:

1. An applicant shall file with the City: a copy of the complete final plat application, fees, and one (1) electronic full-size PDF copy, and three full-sized copies of the final plat with data as required in this section. After all City comments are addressed by the applicant, and prior to any Council consideration of the plat, the applicant shall submit one (1) electronic full-size PDF copy and three full-sized copies to the City.

I. Recording Of Final Plat: The subdivider shall record the City approved final plat. At the time of recording of the final plat, the City is deemed to have accepted the dedications shown. After recording, the subdivider shall deliver to the City one (1) electronic PDF copy and two full sized and two 11" x 17" copies, ~~printable in full and eight and one half by eleven (8¹/₂ x 11)~~ sizes, showing recording information

Section 7: Middleton City Code Title 5, Chapter 4, Section 11, Subsection 2 is hereby amended and a new section 9 is hereby added to read as follows:

5-4-11-2: REQUIRED IMPROVEMENTS:

A. Minimum Improvements: The owner or subdivider shall construct the following improvements for the subdivision/development according to the Middleton Comprehensive Plan Transportation, Schools and Recreation map, Idaho Standards for Public Works Construction, (ISPWC) and the Middleton supplement to the ISPWC.

Subdivisions in an R-1 Zone: Local roadway ~~Curb~~curb, gutter and, sidewalks, and streetlights are not required. Local roadway Public-public roads may be narrowed, and no parking on the public roads. Right-of-way may be narrowed if there are not sidewalks. A three-car garage and lighting the entire front of house are required on each residential lot. Reminder, this Code allows a horse, cow or large farm animal(s) on lots at least one acre in size this code prohibits large farm animals on any lot less than one-half (1/2) acre in size.

Subdivisions in an R-2 and R-3 Zone: Local roadway ~~Curb~~curb, gutter, and sidewalks, and streetlights are not required, if all residential lots are at least one-half (1/2) acre in size. Local roadway Right-right-of-way may be narrowed if there are not sidewalks. A three-car garage and lighting the entire front of house are required on each residential lot. Reminder, this code prohibits large farm animals on any lot less than one-half (1/2) acre in size this Code prohibits a horse, cow or large farm animal(s) on lots less than one acre in size.

Subdivisions in an R-3 Zone: Curb, gutter, sidewalks, and streetlights are required. A two-car or three-car garage is required on each residential lot.

1. Roads, Curbs And Gutters: Roads and portions of roads constructed to finished grade with approved centerline monuments to be set to the road surface by a registered professional land surveyor; improved with asphalt plant mix and combination of concrete curb and gutter, or alternate road section as approved by the City. Roads, rights-of-way and associated improvements shall be extended to the property boundary providing connectivity and orderly growth as directed by the City.
2. Sidewalks, Pathways, Bicycle Lanes, and Greenbelt: Five-foot (5') wide concrete sidewalks abutting the curb on both sides of the road, unless otherwise approved by the City; eight-foot (8') wide asphalt detached pathways on both sides of the road, unless otherwise approved by the City; and six-foot (6') wide bicycle lanes on both sides of the road, unless otherwise approved by the City; and twelve-foot (12') wide asphalt pathway, centered on a minimum twenty foot (20') wide lot or easement, dedicated to the city, in the greenbelt.
3. Stormwater Disposal: The management of stormwater shall conform with the City stormwater management policy (section [5-4-10-9](#) of this chapter).
4. Utilities: The extension of utilities, including power distribution lines, shall be underground and at the developer's expense, and shall have the capacity and placement necessary to serve land located beyond the project site. Developer is responsible for construction of utilities to and through Developer's project site as determined by the City.
5. Sanitary Sewer System: Connection to City sewer is required. Approval of the subdivision shall be based on treatment capabilities, such as density requirements, the need for entirely new systems and other treatment possibilities that are in harmony with officially recognized practices of the City.
6. Domestic Water System:
 - a. Connection to City water is required. Water hookups shall be allowed only within the City limits unless approved by the Council upon recommendation of the City Engineer.
 - b. If the City requires a larger water main to accommodate future development than the size of line required by the City for the subdivision/development, the developer shall install the larger line size required by the City.
 - c. Four inch (4") blowoffs for water lines shall be required at the terminus of all dead end main lines unless a standard fire hydrant is available at the terminus.
7. Monuments: Monuments shall be set in accordance with Idaho Code section 50-1303. For each subdivision phase or development, any portion of which is located within a regulated floodplain, one elevation monument setting forth the elevation and datum shall be located within a monument box, as well as identified on the record drawings. The location of the monument shall be approved by the City Engineer.

8. Fire Hydrants: Fire hydrants shall be installed by the subdivider in locations specified by the City, every six hundred feet (600'), or as determined by the Fire Code and the Middleton Rural Fire District.
9. Road Name Signs: Road name signs shall be installed in the appropriate locations at each road intersection. Cost of road signs shall be the responsibility of the developer and the signs shall be installed to City specifications.
10. Streetlights: Streetlights shall be required to be installed by the subdivider/developer at the intersections, cul-de-sacs, at approximately every four hundred feet (400'), and where the City deems necessary throughout the subdivision/development. All costs to install streetlights and poles shall be borne by the developer.
11. Service Connections: All service connections for sanitary sewer and domestic water shall be installed to the property line before placing base gravel for the road.
12. Irrigation Improvements: A pressure irrigation system shall be provided. All irrigation structures, lines and drain lines except mains used for stormwater management shall be located or relocated out of the road right-of-way. City water may not be used for irrigation supply unless specifically approved by the City.
13. Perimeter Fence: Developers of residential subdivisions shall install a six-foot (6') fence along the perimeter of each phase of the subdivision by the time the City signs the final plat for that phase.
14. Monument Signs at Entrances: Obtain a sign permit from the City and construct a monument-type sign at subdivision entrances from ~~collector and arterial~~ public roads.
15. On Site And Off Site Improvements: On-site and off-site improvements of any of the above are required where it is deemed necessary to properly serve the proposed development or protect the integrity of the usefulness of existing off-site improvements or utilities.

B. Inspections:

1. Appropriate agencies, departments, the City and/or others shall inspect or cause to be inspected improvements such as buildings, public utilities and infrastructure, in the course of construction, installation or repair. Excavations shall not be covered or backfilled until such installations have been inspected. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued by the City to the responsible person.
2. The owner and/or subdivider shall retain a full time licensed professional engineer or licensed construction manager who shall supervise the construction inspection, certify that all improvements were constructed in accordance with the approved improvement

drawings and City standards and furnish the City two (2) hard copies and one electronic PDF copy of the certified as built improvement drawings and construction logs complete with ties to all water valves and service connections.

3. The City shall be notified when construction begins on any of the improvements listed and prior to performing utility line pressure tests. Any improvements deemed unsatisfactory by the City Engineer shall be corrected at the subdivider's expense.

Section 10: This ordinance, or a summary thereof as provided by Idaho Code §50-901A, shall be published in one (1) issue of the official newspaper of the City of Middleton, Idaho, and shall take effect immediately upon its passage, approval and publication.

Dated this _____ day of September, 2020.

CITY OF MIDDLETON
Canyon County, Idaho

Steven J Rule, Mayor

ATTEST:

Jennica Reynolds, Deputy City Clerk

**CITY OF MIDDLETON
Canyon County, Idaho**

ORDINANCE No. 634

AN ORDINANCE AMENDING THE CITY OF MIDDLETON CITY CODE BY THE ADDITION OF A NEW CHAPTER 18 TO TITLE 1 PROVIDING FOR MIDDLETON RURAL FIRE DISTRICT DEVELOPMENT IMPACT FEES, PROVIDING FOR:

- **SHORT TITLE, APPLICABILITY, FINDINGS AND PURPOSE;**
- **DEFINITIONS;**
- **IMPOSITION OF FIRE DISTRICT IMPACT FEE;**
- **COLLECTION OF FIRE DISTRICT IMPACT FEES;**
- **EXEMPTIONS;**
- **PROCESS FOR INDIVIDUAL ASSESSMENT;**
- **DEVELOPER CREDITS AND REIMBURSEMENTS;**
- **METHODOLOGY FOR CALCULATION OF FIRE DISTRICT IMPACT FEES;**
- **EXTRAORDINARY IMPACTS;**
- **FEE PAYER REFUNDS;**
- **ESTABLISHMENT BY THE FIRE DISTRICT OF AN IMPACT FEE TRUST FUND AND TRUST ACCOUNTS;**
- **USE AND EXPENDITURE OF FIRE DISTRICT IMPACT FEES;**
- **APPEALS, PROTEST AND MEDIATION;**
- **PERIODIC REVIEWS OF THE CAPITAL IMPROVEMENTS PLAN;**
- **ANNUAL AUDIT;**
- **THE DEVELOPMENT IMPACT FEE ADVISORY STANDING COMMITTEE;**
- **ENFORCEMENT AND COLLECTION;**
- **THE CITY AND FIRE DISTRICT INTERGOVERNMENTAL AGREEMENT;**
- **MISCELLANEOUS PROVISIONS;**
- **PUNISHMENT FOR VIOLATIONS OF THE ORDINANCE;**
- **CONSTRUCTION OF ORDINANCE INTENT; and**
- **PROVIDING AN EFFECTIVE DATE AND PUBLICATION.**

BE IT ORDAINED by the Mayor and City Council of the City of Middleton, Canyon County, Idaho:

Section 1: That the Middleton City Code be and the same is hereby amended by addition of a new Chapter 18 to Title 1, to read as follows:

TITLE 1

CHAPTER 18

FIRE DISTRICT DEVELOPMENT IMPACT FEES

1-18-1: - SHORT TITLE, APPLICABILITY, FINDINGS AND PURPOSE:

- A. *Short title.* This Chapter shall be known and may be cited as the *Middleton Rural Fire District Development Impact Fee Ordinance*.
- B. *Authority.* This ordinance is enacted pursuant to the City's general police powers, its authority to enact ordinances, and its authority as provided by the *Idaho Development Impact Fee Act* codified at Chapter 82 of Title 67, Idaho Code (the "Act") and other applicable laws of the state of Idaho to impose development impact fees; and the City's and the Fire District's Authority to enter into an Intergovernmental Agreement as provided for in Idaho Code § 67-8204A to impose, collect and expend development impact fees.
- C. *Applicability.* Except as otherwise exempted in section 1-18-5, these provisions shall apply to the Development of property located within the boundaries of the City of Middleton, Idaho.
- D. *Findings:*
1. The Middleton Rural Fire District, (the "Fire District") is a fire district organized and existing by virtue of the Fire Protection District Law Chapter 14 of Title 31, Idaho Code, and its boundaries include areas within the City limits of the City of Middleton (the "City") and areas surrounding the City on the north, east and west, and the Fire District provides fire and emergency services within the City; and
 2. The Fire District's duty and responsibility is to provide protection of property against fire and the preservation of life, and enforcement of any of the fire codes and other rules that are adopted by the state fire marshal; and
 3. The City is experiencing considerable growth and Development; and
 4. The purposes of the Act [Idaho Code § 67-8202] are as follows:
 - Ensure that adequate public facilities are available to serve new growth and Development;
 - Promote orderly growth and Development by establishing uniform standards by which local governments, such as the City and the Fire

District, may require those who benefit from new growth and Development pay [development impact fees] their proportionate share of the costs of new public facilities needed to serve that new growth and Development; and

- Establish minimum standards for adoption of development impact fee ordinances by cities; and
- Ensure that those who benefit from new growth and Development are required to pay no more than their proportionate share of the cost of public facilities needed to serve that new growth and Development and to prevent duplicate and ad hoc development requirements; and
- To empower cities to adopt ordinances to impose development impact fees.

5. *The Act:*

- does not authorize the Fire District to enact a development impact fee ordinance; and
- does provide, pursuant to Idaho Code § 67-8204A, in circumstances where the City and the Fire District are both affected by the considerable growth and Development as is occurring within the City, that the City and the Fire District may enter into the Intergovernmental Agreement for the purpose of agreeing to collect and expend development impact fees for System Improvements which provides for a new funding mechanism for those System Improvements Costs incurred by the Fire District to meet the demand and growth occurring within the City and which promotes and accommodates orderly growth and development and protects the public health, safety and general welfare of the residences within the boundaries of the City.

6. New residential growth within the City and within the boundaries of the Fire District imposes and will impose increasing and excessive demands upon the existing Fire District Capital Facilities.
7. The tax revenues generated from new residential Development within the City and within the boundaries of the Fire District often do not generate sufficient funds to provide the necessary improvements and expansion of existing Fire District Capital Facilities to accommodate for that new growth.
8. New growth within the City and within the boundaries of the Fire District is expected to continue, and will place ever-increasing demands

on the Fire District to provide and expand the Fire District's Capital Facilities to serve that new growth.

9. Section 67-8204A of the Act authorizes the City to adopt an impact fee system and to enter into the Intergovernmental Agreement with the Fire District to offset, recoup, or reimburse the portion of the costs of needed improvements to the Fire District Capital Facilities caused by new growth and Development in the City and within the boundaries of the Fire District.
10. The creation of an equitable impact fee system facilitated by the Intergovernmental Agreement with the Fire District, will promote the purposes set forth in the Act, in that it would: (a) ensure that adequate Fire District Capital Facilities are available to serve new growth and Development; (b) promote orderly growth and Development by establishing uniform standards by which the City may require that those who benefit from new growth and Development pay a proportionate share of the cost of new Fire District Capital Facilities needed to serve new growth and Development in the City and within the boundaries of the Fire District; (c) establish minimum standards for the adoption of Fire District Impact Fees; (d) ensure that those who benefit from new growth and development are required to pay no more than their proportionate share of the cost of Fire District Capital Facilities needed to serve new growth and Development in the City and within the boundaries of the Fire District; and (e) prevent duplicate and ad hoc Development requirements in the City.
11. The City has formed an Advisory Committee as required by Idaho Code § 67-8205, and the Committee has performed the duties required of it pursuant to Idaho Code §§ 67-8205 and 67-8206(2). The City and the Fire District intend that the Committee will continue to exist and perform those duties identified in Idaho Code § 67-8205 that occur following the adoption of this *Middleton Rural Fire District Development Impact Fee Ordinance*.
12. The Fire District has planned for the improvement of Fire District Capital Facilities in the Capital Improvements Plan.
13. The creation of an equitable impact fee system would enable the City to accommodate new development, and would assist the Fire District to implement the capital improvements element of the Capital Improvements Plan.
14. In order to implement an equitable impact fee system for the Fire District's fire prevention and life preservation facilities, the City adopted by resolution and the Fire District adopted by resolution the

Middleton Rural Fire District Impact Fee Study and Capital Improvements Plan (the “Capital Improvements Plan”). Galena Consulting was hired by the Fire District to assist the Advisory Committee in the preparation of the Study.

15. The methodology used in the Capital Improvements Plan, as applied through this Chapter, complies with all applicable provisions of Idaho law, including those set forth in Idaho Code §§ 67-8204(1), (2), (16) and (23), 67-8207 and 67-8209. The incorporation of the Capital Improvements Plan by reference satisfies the requirement in Idaho Code § 67-8204(16) for a detailed description of the methodology by which the Fire District Impact Fees were calculated, and the requirement in Idaho Code § 67-8204(24) for a description of acceptable levels of service for Fire District System Improvements.
16. In determining the proportionate share of System Improvements Costs, the Capital Improvements Plan has considered: (a) the cost of the existing System Improvements; (b) the means by which the existing System Improvements have been financed; (c) the extent to which the new Development will contribute to System Improvements Costs through taxation, assessment, or developer or landowner contributions, or has previously contributed to System Improvements Costs through developer or landowner contributions; (d) the extent to which the new Development is required to contribute to System Improvements Costs in the future; (e) the extent to which the new Development should be credited for providing System Improvements, without charge to other properties within the Service Area or areas; (f) Extraordinary Costs, if any, incurred in serving the new Development; (g) the time and price differential inherent in a fair comparison of fees paid at different times; and (h) the availability of other sources of funding System Improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation and includes a plan for alternative sources of revenue.
17. The Capital Improvements Plan contains the Capital Improvements planned by the Fire District during the term of the Capital Improvements Plan, and such element has been developed in conformance with the requirements in Chapter 82 of Title 67, Idaho Code.
18. The Capital Improvements Plan sets forth reasonable methodologies and analyses for determining the impacts of various types of new Development on the Fire District Capital Facilities, and determines the cost of acquiring or constructing the improvements necessary to meet the demands for such facilities created by new Development.

19. In accordance with Idaho Code, the Capital Improvements Plan was based on actual System Improvements Costs or reasonable estimates of such costs. In addition, the Capital Improvements Plan uses a fee calculation methodology that is net of credits for the present value of revenues that will be generated by new growth and Development based on historical funding patterns and that are anticipated to be available to pay for System Improvements, including taxes, assessments, user fees, and intergovernmental transfers.
20. The Fire District Impact Fees established by this Chapter are based on the Capital Improvements Plan, and do not exceed System Improvements Costs to serve new Development that will pay the Fire District Impact Fees.
21. The Fire District Capital Facilities included in the calculation of fees in the Capital Improvements Plan will benefit all new residential Development throughout the City which is also within the boundaries of the Fire District, and it is therefore appropriate to treat all areas of the City that are also within the boundaries of the Fire District as a single Service Area for purposes of calculating, collecting, and spending the Fire District Impact Fees collected from Developers.
22. There is both a rational nexus and a rough proportionality between Development impacts created by each type of Development covered by this Chapter, the development impact fees assessment of such Development covered by this Chapter, and the development impact fees that such Developer will be required to pay.
23. This Chapter creates a system by which development impact fees paid by Developers will be used to finance, defray, or reimburse a portion of the costs incurred by the Fire District to construct and/or purchase System Improvements in ways that benefit the Development for which each development impact fee was paid within a reasonable period of time after the development impact fee is paid, and in conformance with Idaho Code § 67-8210.
24. This Chapter creates a system under which development impact fees shall not be used to correct existing deficiencies for any Fire District Capital Facilities, or to replace or rehabilitate existing Fire District Capital Facilities, or to pay for routine operation or maintenance of those facilities.
25. This Chapter creates a system under which there shall be no double payment of development impact fees, in accordance with Idaho Code § 67-8204(19).

26. This Chapter is consistent with all applicable provisions of the Act concerning development impact fee ordinances.

E. *Purpose.*

1. This Chapter is adopted to be consistent with, and to help implement the Capital Improvements Plan.
2. The intent of this Chapter is to ensure that new residential development bears a proportionate share of the cost of System Improvements; to ensure that such proportionate share does not exceed the cost of such System Improvements required to accommodate new Development; and to ensure that funds collected from new Development are actually used for System Improvements in accordance with the Act.
3. It is the further intent of this Chapter to be consistent with those principles for allocating a fair share of the cost of System Improvements to new Development, and for adopting development impact fee ordinances, established by the Act.
4. It is not the intent of this Chapter to collect any money from any new Development in excess of the actual amount necessary to offset new demands for System Improvements created by such new Development.
5. It is the intent of this Chapter that any monies collected, as an imposed Fire District Impact Fee, are deposited in the Trust Accounts of the Trust Fund, are never commingled with monies from a different impact fee account, are never used for a development impact fee component different from that for which the fee was paid, are never used to correct current deficiencies in the Fire District Capital Facilities, and are never used to replace, rehabilitate, maintain or operate any Fire District Capital Facilities.

1-18-2: - DEFINITIONS:

As used in this Chapter, the following words and terms shall have the following meanings, unless another meaning is plainly intended and words and terms appearing in the singular number includes the plural and the plural the singular:

ACT shall mean the Idaho Development Impact Fee Act as set forth in Chapter 82 of Title 67, Idaho Code.

ADVISORY COMMITTEE shall mean the *City of Middleton Development Impact Fee Advisory Standing Committee* formed and staffed by the City pursuant to Idaho Code § 67-

8205 to prepare and recommend the Capital Improvements Plan and any amendments, revisions or updates of the same.

APPROPRIATE shall mean to legally obligate by contract or otherwise commit to the expenditure of funds by appropriation or other official act of the Board of Commissioners.

BOARD OF COMMISSIONERS shall mean the Board of Commissioners of the Middleton Rural Fire District, which is its governing board.

BUILDING PERMIT shall mean the permit required for foundations, new construction and additions pursuant to Middleton City Code § 4-1-1.

CAPITAL IMPROVEMENTS shall mean improvements with a useful life of ten (10) years or more, by new construction or other action, which increases the service capacity of Fire District Capital Facilities.

CAPITAL IMPROVEMENTS ELEMENT shall mean a component of the Capital Improvements Plan identified as *Exhibit III-2 Middleton Rural Fire District CIP* adopted by the Fire District and the City pursuant to Chapters 65 and 82 of Title 67, Idaho Code, and as amended, which component meets the requirements of the capital improvements plan required by the Act.

CAPITAL IMPROVEMENTS PLAN shall mean the *Middleton Rural Fire District Impact Fee Study and Capital Improvements Plan* recommended by the Advisory Committee and adopted by the Fire District and the City pursuant to the Act that identifies Fire District Capital Facilities for which Fire District Impact Fees may be used as a funding source.

CITY shall mean the City of Middleton.

CITY COUNCIL shall mean the City Council of the City of Middleton.

COUNTY shall mean Canyon County.

DEVELOPER shall mean any person or legal entity undertaking development including a Development that seeks an annexation into the City and/or undertakes the subdivision of property pursuant to Idaho Code §§ 50-1301 through 50-1334, as amended.

DEVELOPMENT shall mean any construction or installation of a building or structure, or any change in use of a building or structure, or any change in the use, character or appearance of land, which creates additional demand and need for public facilities or the annexation into the City and/or subdivision of property that would permit any change in the use, character or appearance of land.

DEVELOPMENT APPROVAL shall mean any written duly authorized document from the City which authorizes the commencement of a Development.

DEVELOPMENT REQUIREMENT shall mean a requirement attached to a Developmental approval or other City governmental action approving or authorizing a particular Development project including, but not limited to, a rezoning, which requirement compels the payment, dedication or contribution of goods, services, land or money as condition of approval.

EXTRAORDINARY COSTS shall mean those costs incurred as result of an extraordinary impact.

EXTRAORDINARY IMPACT shall mean an impact which is reasonably determined by the Fire District to: (i) result in the need for Fire District system improvements, the cost of which will significantly exceed the sum of the development impact fees to be generated from the project or the sum agreed to be paid pursuant to a development agreement as allowed by Idaho Code § 67-8214(2), as amended; or (ii) result in the need for Fire District system improvements which are not identified in the capital improvements plan.

FEE PAYER shall mean the person who pays or is required to pay a Fire District Impact Fee. A fee payer may include a developer.

FIRE DISTRICT shall mean the *Middleton Rural Fire District*, a fire district organized and existing by virtue of the Fire Protection District Law, Chapter 14 of Title 31, Idaho Code.

FIRE DISTRICT ADMINISTRATOR shall mean the Fire District Administrator of the Fire District or their designee.

FIRE DISTRICT CAPITAL FACILITIES shall mean Fire District stations and equipment which is identified in Exhibit III-2 of the Capital Improvements Plan, and specifically including those related costs including System Improvements Costs, but not including maintenance, operations, or improvements that do not expand their capacity.

FIRE DISTRICT DEVELOPMENT IMPACT FEE CAPITAL PROJECTS TRUST FUND (the "TRUST FUND") shall mean the Fire District Trust Fund established by action of the Board of Commissioners of the Fire District as set forth in Board of Commissioners' by resolution and pursuant to section 1-18-11 of this Chapter and pursuant to Idaho Code § 67-8210(1) into which all Fire District Impact Fees shall be deposited and maintained by the Fire District.

FIRE DISTRICT IMPACT FEE shall mean a payment of money imposed as condition of Development Approval to pay for a proportionate share of the costs of System Improvements needed to serve the Development. The term does not include the following:

1. A charge or fee to pay the administrative plan review, or inspection cost associated with permits required for Development;
2. Connection or hookup charges;
3. Availability charges for drainage, sewer, water or transportation charges for services provided directly to the development; or
4. Amounts collected from a Developer in a transaction in which the Fire District has incurred expenses in constructing Capital Improvements for the Development if the owner or developer has agreed to be financially responsible for the construction or installation of those Capital Improvements, unless a written agreement is made, pursuant to Idaho Code § 67-8209(3) as amended, for credit or reimbursement.

INTERGOVERNMENTAL AGREEMENT shall mean the *City of Middleton/Middleton Rural District Intergovernmental Agreement to Collect and Expend Development Impact Fees For Fire District Systems Improvements* entered into by and between the City and the Fire District pursuant to Idaho Code § 67-8204A for the collection and expenditure of Fire District Impact Fees established pursuant to this Chapter.

LAND USE ASSUMPTIONS shall mean a description of the service area and projections of land uses, densities, intensities and population in the service area over at least a ten (10) year period.

LEVEL OF SERVICE shall mean a measure of the relationship between service capacity and service demand for Public Facilities.

MANUFACTURED/MOBILE HOME shall mean a structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in such structure, except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. §§ 5401 et seq.

MODULAR BUILDING shall mean any building or building component other than a manufactured/mobile home, which is constructed according to the International Building Code,

as adopted or any amendments thereto, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site.

PRESENT VALUE shall mean the total current monetary value of past, present or future payments, contributions or dedications of goods, services, materials, construction or money.

PROJECT shall mean a particular Development on an identified parcel of land.

PROJECT IMPROVEMENTS, in contrast to System Improvements, shall mean site improvements and facilities that are planned and designed to provide service for a particular Development Project and that are necessary for the use and convenience of the occupants or users of the Project.

PROPORTIONATE SHARE shall mean that portion of System Improvements Costs determined pursuant to Idaho Code § 67-8207 which reasonably relates to the service demands and needs of the Project.

PUBLIC FACILITIES shall mean land, buildings and equipment used for fire protection, emergency medical and rescue, and water supply production, storage and distribution facilities which have a useful life of ten (10) years or more.

RECREATIONAL VEHICLE shall mean a vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

SERVICE AREA shall mean any defined geographic area defined by the Capital Improvements Plan.

SERVICE UNIT shall mean a standardized measure of consumption, use, generation or discharge attributable to an individual unit of Development calculated in accordance with generally accepted engineering or planning standards for a particular category of Capital Improvements. As specifically used in this Ordinance, service units include all dwelling units intended for residential use development.

SYSTEM IMPROVEMENTS, in contrast to Project Improvements, shall mean Capital Improvements to Public Facilities which are designed to provide service to a Service Area. For the purpose of this Chapter, System Improvements are for Fire District Capital Facilities.

SYSTEM IMPROVEMENTS COSTS shall mean costs incurred for construction or reconstruction of System Improvements, including design, acquisition, engineering and other costs, and also including, without limitation, the type of costs described in Idaho Code § 50-1702(h), as amended, to provide additional Public Facilities needed to service new growth and Development. For clarification, System Improvements Costs do not include:

1. Construction, acquisition or expansion of Public Facilities other than Capital Improvements identified in the Capital Improvements Plan;
2. Improvements, repair, operation or maintenance of existing or new capital;
3. Upgrading, updating, expanding or replacing existing Capital Improvements to serve existing Development in order to meet stricter safety, efficiency, environmental or regulatory standards;
4. Upgrading, updating, expanding or replacing existing Capital Improvements to provide better service to existing Development;
5. Administrative and operating costs of the Fire District and/or the City unless such costs are attributable to Development of the Capital Improvements Plan, as provided in Idaho Code § 67-8208, as amended; and
6. Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the Fire District to finance Capital Improvements identified in the Capital Improvements Plan.

TRUST ACCOUNTS shall mean any of one or more interest bearing accounts within the *Fire District Development Impact Fee Capital Projects Trust Fund* established in section 1-18-11 of this Chapter.

1-18-3: – IMPOSITION OF FIRE DISTRICT IMPACT FEE:

- A. *Imposition of Impact Fee.* A Fire District Impact Fee is hereby imposed on all new Development in the area of the City that is also within the boundaries of the Fire District.
- B. *Fee Schedule.* Fire District Impact Fees shall be calculated in accordance with the fee schedule set forth in Exhibit III-3 of the Capital Improvements Plan providing for standard fees based on the total number of dwelling units or square feet of nonresidential space in the Development, unless (a) the Fee Payer requests an individual assessment pursuant to section 1-18-6 of this Chapter; or (b) the City and the Fire District find the Development will have an Extraordinary Impact pursuant to section 1-18-9 of this Chapter. The methodology for determining the costs per service unit provided for in the fee schedule is set forth in the Capital Improvements Plan.

- C. *Developer's Election.* A Developer shall have the right to elect to pay a project's proportionate share of System Improvements Costs by payment of Fire District Impact Fee according to the fee schedule as full and complete payment of the Development project's proportionate share of System Improvements Costs, except as provided in Idaho Code § 67-8214(3), as amended.
- D. *Procedures:*
1. *Building Permit.* Upon submittal of complete building permit plans for the Development to the City, the City shall calculate the Fire District Impact Fee for the Development within thirty (30) days of submittal unless the Fee Payer requests an individual assessment or the City determines that the Development may have Extraordinary Impact.
 2. *Exemption.* An exemption pursuant to section 1-18-5A of this Chapter must be claimed by the Fee Payer upon application for a Building Permit or manufactured home installation permit. Any exemption not so claimed shall be deemed waived by the Fee Payer.

1-18-4: - COLLECTION OF FIRE DISTRICT IMPACT FEES:

- A. *Certification.* After the Fire District Impact Fee due for a proposed Development has been calculated by the City pursuant to the fee schedule attached to the Capital Improvements Plan or by the Fire District Administrator using the individual assessment process, the Fee Payer may request from the City or the Fire District Administrator a certification of the amount of Fire District Impact Fee due for that Development. Within thirty (30) days after receiving such request, the City or the Fire District Administrator shall issue a written certification of the amount of the Fire District Impact Fee due for the proposed Development. Such certification shall establish the Fire District Impact Fee so long as there is no material change to the particular Development as identified in the individual assessment application, or the impact fee schedule attached to the Capital Improvements Plan. The certification shall include an explanation of the calculation of the Fire District Impact Fee including an explanation of factors considered under Idaho Code § 67-8207 and shall also specify the System Improvement(s) for which the Fire District Impact Fee is intended to be used. If the Impact Fee is calculated by the City pursuant to the fee schedule, the City shall provide the certification to the Fee Payer and the Fire District Administrator. If the Impact Fee is determined by the Fire District Administrator following an individual assessment of the fee, the Fire District Administrator shall provide the certification to the Fee Payer and the City.
- B. *Payment of Fees.* The Fire District Impact Fee shall be paid either to the City or to the Fire District at the following times:

1. If a Building Permit or manufactured/mobile home installation permit is required, then at the time before the permit is issued;
 2. If no Building Permit or manufactured/mobile home installation permit is required, then at the time that construction commences; or
 3. At such other time as the Developer and the Fire District have agreed upon in writing with notice to the City.
- C. In the event a Fire District Impact Fee is paid to the Fire District, then the Fire District Administrator shall immediately notify the City of said payment.
- D. All Fire District Impact Fees paid to the City shall then be delivered to the Fire District Administrator on a once-a-month basis.

1-18-5: - EXEMPTIONS:

- A. *Exemptions.* The provisions of this Chapter shall not apply to the following:
1. Rebuilding the same amount of floor space of a structure which is destroyed by fire or other catastrophe, provided the structure is rebuilt and ready for occupancy within two (2) years of its destruction;
 2. Remodeling or repairing a structure which does not increase the number of service units;
 3. Replacing a residential unit, including a manufactured/mobile home, with another residential unit on the same lot; provided that, the number of service units does not increase;
 4. Placing a temporary construction trailer or office on a lot;
 5. Constructing an addition on a residential structure which does not increase the number of service units;
 6. Adding uses that are typically accessory to residential uses, such as tennis court or a clubhouse, unless it can be clearly demonstrated that the use creates a significant impact on the capacity of System Improvements; or
 7. The installation of a modular building, manufactured/mobile home or recreational vehicle if the Fee Payer can demonstrate by documentation such as utility bills and tax records that either: (a) a modular building, manufactured/mobile home or recreational vehicle was legally in place on the lot or space prior to the effective date of this Chapter; or (b) a Fire

District Impact Fee has been paid previously for the modular building, manufactured/mobile home or recreational vehicle on that same lot or space.

- B. *Exemption Claim Process:* An exemption from a Fire District Impact Fee must be claimed on the Application by the Developer (Fee Payer) upon submitting their application for a Building Permit or manufactured home installation permit. Any exemption not so claimed shall be deemed waived by the Fee Payer. Applications for exemption shall be determined by the City within ninety (90) days of receipt of the claim for exemption.

1-18-6:- INDIVIDUAL ASSESSMENT PROCESS:

- A. In lieu of calculating the amount of the Fire District Impact Fee using the impact fee schedules in MCC § 1-20-3 of this chapter, an individual assessment of Impact Fees is permitted.
1. INDIVIDUAL ASSESSMENT PROCESS. A Fee Payer may file a written request for an individual assessment of the Development by the Administrator prior to the receipt of a building permit or other necessary approvals or entitlements from the City. A request for an individual assessment process shall involve consideration of studies, data, and any other relevant information submitted by the Fee Payer to adjust the amount of the Fire District Impact Fee.
 2. Each individual assessment request and supporting documentation submitted by the Fee Payer shall be based on the same level of service standards and unit costs for System Improvements used in the applicable Capital Improvements Plan, shall use an average cost (not a marginal cost) methodology, and shall document the relevant methodologies and assumptions used.
 3. Each individual assessment request delivered to the Administrator may then be accepted, rejected, or accepted with modifications by the Administrator as the basis for calculating the Fire District Impact Fee. The criteria for acceptance, rejection or acceptance with modifications shall be whether the individual assessment is a more accurate measure of demand for System Improvements element(s) created by the proposed Development, or the costs of those facilities, than the applicable fee shown in the fee schedule, based on the standards in Section 67-8207, Idaho Code.
 4. The Administrator shall issue a written decision within thirty (30) days following receipt of a completed request for individual assessment together with all supporting information from the Fee Payer, so as not to unreasonably delay the Developer's (Fee Payer's) subsequent applications to the City for Building Permits.

5. The decision by the Administrator on an application for an individual assessment shall include an explanation of the calculation of the Fire District Impact Fee, shall specify the System Improvement(s) for which the Fire District Impact Fee is intended to be used, and shall include an explanation of those factors identified in Idaho Code § 67 8207.
6. If an individual assessment is accepted or accepted with modifications by the Administrator then the Fire District Impact Fee due under this Article for such Development shall be calculated according to such individual assessment.
7. The Fire District Administrator shall provide notice of final determination of an individual assessment to the Developer (Fee Payer) and the City.

1-18-7: - DEVELOPER CREDITS AND REIMBURSEMENT:

- A. *Credits to be Issued.* When a Developer or their predecessor in title or interest has constructed System Improvements of the same category as a Fire District Capital Improvements Element, or contributed or dedicated land or money towards the completion of System Improvements of the same category as a Fire District Capital Improvements Element, and the Fire District has accepted such construction, contribution or dedication, the Fire District shall issue a credit against the Fire District Impact Fees otherwise due for the same Fire District Capital Improvements Element in connection with the proposed Development, as set forth in this section, credit shall be issued regardless of whether the contribution or dedication to System Improvements was required by the Fire District as a condition of Development Approval or was offered by the Developer and accepted by the Fire District in writing, and regardless of whether the contribution or dedication was contributed by the Developer or by a local improvement district controlled by the Developer.
- B. *Limitations.* Credits against a Fire District Impact Fee shall not be given for: (a) Project Improvements; or (b) any construction, contribution or dedication not agreed to in writing by the Fire District prior to commencement of the construction, contribution, or dedication. Credits issued for one Fire District Capital Improvements Element may not be used to reduce Fire District Impact Fees due for a different capital improvement. No credits shall be issued for System Improvements contributed or dedicated prior to the effective date of this Chapter. Prior contributions may only be taken into account pursuant to an individual assessment.
- C. *Valuation of Credit at Present Value:*
 1. *Land.* Credit for qualifying land dedications shall, at the Fee Payer's option, be valued at the present value of: (a) one hundred percent (100%) of the most recent assessed value for such land as shown in the records of the

county assessor; or (b) that fair market value established by a private appraiser acceptable to the Fire District in an appraisal paid for by the Fee Payer.

2. *Improvements.* Credit for qualifying acquisition or construction of System Improvements shall be valued by the Fire District at the present value of such improvements based on complete engineering drawings, specifications, and construction cost estimates submitted by the Fee Payer to the Fire District. The Fire District Administrator shall determine the amount of credit due based on the information submitted, or, if it determines that such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the Fire District as a more accurate measure of the value of the offered System Improvements to the Fire District.

D. *When Credits Become Effective:*

1. *Land.* Approved credits for land dedications shall become effective when the land has been conveyed to the Fire District in a form acceptable to the Fire District, at no cost to the Fire District, and has been accepted by the Fire District. Upon request of the Fee Payer, the Fire District shall issue a letter stating the amount of credit available.
2. *Improvements.* Approved credits for acquisition or construction of System Improvements shall generally become effective when (a) all required construction has been completed and has been accepted by the Fire District, (b) a suitable maintenance and warranty bond has been received and approved by the Fire District, and (c) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable requirements of the Fire District and the state of Idaho. Upon request of the Fee Payer, the Fire District shall issue a letter stating the amount of credit available.

E. *Credit Request Procedures:*

1. *Request.* In order to obtain a credit against a Fire District Impact Fee otherwise due, a Fee Payer shall submit to the City a written offer of request to dedicate to the Fire District specific parcels of qualifying land or a written offer to contribute or construct specific System Improvements to the Fire District Capital Facilities in accordance with all applicable State or City design and construction standards, and shall specifically request a credit against the type of Fire District Impact Fee for which the land dedication or System Improvements is offered. The City shall then deliver the written offer of request to the Fire District Administrator.
2. *Review.* After receipt of the written offer of request for credit, the Fire District Administrator shall review the request and determine whether the

land or System Improvements offered for credit will reduce the costs of providing Fire District Capital Facilities by an amount at least equal to the value of the credit. If the Fire District Administrator determines that the offered credit satisfies that criteria and will be acceptable to the Board of Commissioners, then the credit shall be issued. The Fire District shall complete its review and determination of an application within thirty (30) days after receipt of an application for credit.

3. *Credits Exceeding Fee Amounts Due.* If the credit due to a Fee Payer pursuant to subsection 1-18-7D of this Chapter exceeds the Fire District Impact Fee that would otherwise be due from the Fee Payer pursuant to this Chapter (whether calculated through the fee schedule attached to the Capital Improvement Plan or through an individual assessment), the Fee Payer may choose to receive such credit in the form of either: (a) a credit against future Fire District Impact Fee due for the same System Improvements; or (b) a reimbursement from Fire District Impact Fees paid by future Development that impacts the System Improvements contributed or dedicated by the Fee Payer. Unless otherwise stated in an agreement with the Fee Payer, the Fire District shall be under no obligation to use any Fire District funds - other than Fire District Impact Fees paid by other Development for the same System Improvements - to reimburse the Fee Payer for any credit in excess of Fire District Impact Fees that are due.
4. *Written Agreement Required.* If credit or reimbursement is due to the Fee Payer pursuant to this section, the Fire District shall enter into a written agreement with the Fee Payer, negotiated in good faith, prior to the contribution, dedication, or funding of the System Improvements giving rise to the credit. The agreement shall provide for the amount of credit or the amount, time and form of reimbursement, and shall have a term not exceeding ten (10) years.
5. The Fire District Administrator's determination on the written offer of request for credit shall be provided to the Fee Payer and the City.

1-18-8: - METHODOLOGY FOR THE CALCULATION OF FIRE DISTRICT IMPACT FEES:

A. General Provisions.

1. *Accounting Principles.* The calculation of the Fire District Impact Fee shall be in accordance with generally accepted accounting principles. A development impact fee shall not be deemed invalid because payment of the fee may result in an incidental benefit to owners or Developers within the service area other than the Fee Payer.

2. *Levels of Service.* The Fire District Impact Fee shall be calculated on the basis of levels of service for Public Facilities adopted in this Chapter that are applicable to existing Development as well as new growth and Development. The construction, improvement, expansion or enlargement of new or existing Public Facilities for which the Fire District Impact Fee is imposed must be attributable to the capacity demands generated by the new Development.
- B. *Methodology; Proportionate Methodology.* The Fire District Impact Fee shall not exceed a proportionate share of the cost of the System Improvements determined in accordance with Idaho Code § 67-8207, as amended. Fire District Impact Fees shall be based on actual System Improvements Costs or reasonable estimates of such costs. The amount of the Fire District Impact Fee shall be calculated using the methodology contained in the Capital Improvements Plan.
- C. *Proportionate Share Determination.*
1. Fire District Impact Fee shall be based on a reasonable and fair formula or method under which the Fire District Impact Fee imposed does not exceed a proportionate share of the costs incurred or to be incurred by the Fire District in the provision of System Improvements to serve the new Development. The proportionate share is the costs attributable to the new Development after the Fire District considers the following:
 - a. Any appropriate credit, offset or contribution of money, dedication of land or construction of System Improvements;
 - b. Payments reasonably anticipated to be made by or as a result of a new Development in the form of user fees and debt service payments;
 - c. That portion of general tax or other revenues allocated by the Fire District to System Improvements; and
 - d. All other available sources of funding such System Improvements.
 2. In determining the proportionate share of the cost of System Improvements to be paid by the Developer, the following factors shall be considered by the Fire District and accounted for in the calculation of the Fire District Impact Fee:
 - a. The costs of existing System Improvements within the Service area;
 - b. The means by which existing System Improvements have been financed;

- c. The extent to which the new Development will contribute to System Improvements Costs through taxation, assessments, or developer or landowner contributions, or has previously contributed to System Improvements Costs through Developer or landowner contributions;
- d. The extent to which the new development is required to contribute to the cost of existing System Improvements in the future;
- e. The extent to which the new Development should be credited for providing System Improvements, without charge to other properties within the Service Area;
- f. Extraordinary costs, if any, incurred in serving the new Development;
- g. The time and price differential inherent in a fair comparison of fees paid at different times; and
- h. The availability of other sources of funding System Improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers and special taxation.

1-18-9: - EXTRAORDINARY IMPACTS:

- A. In the event the City makes an initial determination that Development may impose Extraordinary Impact, the City shall provide the Development application to the Fire District Administrator along with the City's initial determination. The Fire District Administrator shall then review and determine whether or not the Development application will impose Extraordinary Impact.
- B. If the Fire District Administrator determines that a proposed Development generates Extraordinary Impact that will result in extraordinary Systems Improvements Costs, the Fire District Administrator will notify the Fee Payer and the City of such Fire District Impact Fee determination within thirty (30) days after Fire District Administrator's receipt from the City of the Development Application and the City's initial determination. Such notice shall include a statement that the potential impacts of such Development on System Improvements are not adequately addressed by the Capital Improvements Plan, and that a supplemental study, at the Fee Payer's expense will be required.
- C. Circumstances that may lead to a determination of Extraordinary Impact include, but are not limited to: (a) an indication the assumptions used in the Capital Improvements Plan underestimate the level of activity or impact on Fire District Capital Facilities from the proposed Development or activity.
- D. Within thirty (30) days following the designation of a Development with Extraordinary Impact, the Fire District Administrator shall meet with the Fee Payer

- to discuss whether the Fee Payer wants to: (a) pay for the supplemental study necessary to determine the System Improvements Costs related to the proposed Development; (b) modify the proposal to avoid generating Extraordinary Impact; or (c) withdraw the application for certification, Building Permit or Development approval.
- E. If the Fee Payer agrees to pay for the supplemental study required to document the proposed Development's proportionate share of System Improvements Costs, then the Fire District and the Fee Payer shall jointly select an individual or organization acceptable to both to perform such study. The Fee Payer shall enter into a written agreement with such individual or organization to pay the costs of such study. Such agreement shall require the supplemental study to be completed within thirty (30) days of such written agreement, unless the Fee Payer agrees to a longer time.
- F. Once the study has been completed, the Fee Payer may choose to: (a) pay the proportionate share of System Improvements Costs documented by the supplemental study; or (b) modify the proposed Development to reduce such costs; or (c) withdraw the application. If the Fee Payer agrees to pay the System Improvements Costs documented in the supplemental study, that agreement shall be reduced to writing between the Fire District and the Fee Payer prior to review and consideration of any application for any Development approval or Building Permit related to the proposed Development.
- G. Notwithstanding any agreement by the Fee Payer to pay the proportionate share of System Improvements Costs documented by the supplemental study, nothing in this ordinance shall obligate the City to approve Development that results in an Extraordinary Impact to the Fire District.

1-18-10: - FEE PAYER REFUNDS:

- A. *Duty to Refund:*
1. Fire District Impact Fees shall be refunded to the Fee Payer, or to a successor in interest, in the following circumstances:
 - a. Service is available but never provided;
 - b. A Building Permit, or permit for installation of a manufactured home, is denied by the City or abandoned;
 - c. The Fee Payer pays a Fire District Impact Fee under protest and a subsequent review of the fee paid or the completion of an individual assessment determines that the fee paid exceeded the proportionate share to which the Fire District was entitled to receive;

- d. The Fire District has collected a Fire District Impact Fee and the Fire District has failed to appropriate or expend the collected fees pursuant to section below; or
 - e. Failure of the Fire District to commence construction or encumber the fund in the Fire District Development Impact Fee Capital Projects Trust Fund.
2. Any Fire District Impact Fee paid shall be refunded if the Fire District has failed to commence construction of System Improvements in accordance with this Chapter, or to appropriate funds for such construction, within eight (8) years after the date on which such fee was collected by the Fire District. Any refund due shall be paid to the owner of record of the parcel for which the Fire District Impact Fee was paid. The Fire District may hold Fire District Impact Fees for longer than eight (8) years if the Fire District identifies in writing and in written notice to the owner of record of the parcel: (a) a reasonable cause why the fees should be held longer than eight (8) years; and (b) an anticipated date by which the fees will be expended, but in no event greater than eleven (11) years from the date they were collected. If the Fire District complies with the previous sentence, then any Fire District Impact Fees so identified shall be refunded to the Fee Payer if the Fire District has failed to commence construction of System Improvements in accordance with the written notice, or to appropriate Funds for such construction on or before the date identified in such writing.
 3. *No Refund Due for Subsequent Reduction in Size of Development or Service Units.* After a Fire District Impact Fee has been paid pursuant to this Chapter and after a certificate of occupancy has been issued by the City, no refund of any part of such fee shall be made if the project for which the fee was paid is later demolished, destroyed, or is altered, reconstructed, or reconfigured so as to reduce the size of the project or the number of units in the project.
 4. *Interest.* Each refund shall include a refund of interest at one-half the legal rate provided for in Idaho Code § 28-22-104 from the date on which the fee was originally paid.
 5. *Timing.* The Fire District shall make a determination of whether a refund is due within thirty (30) days after receipt of a written request for a refund from the owner of record of the property for which the fee was paid. When the right to a refund exists, the Fire District shall send the refund to the owner of record within ninety (90) days after the Fire District determines that a refund is due.

1-18-11: - ESTABLISHMENT OF FIRE DISTRICT TRUST FUND AND TRUST ACCOUNTS:

- A. The Trust Fund established by the Fire District will be maintained by the Fire District for the purpose of ensuring that all Fire District Impact Fees collected, pursuant to this Chapter, are used to address impacts reasonably attributable to new Development for which the Fire District Impact Fees are paid. The Trust Fund shall be divided into the Trust Accounts. All funds in all Trust Accounts in the Trust Fund shall be maintained in an interest-bearing account. The interest earned on each Trust Account pursuant to Idaho Code § 67-8210(1) shall not be governed by Idaho Code § 57-127, as amended, but shall be considered funds of the Trust Accounts and shall be subject to the same restrictions on uses of funds as the Fire District Impact Fees on which the interest is generated.
- B. *Deposit of Fire District Impact Fees.* All monies paid by a Fee Payer, pursuant to this Chapter, shall be identified as Fire District Impact Fees and shall be promptly deposited by the Fire District Administrator in the appropriate Trust Accounts of the Trust Fund.
1. *First-in/First-out.* Monies in each Trust Account shall be spent in the order collected, on a first-in/first-out basis.
 2. *Maintenance of Records.* The Fire District shall maintain and keep accurate financial records for each Trust Account that shall show the source and disbursement of all revenues, that shall account for all monies received, that shall ensure that the disbursement of funds from each Trust Account shall be used solely and exclusively for the provisions of projects specified in the Capital Improvements Plan, and that shall provide an annual accounting for each Fire District Impact Fee Account showing the source and amount of all funds collected and the projects that were funded.

1-18-12: - EXPENDITURE OF FIRE DISTRICT IMPACT FEES:

- A. Expenditures of Fire District Impact Fees collected and deposited in the Trust Fund shall be made only for System Improvements within the Service Area for which the Impact Fee was collected in accordance with the Capital Improvements Plan.
- B. *Capital Improvements Plan Reimbursement; Surcharge.* A portion of each Impact Fee collected shall be designated as a surcharge for reimbursement of the Fire District for the cost of preparing the Capital Improvements Plan in accordance with Idaho Code § 67-8208. The surcharge shall not exceed the Development's proportionate share of the cost of preparing the Capital Improvements Plan.

1-18-13: - APPEALS, PROTEST AND MEDIATION:

- A. *Appeals.* Any Fee Payer that is or may be obligated to pay a Fire District Impact Fee, or that claims a right to receive a refund, reimbursement, exemption or credit under this Chapter, and who is dissatisfied with a decision made either by the City or by the Fire District Administrator in applying this Chapter, may appeal such decision as follows:
1. in the case of a decision made by the City to the City Council; and
 2. in the case of a decision made by the Fire District Administrator to the Board of Commissioners.
- B. The Fee Payer shall have the burden on appeal of demonstrating that the decision was in error.
- C. In order to pursue the appeal described in this subsection, the Fee Payer shall file a written notice of the appeal with the City within thirty (30) days after the date of the City's or the Fire District Administrator's decision, or the date on which the Fee Payer submitted a payment of the Fire District Impact Fee under protest, whichever is later. Such written application shall include a statement describing why the Fee Payer believes that the appealed decision was in error, together with copies of any documents that the Fee Payer believes support the claim.
- D. Appeals of the Fire District Administrator's decisions shall be delivered by the City to the Fire District Administrator.
- E. The City Council or the Board of Commissioners, as the case may be, shall hear the appeal within sixty (60) days after receipt of a written notice of appeal. The Fee Payer shall have a right to be present and to present evidence in support of the appeal. The City or Fire District Administrator who made the decision under appeal or their representative shall likewise have the right to be present and to present evidence in support of the decision. The criteria to be used by the City Council or by the Board of Commissioners in considering the appeal shall be whether: (a) the decision or interpretation made by the City or Fire District Administrator; or (b) the alternative decision or interpretation offered by the Fee Payer, more accurately reflects the intent of this Chapter that new development in the City pay its proportionate share of the costs of system improvements to Fire District facilities necessary to serve new development and whether the provisions of this Chapter has been correctly applied. The City Council or Board of Commissioners, as the case may be, shall issue a decision upholding, reversing, or modifying the decision being appealed within thirty (30) days after hearing the appeal.
- F. *Payment Under Protest.* A Fee Payer may pay a Fire District Impact Fee under protest in order not to delay in the issuance of a Building Permit by the City. A Fee

Payer making a payment under protest shall not be estopped from exercising the right to appeal provided herein, nor shall such Fee Payer be estopped from receiving a refund of any amount deemed to have been illegally collected.

G. *Mediation.*

1. Any Fee Payer that has a disagreement with the City or the Fire District Administrator regarding a Fire District Impact Fee Determination that is or may be due for a proposed Development pursuant to this Chapter, may enter into a voluntary agreement with the City or the Fire District, as the case may be, to subject the disagreement to mediation by a qualified independent party acceptable to both the Fee Payer and the Fire District.
2. Mediation may take place at any time following the filing of a timely appeal pursuant to section 1-18-13C of this Chapter, or as an alternative to such appeal, provided that the request for mediation is filed no later than the last date on which a timely appeal could be filed pursuant to section 1-18-13C of this Chapter.
3. Participation in mediation does not preclude the Fee Payer from pursuing other remedies provided for in this section.
4. If mediation is requested, any related mediation costs shall be shared equally by the Fee Payer and the City or the Fire District, as the case may be, and a written agreement regarding the payment of such costs shall be executed prior to the commencement of mediation.
5. In the event that mediation does not resolve the issues between the Fire District and the Fee Payer, the Fee Payer retains all rights to seek relief from a court of competent jurisdiction.

1-18-14: - PERIODIC REVIEWS:

- A. *Review and Modification of Capital Improvements Plan.* Unless the Board of Commissioners deems some other period is appropriate, the Board of Commissioners shall, at least once every five (5) years, commencing from the date of the original adoption of the Capital Improvements Plan, review the Development potential and update the Capital Improvements Plan in cooperation with the City and in accordance with the procedures set forth in Idaho Code § 67-8206, as amended. Each update shall be prepared by the Fire District Administrator in consultation with the Advisory Committee.
- B. *Annual review.* The Fire District shall annually adopt a capital budget.

1-18-15: - AUDIT:

As part of its annual audit process, the Fire District shall prepare an annual report: (a) describing the amount of all Fire District Impact Fees collected, appropriated or spent during the preceding year by category of Public Facility; and (b) describing the percentage of taxes and revenues from sources other than the Fire District Impact Fees collected, appropriated or spent for System Improvements during the preceding year by Systems Improvements category of Fire District Capital Facilities.

1-18-16: –DEVELOPMENT IMPACT FEE ADVISORY STANDING COMMITTEE

- A. *Committee Created:* A standing committee of the City Council is established. [hereinafter in this Chapter referred also as “Advisory Committee” or “Committee”].
- C. *Membership:* The members on the Committee shall be appointed by the City Council for a term of one (1) year or until someone is appointed in his/her place, and there shall not be fewer than five (5) members of which two (2) or more members shall be active in the business of development, building or real estate and at least two (2) or more members shall not be employees or officials of the City or the Fire District.
1. The members will be appointed during the January regular meeting of the City Council.
 2. Any vacancy occurring on the Committee during the year may be filled during the year, by appointment of the City Council and confirmed by the Board of Commissioners of the Fire District.
- D. *Charge:* The Advisory Committee shall serve as an advisory committee to the City Council and the Board of Commissioners of the Fire District and is charged with the following responsibilities:
1. Assist the City and the Fire District in adopting land use assumptions; and
 2. Review the Capital Improvements Plan; and
 3. Monitor and evaluate implementation of the Capital Improvements Plan;
 4. File with the Fire District, Fire District Administrator and the City Clerk, at least annually, with respect to the Capital Improvements Plan, a report of any perceived inequities in implementing the Capital Improvements Plan or imposing the Fire District Impact Fees;

5. Advise the City Council and the Board of Commissioners of the Fire District of the need to update or revise land use assumptions, Capital Improvements Plan and Fire District Development Impact Fees; and
 6. The Fire District shall make available to the Advisory Committee, upon request, all financial and accounting information, professional reports in relation to other development and implementation of land use assumptions, the Capital Improvements Plan and periodic updates of the Capital Improvements Plan.
- E. *Reporting:* The Advisory Committee reports directly to the Fire District Board of Commissioners and to the City Council.
- F. *City Council and Fire District Board of Commissioners Review of Committee's Report and Recommendations:* The City Council and the Fire District Board of Commissioners shall each consider the Advisory Committee's recommended revision(s) at least once every twelve (12) months. The Advisory Committee's recommendations and the City Council's and Board of Commissioners' actions are intended to ensure that the benefits to a Development paying Fire District Impact Fees are equitable, so that the Fire District Impact Fee charged to the Development shall not exceed a proportionate share of System Improvements Costs, and that the procedures for administering Fire District Impact Fees remain efficient.

1-18-17: - ENFORCEMENT AND COLLECTION:

- A. When any Fire District Impact Fee is due pursuant to this Chapter, or pursuant to the terms of any written agreement between a Fee Payer and the Fire District, and such Fire District Impact Fee has not been paid in a timely manner, the City, or Fire District Administrator on behalf of the Fire District, may exercise any or all of the following powers as applicable to their authority, in any combination, to enforce the collection of the Fire District Impact Fee:
1. Withhold Building Permits, manufactured home installation permits, or other City Development Approval related to the Development for which the Fire District Impact Fee is due until all Fire District Impact Fees due have been paid, and issue stop work orders, and revoke or suspend a Building Permit.
 2. Withhold utility services from the Development for which the Fire District Impact Fee is due until all Fire District Impact Fees due have been paid; and
 3. Add interest to the Fire District Impact Fee not paid in full at the legal rate provided for in Idaho Code § 28-22-104, as amended, plus five percent (5%) beginning on the date at which the payment of the Fire District Impact Fee was due until paid in full.

4. Impose a penalty of five percent (5%) of the total Fire District Impact Fee (not merely the portion dishonored, late or not paid in full) per month beginning on the date at which the payment of the Fire District Impact Fee was due until paid in full.
5. Impose a lien pursuant to the authority of Idaho Code § 67-8213(4) for failure to timely pay a Fire District Impact Fee following the procedures contained in Idaho Code Title 45, Chapter 5.

1-18-18: - CITY/ FIRE DISTRICT INTERGOVERNMENTAL AGREEMENT:

- A. The City is a governmental entity that is empowered by the Act to adopt development impact fee ordinances and as such is authorized, by Idaho Code § 67-8204A, to enter into the Intergovernmental Agreement with the Fire District for the purpose of agreement to collect and expend Fire District Impact Fees for System Improvements as provided in this Chapter.
- B. The City and the Fire District have entered into the Intergovernmental Agreement which is in full force and effect.
- C. The Intergovernmental Agreement complies with this Chapter and requires the Fire District to be governed by and to fully abide by the provisions of this Chapter.
- D. Any amendments of the Intergovernmental Agreement shall be implemented by corresponding relevant amendments of this Chapter which amendments shall not apply to any Fire District Impact Fees then not expended and currently held in the Trust Fund.

1-18-19: - MISCELLANEOUS PROVISIONS:

- A. Nothing in this Chapter shall prevent the Fire District from requiring a Developer to construct reasonable Project Improvements, as are required by the fire codes and other rules that are adopted by the state fire marshal, in conjunction with a Development.
- B. Nothing in this Chapter shall be construed to prevent or prohibit private agreements between property owners or developers, the Idaho Transportation Department and governmental entities in regard to the construction or installation of System Improvements or providing for credits or reimbursements for System Improvements Costs incurred by a Developer including inter-project transfers of credits or providing for reimbursement for Project Improvements which are used or shared by more than one (1) Development project.

- C. Nothing in this Chapter shall obligate the City to approve Development which results in an Extraordinary Impact.
- D. Nothing in this Chapter shall obligate the Fire District to approve any Development request which may reasonably be expected to reduce levels of service below minimum acceptable levels established in this Chapter.
- E. Nothing in this Chapter shall be construed to create any additional right to develop real property or diminish the City in regulating the orderly development of real property within its boundaries.
- F. Nothing in this Chapter shall work to limit the use by the City of the power of eminent domain or supersede or conflict with requirements or procedures authorized in the Idaho Code for local improvement districts or general obligation bond issues.
- G. Nothing herein shall restrict or diminish the power of the City to annex property into its territorial boundaries or exclude property from its territorial boundaries upon request of a developer or owner, or to impose reasonable conditions thereon, including the recovery of Project or System Improvements Costs required as a result of such voluntary annexation.
- H. The Fire District shall develop a plan for alternative sources of revenue, which shall include but not necessarily be limited to plans generated during the Fire District's annual budget process, lobbying efforts, tax increment financing, and implementation of user fees, administrative and regulatory fees and other forms of revenue.
- I. Notwithstanding any other provision of this Chapter, that portion of a Project for which a complete application for a Building Permit has been received by the City, prior to the effective date of this Chapter, shall not be subject to the Fire District Impact Fee imposed by this Chapter. If the resulting Building Permit is later revised or replaced after the effective date of the ordinance codified in this Chapter, and the new Building Permit(s) reflects a development density, intensity, development size or number of units more than ten percent (10%) higher than that reflected in the original Building Permit, then the Fire District Impact Fee may be charged on the difference in density, intensity, development size or number of units between the original and the revised or replacement Building Permit.
- J. Any monies, including any accrued interest not assigned to specific System Improvements within such Capital Improvements Plan and not expended pursuant to section 1-18-12 of this Chapter or refunded pursuant to section 1-18-10 of this Chapter shall be retained in the same account until the next Fire District fiscal year.

- K. If the Fire District discovers an error in the Capital Improvements Plan that results in assessment or payment of more than a proportionate share of System Improvements Costs on any proposed Development, the Fire District Administrator shall: (a) adjust the Fire District Impact Fee to collect no more than a proportionate share; or (b) discontinue the collection of any Fire District Impact Fees until the error is corrected by ordinance.
- L. If Fire District Impact Fees are calculated and paid based on a mistake or misrepresentation, they shall be recalculated. Any amounts overpaid by a Fee Payer shall be refunded by the Fire District within thirty (30) days after the Fire District's acceptance of the recalculated amount, with interest at the legal rate provided for in Idaho Code § 28-22-104 from the date on which the fee was paid. Any amounts underpaid by the Fee Payer shall be paid to the Fire District within thirty (30) days after the Fire District Administrator's acceptance of the recalculated amount, with interest at the legal rate provided for in Idaho Code § 28-22-104 from the date on which the fee was paid. In the case of an underpayment to the Fire District, the Administrator may request the City and the City may withhold issuance of the Building Permits or Development Approval for the project for which the Fire District Impact Fee was paid until such underpayment is corrected, and if amounts owed to the Fire District are not paid within such thirty-day (30) period, the Fire District Administrator may also ask the City to and the City may revoke any Building Permits or Development Approval issued in reliance on the previous payment of such Fire District Impact Fee and refund such fee to the Fee Payer.
- M. The Advisory Committee has been established by the City and has reviewed and recommended to the City Council the approval of the Capital Improvements Plan shall continue in existence, and shall by operation of this Ordinance.

1-18-20: - PUNISHMENT:

Any person who violates any provision of this Chapter shall be guilty of a misdemeanor, punishable by up to one (1) year in the county jail, and/or a one thousand dollar (\$1,000.00) fine, or both. Knowingly furnishing false information to any official of the City or the Fire District charged with the administration of this Chapter, including without limitation, the furnishing of false information regarding the expected size, use or impacts from a proposed Development, shall be a violation of this Chapter.

1-18-21: - CONSTRUCTION OF INTENT:

All provisions, terms, phrases and expressions contained in this Chapter shall be liberally construed in order that the true intent and meaning of the Act and the City Council and the Board of Commissioners may be fully carried out.



SECTION 2: DATE OF EFFECT AND PUBLICATION

2.1 This Ordinance, as required by Idaho Code § 67-8206(6), shall be in full force and effect on the 30th day following its passage and approval; and shall be published in full or by summary as provided in Idaho Code §§ 50-901 and 50-901A within one month of its passage and approval all according to law.

PASSED BY THE COUNCIL OF THE CITY OF MIDDLETON, IDAHO, THIS _____ DAY OF _____, 2020.

APPROVED BY THE MAYOR OF THE CITY OF MIDDLETON, IDAHO, THIS _____ DAY OF _____, 2020.

CITY OF MIDDLETON

Steve Rule, *Mayor*

ATTEST:

Becky Crofts, *City Clerk*

**CITY OF MIDDLETON
Canyon County, Idaho**

ORDINANCE No. 635

AN ORDINANCE AMENDING THE CITY OF MIDDLETON CITY CODE BY THE ADDITION OF A NEW CHAPTER 19 TO TITLE 1 PROVIDING FOR CALDWELL RURAL FIRE PROTECTION DISTRICT DEVELOPMENT IMPACT FEES, PROVIDING FOR:

- **SHORT TITLE, APPLICABILITY, FINDINGS AND PURPOSE;**
- **DEFINITIONS;**
- **IMPOSITION OF FIRE DISTRICT IMPACT FEE;**
- **COLLECTION OF FIRE DISTRICT IMPACT FEES;**
- **EXEMPTIONS;**
- **PROCESS FOR INDIVIDUAL ASSESSMENT;**
- **DEVELOPER CREDITS AND REIMBURSEMENTS;**
- **METHODOLOGY FOR CALCULATION OF FIRE DISTRICT IMPACT FEES;**
- **EXTRAORDINARY IMPACTS;**
- **FEE PAYER REFUNDS;**
- **ESTABLISHMENT BY THE FIRE DISTRICT OF AN IMPACT FEE TRUST FUND AND TRUST ACCOUNTS;**
- **USE AND EXPENDITURE OF FIRE DISTRICT IMPACT FEES;**
- **APPEALS, PROTEST AND MEDIATION;**
- **PERIODIC REVIEWS OF THE CAPITAL IMPROVEMENTS PLAN;**
- **ANNUAL AUDIT;**
- **THE DEVELOPMENT IMPACT FEE ADVISORY STANDING COMMITTEE;**
- **ENFORCEMENT AND COLLECTION;**
- **THE CITY AND FIRE DISTRICT INTERGOVERNMENTAL AGREEMENT;**
- **MISCELLANEOUS PROVISIONS;**
- **PUNISHMENT FOR VIOLATIONS OF THE ORDINANCE;**
- **CONSTRUCTION OF ORDINANCE INTENT; and**
- **PROVIDING AN EFFECTIVE DATE AND PUBLICATION.**

BE IT ORDAINED by the Mayor and City Council of the City of Middleton, Canyon County, Idaho:

Section 1: That the Middleton City Code be and the same is hereby amended by addition of a new Chapter 19 to Title 1, to read as follows:

TITLE 1

CHAPTER 19

FIRE DISTRICT DEVELOPMENT IMPACT FEES

1-19-1: - SHORT TITLE, APPLICABILITY, FINDINGS AND PURPOSE:

- A. *Short title.* This Chapter shall be known and may be cited as the *Caldwell Rural Fire District Development Impact Fee Ordinance*.
- B. *Authority.* This ordinance is enacted pursuant to the City's general police powers, its authority to enact ordinances, and its authority as provided by the *Idaho Development Impact Fee Act* codified at Chapter 82 of Title 67, Idaho Code (the "Act") and other applicable laws of the state of Idaho to impose development impact fees; and the City's and the Fire District's Authority to enter into an Intergovernmental Agreement as provided for in Idaho Code § 67-8204A to impose, collect and expend development impact fees.
- C. *Applicability.* Except as otherwise exempted in section 1-19-5, these provisions shall apply to the Development of property located within the boundaries of the City of Middleton, Idaho.
- D. *Findings:*
1. The Caldwell Rural Fire Protection District, (the "Fire District") is a fire district organized and existing by virtue of the Fire Protection District Law Chapter 14 of Title 31, Idaho Code, and its boundaries include areas within the City limits of the City of Middleton (the "City") which are south of the Boise River; and
 2. The Fire District's duty and responsibility is to provide protection of property against fire and the preservation of life, and enforcement of any of the fire codes and other rules that are adopted by the state fire marshal; and
 3. The City is experiencing considerable growth and Development; and
 4. The purposes of the Act [Idaho Code § 67-8202] are as follows:
 - Ensure that adequate public facilities are available to serve new growth and Development;
 - Promote orderly growth and Development by establishing uniform standards by which local governments, such as the City and the Fire District, may require those who benefit from new growth and

Development pay [development impact fees] their proportionate share of the costs of new public facilities needed to serve that new growth and Development; and

- Establish minimum standards for adoption of development impact fee ordinances by cities; and
- Ensure that those who benefit from new growth and Development are required to pay no more than their proportionate share of the cost of public facilities needed to serve that new growth and Development and to prevent duplicate and ad hoc development requirements; and
- To empower cities to adopt ordinances to impose development impact fees.

5. *The Act:*

- does not authorize the Fire District to enact a development impact fee ordinance; and
 - does provide, pursuant to Idaho Code § 67-8204A, in circumstances where the City and the Fire District are both affected by the considerable growth and Development as is occurring within the City, that the City and the Fire District may enter into the Intergovernmental Agreement for the purpose of agreeing to collect and expend development impact fees for System Improvements which provides for a new funding mechanism for those System Improvements Costs incurred by the Fire District to meet the demand and growth occurring within the City and which promotes and accommodates orderly growth and development and protects the public health, safety and general welfare of the residences within the boundaries of the City.
6. New residential growth within the City and within the boundaries of the Fire District imposes and will impose increasing and excessive demands upon the existing Fire District Capital Facilities.
7. The tax revenues generated from new residential Development within the City and within the boundaries of the Fire District often do not generate sufficient funds to provide the necessary improvements and expansion of existing Fire District Capital Facilities to accommodate for that new growth.
8. New growth within the City and within the boundaries of the Fire District is expected to continue, and will place ever-increasing demands on the Fire District to provide and expand the Fire District's Capital Facilities to serve that new growth.

9. Section 67-8204A of the Act authorizes the City to adopt an impact fee system and to enter into the Intergovernmental Agreement with the Fire District to offset, recoup, or reimburse the portion of the costs of needed improvements to the Fire District Capital Facilities caused by new growth and Development in the City and within the boundaries of the Fire District.
10. The creation of an equitable impact fee system facilitated by the Intergovernmental Agreement with the Fire District, will promote the purposes set forth in the Act, in that it would: (a) ensure that adequate Fire District Capital Facilities are available to serve new growth and Development; (b) promote orderly growth and Development by establishing uniform standards by which the City may require that those who benefit from new growth and Development pay a proportionate share of the cost of new Fire District Capital Facilities needed to serve new growth and Development in the City and within the boundaries of the Fire District; (c) establish minimum standards for the adoption of Fire District Impact Fees; (d) ensure that those who benefit from new growth and development are required to pay no more than their proportionate share of the cost of Fire District Capital Facilities needed to serve new growth and Development in the City and within the boundaries of the Fire District; and (e) prevent duplicate and ad hoc Development requirements in the City.
11. The City has formed the Advisory Committee as required by Idaho Code § 67-8205, and the Committee has performed the duties required of it pursuant to Idaho Code §§ 67-8205 and 67-8206(2). The City and the Fire District intend that the Committee will continue to exist and perform those duties identified in Idaho Code § 67-8205 that occur following the adoption of this *Caldwell Rural Fire Protection District Development Impact Fee Ordinance*.
12. The Fire District has planned for the improvement of Fire District Capital Facilities in the Capital Improvements Plan.
13. The creation of an equitable impact fee system would enable the City to accommodate new development, and would assist the Fire District to implement the capital improvements element of the Capital Improvements Plan.
14. In order to implement an equitable impact fee system for the Fire District's fire prevention and life preservation facilities, the City adopted by resolution and the Fire District adopted by resolution the *Caldwell Rural Fire Protection District Impact Fee Study and Capital Improvements Plan* (the "Capital Improvements Plan"). Galena

Consulting was hired by the Fire District to assist the Advisory Committee in the preparation of the Study.

15. The methodology used in the Capital Improvements Plan, as applied through this Chapter, complies with all applicable provisions of Idaho law, including those set forth in Idaho Code §§ 67-8204(1), (2), (16) and (23), 67-8207 and 67-8209. The incorporation of the Capital Improvements Plan by reference satisfies the requirement in Idaho Code § 67-8204(16) for a detailed description of the methodology by which the Fire District Impact Fees were calculated, and the requirement in Idaho Code § 67-8204(24) for a description of acceptable levels of service for Fire District System Improvements.
16. In determining the proportionate share of System Improvements Costs, the Capital Improvements Plan has considered: (a) the cost of the existing System Improvements; (b) the means by which the existing System Improvements have been financed; (c) the extent to which the new Development will contribute to System Improvements Costs through taxation, assessment, or developer or landowner contributions, or has previously contributed to System Improvements Costs through developer or landowner contributions; (d) the extent to which the new Development is required to contribute to System Improvements Costs in the future; (e) the extent to which the new Development should be credited for providing System Improvements, without charge to other properties within the Service Area or areas; (f) Extraordinary Costs, if any, incurred in serving the new Development; (g) the time and price differential inherent in a fair comparison of fees paid at different times; and (h) the availability of other sources of funding System Improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation and includes a plan for alternative sources of revenue.
17. The Capital Improvements Plan contains the Capital Improvements planned by the Fire District during the term of the Capital Improvements Plan, and such element has been developed in conformance with the requirements in Chapter 82 of Title 67, Idaho Code.
18. The Capital Improvements Plan sets forth reasonable methodologies and analyses for determining the impacts of various types of new Development on the Fire District Capital Facilities, and determines the cost of acquiring or constructing the improvements necessary to meet the demands for such facilities created by new Development.
19. In accordance with Idaho Code, the Capital Improvements Plan was based on actual System Improvements Costs or reasonable estimates of

such costs. In addition, the Capital Improvements Plan uses a fee calculation methodology that is net of credits for the present value of revenues that will be generated by new growth and Development based on historical funding patterns and that are anticipated to be available to pay for System Improvements, including taxes, assessments, user fees, and intergovernmental transfers.

20. The Fire District Impact Fees established by this Chapter are based on the Capital Improvements Plan, and do not exceed System Improvements Costs to serve new Development that will pay the Fire District Impact Fees.
21. The Fire District Capital Facilities included in the calculation of fees in the Capital Improvements Plan will benefit all new residential Development throughout the City which is also within the boundaries of the Fire District, and it is therefore appropriate to treat all areas of the City that are also within the boundaries of the Fire District as a single Service Area for purposes of calculating, collecting, and spending the Fire District Impact Fees collected from Developers.
22. There is both a rational nexus and a rough proportionality between Development impacts created by each type of Development covered by this Chapter, the development impact fees assessment of such Development covered by this Chapter, and the development impact fees that such Developer will be required to pay.
23. This Chapter creates a system by which development impact fees paid by Developers will be used to finance, defray, or reimburse a portion of the costs incurred by the Fire District to construct and/or purchase System Improvements in ways that benefit the Development for which each development impact fee was paid within a reasonable period of time after the development impact fee is paid, and in conformance with Idaho Code § 67-8210.
24. This Chapter creates a system under which development impact fees shall not be used to correct existing deficiencies for any Fire District Capital Facilities, or to replace or rehabilitate existing Fire District Capital Facilities, or to pay for routine operation or maintenance of those facilities.
25. This Chapter creates a system under which there shall be no double payment of development impact fees, in accordance with Idaho Code § 67-8204(19).
26. This Chapter is consistent with all applicable provisions of the Act concerning development impact fee ordinances.

E. *Purpose.*

1. This Chapter is adopted to be consistent with, and to help implement the Capital Improvements Plan.
2. The intent of this Chapter is to ensure that new residential development bears a proportionate share of the cost of System Improvements; to ensure that such proportionate share does not exceed the cost of such System Improvements required to accommodate new Development; and to ensure that funds collected from new Development are actually used for System Improvements in accordance with the Act.
3. It is the further intent of this Chapter to be consistent with those principles for allocating a fair share of the cost of System Improvements to new Development, and for adopting development impact fee ordinances, established by the Act.
4. It is not the intent of this Chapter to collect any money from any new Development in excess of the actual amount necessary to offset new demands for System Improvements created by such new Development.
5. It is the intent of this Chapter that any monies collected, as an imposed Fire District Impact Fee, are deposited in the Trust Accounts of the Trust Fund, are never commingled with monies from a different impact fee account, are never used for a development impact fee component different from that for which the fee was paid, are never used to correct current deficiencies in the Fire District Capital Facilities, and are never used to replace, rehabilitate, maintain or operate any Fire District Capital Facilities.

1-19-2: - DEFINITIONS:

As used in this Chapter, the following words and terms shall have the following meanings, unless another meaning is plainly intended and words and terms appearing in the singular number includes the plural and the plural the singular:

ACT shall mean the Idaho Development Impact Fee Act as set forth in Chapter 82 of Title 67, Idaho Code.

ADVISORY COMMITTEE shall mean the *City of Middleton Development Impact Fee Advisory Standing Committee* formed and staffed by the City pursuant to Idaho Code § 67-8205 to prepare and recommend the Capital Improvements Plan and any amendments, revisions or updates of the same.

APPROPRIATE shall mean to legally obligate by contract or otherwise commit to the expenditure of funds by appropriation or other official act of the Board of Commissioners.

BOARD OF COMMISSIONERS shall mean the Board of Commissioners of the Caldwell Rural Fire Protection District, which is its governing board.

BUILDING PERMIT shall mean the permit required for foundations, new construction and additions pursuant to Middleton City Code § 4-1-1.

CAPITAL IMPROVEMENTS shall mean improvements with a useful life of ten (10) years or more, by new construction or other action, which increases the service capacity of Fire District Capital Facilities.

CAPITAL IMPROVEMENTS ELEMENT shall mean a component of the Capital Improvements Plan identified as *Exhibit III-2 Caldwell Rural Fire Protection District CIP* adopted by the Fire District and the City pursuant to Chapters 65 and 82 of Title 67, Idaho Code, and as amended, which component meets the requirements of the capital improvements plan required by the Act.

CAPITAL IMPROVEMENTS PLAN shall mean the *Caldwell Rural Fire Protection District Impact Fee Study and Capital Improvements Plan* recommended by the Advisory Committee and adopted by the Fire District and the City pursuant to the Act that identifies Fire District Capital Facilities for which Fire District Impact Fees may be used as a funding source.

CITY shall mean the City of Middleton.

CITY COUNCIL shall mean the City Council of the City of Middleton.

DEVELOPER shall mean any person or legal entity undertaking development including a Development that seeks an annexation into the City and/or undertakes the subdivision of property pursuant to Idaho Code §§ 50-1301 through 50-1334, as amended.

DEVELOPMENT shall mean any construction or installation of a building or structure, or any change in use of a building or structure, or any change in the use, character or appearance of land, which creates additional demand and need for public facilities or the annexation into the City and/or subdivision of property that would permit any change in the use, character or appearance of land.

DEVELOPMENT APPROVAL shall mean any written duly authorized document from the City which authorizes the commencement of a Development.

DEVELOPMENT REQUIREMENT shall mean a requirement attached to a Developmental approval or other City governmental action approving or authorizing a particular Development

project including, but not limited to, a rezoning, which requirement compels the payment, dedication or contribution of goods, services, land or money as condition of approval.

EXTRAORDINARY COSTS shall mean those costs incurred as result of an extraordinary impact.

EXTRAORDINARY IMPACT shall mean an impact which is reasonably determined by the Fire District to: (i) result in the need for Fire District system improvements, the cost of which will significantly exceed the sum of the development impact fees to be generated from the project or the sum agreed to be paid pursuant to a development agreement as allowed by Idaho Code § 67-8214(2), as amended; or (ii) result in the need for Fire District system improvements which are not identified in the capital improvements plan.

FEE PAYER shall mean the person who pays or is required to pay a Fire District Impact Fee. A fee payer may include a developer.

FIRE DISTRICT shall mean the *Caldwell Rural Fire Protection District*, a fire district organized and existing by virtue of the Fire Protection District Law, Chapter 14 of Title 31, Idaho Code.

FIRE DISTRICT ADMINISTRATOR shall mean the Fire District Administrator of the Fire District or their designee.

FIRE DISTRICT CAPITAL FACILITIES shall mean Fire District stations and equipment which is identified in Exhibit III-2 of the Capital Improvements Plan, and specifically including those related costs including System Improvements Costs, but not including maintenance, operations, or improvements that do not expand their capacity.

FIRE DISTRICT DEVELOPMENT IMPACT FEE CAPITAL PROJECTS TRUST FUND (the "TRUST FUND") shall mean the Fire District Trust Fund established by action of the Board of Commissioners of the Fire District and pursuant to section 1-19-11 of this Chapter and pursuant to Idaho Code § 67-8210(1) into which all Fire District Impact Fees shall be deposited and maintained by the Fire District.

FIRE DISTRICT IMPACT FEE shall mean a payment of money imposed as condition of Development Approval to pay for a proportionate share of the costs of System Improvements needed to serve the Development. The term does not include the following:

1. A charge or fee to pay the administrative plan review, or inspection cost associated with permits required for Development;
2. Connection or hookup charges;

3. Availability charges for drainage, sewer, water or transportation charges for services provided directly to the development; or
4. Amounts collected from a Developer in a transaction in which the Fire District has incurred expenses in constructing Capital Improvements for the Development if the owner or developer has agreed to be financially responsible for the construction or installation of those Capital Improvements, unless a written agreement is made, pursuant to Idaho Code § 67-8209(3) as amended, for credit or reimbursement.

INTERGOVERNMENTAL AGREEMENT shall mean the *City of Middleton/Caldwell Rural Fire Protection District Intergovernmental Agreement to Collect and Expend Development Impact Fees For Fire District Systems Improvements* entered into by and between the City and the Fire District pursuant to Idaho Code § 67-8204A for the collection and expenditure of Fire District Impact Fees established pursuant to this Chapter.

LAND USE ASSUMPTIONS shall mean a description of the service area and projections of land uses, densities, intensities and population in the service area over at least a ten (10) year period.

LEVEL OF SERVICE shall mean a measure of the relationship between service capacity and service demand for Public Facilities.

MANUFACTURED/MOBILE HOME shall mean a structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in such structure, except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. §§ 5401 et seq.

MODULAR BUILDING shall mean any building or building component other than a manufactured/mobile home, which is constructed according to the International Building Code, as adopted or any amendments thereto, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site.

PRESENT VALUE shall mean the total current monetary value of past, present or future payments, contributions or dedications of goods, services, materials, construction or money.

PROJECT shall mean a particular Development on an identified parcel of land.

PROJECT IMPROVEMENTS, in contrast to System Improvements, shall mean site improvements and facilities that are planned and designed to provide service for a particular Development Project and that are necessary for the use and convenience of the occupants or users of the Project.

PROPORTIONATE SHARE shall mean that portion of System Improvements Costs determined pursuant to Idaho Code § 67-8207 which reasonably relates to the service demands and needs of the Project.

PUBLIC FACILITIES shall mean land, buildings and equipment used for fire protection, emergency medical and rescue, and water supply production, storage and distribution facilities which have a useful life of ten (10) years or more.

RECREATIONAL VEHICLE shall mean a vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

SERVICE AREA shall mean any defined geographic area defined by the Capital Improvements Plan.

SERVICE UNIT shall mean a standardized measure of consumption, use, generation or discharge attributable to an individual unit of Development calculated in accordance with generally accepted engineering or planning standards for a particular category of Capital Improvements. As specifically used in this Ordinance, service units include all dwelling units intended for residential use development.

SYSTEM IMPROVEMENTS, in contrast to Project Improvements, shall mean Capital Improvements to Public Facilities which are designed to provide service to a Service Area. For the purpose of this Chapter, System Improvements are for Fire District Capital Facilities.

SYSTEM IMPROVEMENTS COSTS shall mean costs incurred for construction or reconstruction of System Improvements, including design, acquisition, engineering and other costs, and also including, without limitation, the type of costs described in Idaho Code § 50-1702(h), as amended, to provide additional Public Facilities needed to service new growth and Development. For clarification, System Improvements Costs do not include:

1. Construction, acquisition or expansion of Public Facilities other than Capital Improvements identified in the Capital Improvements Plan;
2. Improvements, repair, operation or maintenance of existing or new capital;

3. Upgrading, updating, expanding or replacing existing Capital Improvements to serve existing Development in order to meet stricter safety, efficiency, environmental or regulatory standards;
4. Upgrading, updating, expanding or replacing existing Capital Improvements to provide better service to existing Development;
5. Administrative and operating costs of the Fire District and/or the City unless such costs are attributable to Development of the Capital Improvements Plan, as provided in Idaho Code § 67-8208, as amended; and
6. Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the Fire District to finance Capital Improvements identified in the Capital Improvements Plan.

TRUST ACCOUNTS shall mean any of one or more interest bearing accounts within the *Fire District Development Impact Fee Capital Projects Trust Fund* established in section 1-19-11 of this Chapter.

1-19-3: – IMPOSITION OF FIRE DISTRICT IMPACT FEE:

- A. *Imposition of Impact Fee.* A Fire District Impact Fee is hereby imposed on all new Development in the area of the City that is also within the boundaries of the Fire District.
- B. *Fee Schedule.* Fire District Impact Fees shall be calculated in accordance with the fee schedule set forth in Exhibit III-3 of the Capital Improvements Plan providing for standard fees based on the total number of dwelling units or square feet of nonresidential space in the Development, unless (a) the Fee Payer requests an individual assessment pursuant to section 1-19-6 of this Chapter; or (b) the City and the Fire District find the Development will have an Extraordinary Impact pursuant to section 1-19-9 of this Chapter. The methodology for determining the costs per service unit provided for in the fee schedule is set forth in the Capital Improvements Plan.
- C. *Developer's Election.* A Developer shall have the right to elect to pay a project's proportionate share of System Improvements Costs by payment of Fire District Impact Fee according to the fee schedule as full and complete payment of the Development project's proportionate share of System Improvements Costs, except as provided in Idaho Code § 67-8214(3), as amended.
- D. *Procedures:*

1. *Building Permit.* Upon submittal of complete building permit plans for the Development to the City, the City shall calculate the Fire District Impact Fee for the Development within thirty (30) days of submittal unless the Fee Payer requests an individual assessment or the City determines that the Development may have Extraordinary Impact.
2. *Exemption.* An exemption pursuant to section 1-19-5A of this Chapter must be claimed by the Fee Payer upon application for a Building Permit or manufactured home installation permit. Any exemption not so claimed shall be deemed waived by the Fee Payer.

1-19-4: - COLLECTION OF FIRE DISTRICT IMPACT FEES:

- A. *Certification.* After the Fire District Impact Fee due for a proposed Development has been calculated by the City pursuant to the fee schedule attached to the Capital Improvements Plan or by the Fire District Administrator using the individual assessment process, the Fee Payer may request from the City or the Fire District Administrator a certification of the amount of Fire District Impact Fee due for that Development. Within thirty (30) days after receiving such request, the City or the Fire District Administrator shall issue a written certification of the amount of the Fire District Impact Fee due for the proposed Development. Such certification shall establish the Fire District Impact Fee so long as there is no material change to the particular Development as identified in the individual assessment application, or the impact fee schedule attached to the Capital Improvements Plan. The certification shall include an explanation of the calculation of the Fire District Impact Fee including an explanation of factors considered under Idaho Code § 67-8207 and shall also specify the System Improvement(s) for which the Fire District Impact Fee is intended to be used. If the Impact Fee is calculated by the City pursuant to the fee schedule, the City shall provide the certification to the Fee Payer and the Fire District Administrator. If the Impact Fee is determined by the Fire District Administrator following an individual assessment of the fee, the Fire District Administrator shall provide the certification to the Fee Payer and the City.
- B. *Payment of Fees.* The Fire District Impact Fee shall be paid either to the City or to the Fire District at the following times:
 1. If a Building Permit or manufactured/mobile home installation permit is required, then at the time before the permit is issued;
 2. If no Building Permit or manufactured/mobile home installation permit is required, then at the time that construction commences; or
 3. At such other time as the Developer and the Fire District have agreed upon in writing with notice to the City.

- C. In the event a Fire District Impact Fee is paid to the Fire District, then the Fire District Administrator shall immediately notify the City of said payment.
- D. All Fire District Impact Fees paid to the City shall then be delivered to the Fire District Administrator on a once-a-month basis.

1-19-5: - EXEMPTIONS:

- A. *Exemptions.* The provisions of this Chapter shall not apply to the following:
 1. Rebuilding the same amount of floor space of a structure which is destroyed by fire or other catastrophe, provided the structure is rebuilt and ready for occupancy within two (2) years of its destruction;
 2. Remodeling or repairing a structure which does not increase the number of service units;
 3. Replacing a residential unit, including a manufactured/mobile home, with another residential unit on the same lot; provided that, the number of service units does not increase;
 4. Placing a temporary construction trailer or office on a lot;
 5. Constructing an addition on a residential structure which does not increase the number of service units;
 6. Adding uses that are typically accessory to residential uses, such as tennis court or a clubhouse, unless it can be clearly demonstrated that the use creates a significant impact on the capacity of System Improvements; or
 7. The installation of a modular building, manufactured/mobile home or recreational vehicle if the Fee Payer can demonstrate by documentation such as utility bills and tax records that either: (a) a modular building, manufactured/mobile home or recreational vehicle was legally in place on the lot or space prior to the effective date of this Chapter; or (b) a Fire District Impact Fee has been paid previously for the modular building, manufactured/mobile home or recreational vehicle on that same lot or space.
- B. *Exemption Claim Process:* An exemption from a Fire District Impact Fee must be claimed on the Application by the Developer (Fee Payer) upon submitting their application for a Building Permit or manufactured home installation permit. Any exemption not so claimed shall be deemed waived by the Fee Payer. Applications for exemption shall be determined by the City within ninety (90) days of receipt of the claim for exemption.

1-19-6: - INDIVIDUAL ASSESSMENT PROCESS:

- A. In lieu of calculating the amount of the Fire District Impact Fee using the impact fee schedules in MCC § 1-20-3 of this chapter, an individual assessment of Impact Fees is permitted.
1. **INDIVIDUAL ASSESSMENT PROCESS.** A Fee Payer may file a written request for an individual assessment of the Development by the Administrator prior to the receipt of a building permit or other necessary approvals or entitlements from the City. A request for an individual assessment process shall involve consideration of studies, data, and any other relevant information submitted by the Fee Payer to adjust the amount of the Fire District Impact Fee.
 2. Each individual assessment request and supporting documentation submitted by the Fee Payer shall be based on the same level of service standards and unit costs for System Improvements used in the applicable Capital Improvements Plan, shall use an average cost (not a marginal cost) methodology, and shall document the relevant methodologies and assumptions used.
 3. Each individual assessment request delivered to the Administrator may then be accepted, rejected, or accepted with modifications by the Administrator as the basis for calculating the Fire District Impact Fee. The criteria for acceptance, rejection or acceptance with modifications shall be whether the individual assessment is a more accurate measure of demand for System Improvements element(s) created by the proposed Development, or the costs of those facilities, than the applicable fee shown in the fee schedule, based on the standards in Section 67-8207, Idaho Code.
 4. The Administrator shall issue a written decision within thirty (30) days following receipt of a completed request for individual assessment together with all supporting information from the Fee Payer, so as not to unreasonably delay the Developer's (Fee Payer's) subsequent applications to the City for Building Permits.
 5. The decision by the Administrator on an application for an individual assessment shall include an explanation of the calculation of the Fire District Impact Fee, shall specify the System Improvement(s) for which the Fire District Impact Fee is intended to be used, and shall include an explanation of those factors identified in Idaho Code § 67 8207.
 6. If an individual assessment is accepted or accepted with modifications by the Administrator then the Fire District Impact Fee due under this Article for such Development shall be calculated according to such individual assessment.

7. The Fire District Administrator shall provide notice of final determination of an individual assessment to the Developer (Fee Payer) and the City.

1-19-7: - DEVELOPER CREDITS AND REIMBURSEMENT:

- A. *Credits to be Issued.* When a Developer or their predecessor in title or interest has constructed System Improvements of the same category as a Fire District Capital Improvements Element, or contributed or dedicated land or money towards the completion of System Improvements of the same category as a Fire District Capital Improvements Element, and the Fire District has accepted such construction, contribution or dedication, the Fire District shall issue a credit against the Fire District Impact Fees otherwise due for the same Fire District Capital Improvements Element in connection with the proposed Development, as set forth in this section, credit shall be issued regardless of whether the contribution or dedication to System Improvements was required by the Fire District as a condition of Development Approval or was offered by the Developer and accepted by the Fire District in writing, and regardless of whether the contribution or dedication was contributed by the Developer or by a local improvement district controlled by the Developer.
- B. *Limitations.* Credits against a Fire District Impact Fee shall not be given for: (a) Project Improvements; or (b) any construction, contribution or dedication not agreed to in writing by the Fire District prior to commencement of the construction, contribution, or dedication. Credits issued for one Fire District Capital Improvements Element may not be used to reduce Fire District Impact Fees due for a different capital improvement. No credits shall be issued for System Improvements contributed or dedicated prior to the effective date of this Chapter. Prior contributions may only be taken into account pursuant to an individual assessment.
- C. *Valuation of Credit at Present Value:*
1. *Land.* Credit for qualifying land dedications shall, at the Fee Payer's option, be valued at the present value of: (a) one hundred percent (100%) of the most recent assessed value for such land as shown in the records of the county assessor; or (b) that fair market value established by a private appraiser acceptable to the Fire District in an appraisal paid for by the Fee Payer.
 2. *Improvements.* Credit for qualifying acquisition or construction of System Improvements shall be valued by the Fire District at the present value of such improvements based on complete engineering drawings, specifications, and construction cost estimates submitted by the Fee Payer to the Fire District. The Fire District Administrator shall determine the amount of credit due based on the information submitted, or, if it determines that such

information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the Fire District as a more accurate measure of the value of the offered System Improvements to the Fire District.

D. *When Credits Become Effective:*

1. *Land.* Approved credits for land dedications shall become effective when the land has been conveyed to the Fire District in a form acceptable to the Fire District, at no cost to the Fire District, and has been accepted by the Fire District. Upon request of the Fee Payer, the Fire District shall issue a letter stating the amount of credit available.
2. *Improvements.* Approved credits for acquisition or construction of System Improvements shall generally become effective when (a) all required construction has been completed and has been accepted by the Fire District, (b) a suitable maintenance and warranty bond has been received and approved by the Fire District, and (c) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable requirements of the Fire District and the state of Idaho. Upon request of the Fee Payer, the Fire District shall issue a letter stating the amount of credit available.

E. *Credit Request Procedures:*

1. *Request.* In order to obtain a credit against a Fire District Impact Fee otherwise due, a Fee Payer shall submit to the City a written offer of request to dedicate to the Fire District specific parcels of qualifying land or a written offer to contribute or construct specific System Improvements to the Fire District Capital Facilities in accordance with all applicable State or City design and construction standards, and shall specifically request a credit against the type of Fire District Impact Fee for which the land dedication or System Improvements is offered. The City shall then deliver the written offer of request to the Fire District Administrator.
2. *Review.* After receipt of the written offer of request for credit, the Fire District Administrator shall review the request and determine whether the land or System Improvements offered for credit will reduce the costs of providing Fire District Capital Facilities by an amount at least equal to the value of the credit. If the Fire District Administrator determines that the offered credit satisfies that criteria and will be acceptable to the Board of Commissioners, then the credit shall be issued. The Fire District shall complete its review and determination of an application within thirty (30) days after receipt of an application for credit.
3. *Credits Exceeding Fee Amounts Due.* If the credit due to a Fee Payer pursuant to subsection 1-19-7D of this Chapter exceeds the Fire District

Impact Fee that would otherwise be due from the Fee Payer pursuant to this Chapter (whether calculated through the fee schedule attached to the Capital Improvement Plan or through an individual assessment), the Fee Payer may choose to receive such credit in the form of either: (a) a credit against future Fire District Impact Fee due for the same System Improvements; or (b) a reimbursement from Fire District Impact Fees paid by future Development that impacts the System Improvements contributed or dedicated by the Fee Payer. Unless otherwise stated in an agreement with the Fee Payer, the Fire District shall be under no obligation to use any Fire District funds - other than Fire District Impact Fees paid by other Development for the same System Improvements - to reimburse the Fee Payer for any credit in excess of Fire District Impact Fees that are due.

4. *Written Agreement Required.* If credit or reimbursement is due to the Fee Payer pursuant to this section, the Fire District shall enter into a written agreement with the Fee Payer, negotiated in good faith, prior to the contribution, dedication, or funding of the System Improvements giving rise to the credit. The agreement shall provide for the amount of credit or the amount, time and form of reimbursement, and shall have a term not exceeding ten (10) years.
5. The Fire District Administrator's determination on the written offer of request for credit shall be provided to the Fee Payer and the City.

1-19-8: - METHODOLOGY FOR THE CALCULATION OF FIRE DISTRICT IMPACT FEES:

A. General Provisions.

1. *Accounting Principles.* The calculation of the Fire District Impact Fee shall be in accordance with generally accepted accounting principles. A development impact fee shall not be deemed invalid because payment of the fee may result in an incidental benefit to owners or Developers within the service area other than the Fee Payer.
2. *Levels of Service.* The Fire District Impact Fee shall be calculated on the basis of levels of service for Public Facilities adopted in this Chapter that are applicable to existing Development as well as new growth and Development. The construction, improvement, expansion or enlargement of new or existing Public Facilities for which the Fire District Impact Fee is imposed must be attributable to the capacity demands generated by the new Development.

- B. *Methodology; Proportionate Methodology.* The Fire District Impact Fee shall not exceed a proportionate share of the cost of the System Improvements determined

in accordance with Idaho Code § 67-8207, as amended. Fire District Impact Fees shall be based on actual System Improvements Costs or reasonable estimates of such costs. The amount of the Fire District Impact Fee shall be calculated using the methodology contained in the Capital Improvements Plan.

C. *Proportionate Share Determination.*

1. Fire District Impact Fee shall be based on a reasonable and fair formula or method under which the Fire District Impact Fee imposed does not exceed a proportionate share of the costs incurred or to be incurred by the Fire District in the provision of System Improvements to serve the new Development. The proportionate share is the costs attributable to the new Development after the Fire District considers the following:
 - a. Any appropriate credit, offset or contribution of money, dedication of land or construction of System Improvements;
 - b. Payments reasonably anticipated to be made by or as a result of a new Development in the form of user fees and debt service payments;
 - c. That portion of general tax or other revenues allocated by the Fire District to System Improvements; and
 - d. All other available sources of funding such System Improvements.

2. In determining the proportionate share of the cost of System Improvements to be paid by the Developer, the following factors shall be considered by the Fire District and accounted for in the calculation of the Fire District Impact Fee:
 - a. The costs of existing System Improvements within the Service area;
 - b. The means by which existing System Improvements have been financed;
 - c. The extent to which the new Development will contribute to System Improvements Costs through taxation, assessments, or developer or landowner contributions, or has previously contributed to System Improvements Costs through Developer or landowner contributions;
 - d. The extent to which the new development is required to contribute to the cost of existing System Improvements in the future;
 - e. The extent to which the new Development should be credited for providing System Improvements, without charge to other properties within the Service Area;

- f. Extraordinary costs, if any, incurred in serving the new Development;
- g. The time and price differential inherent in a fair comparison of fees paid at different times; and
- h. The availability of other sources of funding System Improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers and special taxation.

1-19-9: - EXTRAORDINARY IMPACTS:

- A. In the event the City makes an initial determination that Development may impose Extraordinary Impact, the City shall provide the Development application to the Fire District Administrator along with the City's initial determination. The Fire District Administrator shall then review and determine whether or not the Development application will impose Extraordinary Impact.
- B. If the Fire District Administrator determines that a proposed Development generates Extraordinary Impact that will result in extraordinary Systems Improvements Costs, the Fire District Administrator will notify the Fee Payer and the City of such Fire District Impact Fee determination within thirty (30) days after Fire District Administrator's receipt from the City of the Development Application and the City's initial determination. Such notice shall include a statement that the potential impacts of such Development on System Improvements are not adequately addressed by the Capital Improvements Plan, and that a supplemental study, at the Fee Payer's expense will be required.
- C. Circumstances that may lead to a determination of Extraordinary Impact include, but are not limited to: (a) an indication the assumptions used in the Capital Improvements Plan underestimate the level of activity or impact on Fire District Capital Facilities from the proposed Development or activity.
- D. Within thirty (30) days following the designation of a Development with Extraordinary Impact, the Fire District Administrator shall meet with the Fee Payer to discuss whether the Fee Payer wants to: (a) pay for the supplemental study necessary to determine the System Improvements Costs related to the proposed Development; (b) modify the proposal to avoid generating Extraordinary Impact; or (c) withdraw the application for certification, Building Permit or Development approval.
- E. If the Fee Payer agrees to pay for the supplemental study required to document the proposed Development's proportionate share of System Improvements Costs, then the Fire District and the Fee Payer shall jointly select an individual or organization acceptable to both to perform such study. The Fee Payer shall enter into a written agreement with such individual or organization to pay the costs of such study.

Such agreement shall require the supplemental study to be completed within thirty (30) days of such written agreement, unless the Fee Payer agrees to a longer time.

- F. Once the study has been completed, the Fee Payer may choose to: (a) pay the proportionate share of System Improvements Costs documented by the supplemental study; or (b) modify the proposed Development to reduce such costs; or (c) withdraw the application. If the Fee Payer agrees to pay the System Improvements Costs documented in the supplemental study, that agreement shall be reduced to writing between the Fire District and the Fee Payer prior to review and consideration of any application for any Development approval or Building Permit related to the proposed Development.
- G. Notwithstanding any agreement by the Fee Payer to pay the proportionate share of System Improvements Costs documented by the supplemental study, nothing in this ordinance shall obligate the City to approve Development that results in an Extraordinary Impact to the Fire District.

1-19-10: - FEE PAYER REFUNDS:

A. Duty to Refund:

1. Fire District Impact Fees shall be refunded to the Fee Payer, or to a successor in interest, in the following circumstances:
 - a. Service is available but never provided;
 - b. A Building Permit, or permit for installation of a manufactured home, is denied by the City or abandoned;
 - c. The Fee Payer pays a Fire District Impact Fee under protest and a subsequent review of the fee paid or the completion of an individual assessment determines that the fee paid exceeded the proportionate share to which the Fire District was entitled to receive;
 - d. The Fire District has collected a Fire District Impact Fee and the Fire District has failed to Appropriate or expend the collected fees pursuant to section below; or
 - e. Failure of the Fire District to commence construction or encumber the fund in the Fire District Development Impact Fee Capital Projects Trust Fund.
2. Any Fire District Impact Fee paid shall be refunded if the Fire District has failed to commence construction of System Improvements in accordance

with this Chapter, or to appropriate funds for such construction, within eight (8) years after the date on which such fee was collected by the Fire District. Any refund due shall be paid to the owner of record of the parcel for which the Fire District Impact Fee was paid. The Fire District may hold Fire District Impact Fees for longer than eight (8) years if the Fire District identifies in writing and in written notice to the owner of record of the parcel: (a) a reasonable cause why the fees should be held longer than eight (8) years; and (b) an anticipated date by which the fees will be expended, but in no event greater than eleven (11) years from the date they were collected. If the Fire District complies with the previous sentence, then any Fire District Impact Fees so identified shall be refunded to the Fee Payer if the Fire District has failed to commence construction of System Improvements in accordance with the written notice, or to Appropriate Funds for such construction on or before the date identified in such writing.

3. *No Refund Due for Subsequent Reduction in Size of Development or Service Units.* After a Fire District Impact Fee has been paid pursuant to this Chapter and after a certificate of occupancy has been issued by the City, no refund of any part of such fee shall be made if the project for which the fee was paid is later demolished, destroyed, or is altered, reconstructed, or reconfigured so as to reduce the size of the project or the number of units in the project.
4. *Interest.* Each refund shall include a refund of interest at one-half the legal rate provided for in Idaho Code § 28-22-104 from the date on which the fee was originally paid.
5. *Timing.* The Fire District shall make a determination of whether a refund is due within thirty (30) days after receipt of a written request for a refund from the owner of record of the property for which the fee was paid. When the right to a refund exists, the Fire District shall send the refund to the owner of record within ninety (90) days after the Fire District determines that a refund is due.

1-19-11: - ESTABLISHMENT OF FIRE DISTRICT TRUST FUND AND TRUST ACCOUNTS:

- A. The Trust Fund established by the Fire District will be maintained by the Fire District for the purpose of ensuring that all Fire District Impact Fees collected, pursuant to this Chapter, are used to address impacts reasonably attributable to new Development for which the Fire District Impact Fees are paid. The Trust Fund shall be divided into the Trust Accounts. All funds in all Trust Accounts in the Trust Fund shall be maintained in an interest bearing account. The interest earned on each Trust Account pursuant to Idaho Code § 67-8210(1) shall not be governed by Idaho Code § 57-127, as amended, but shall be considered funds of the Trust Accounts

and shall be subject to the same restrictions on uses of funds as the Fire District Impact Fees on which the interest is generated.

- B. *Deposit of Fire District Impact Fees.* All monies paid by a Fee Payer, pursuant to this Chapter, shall be identified as Fire District Impact Fees and shall be promptly deposited by the Fire District Administrator in the appropriate Trust Accounts of the Trust Fund.
1. *First-in/First-out.* Monies in each Trust Account shall be spent in the order collected, on a first-in/first-out basis.
 2. *Maintenance of Records.* The Fire District shall maintain and keep accurate financial records for each Trust Account that shall show the source and disbursement of all revenues, that shall account for all monies received, that shall ensure that the disbursement of funds from each Trust Account shall be used solely and exclusively for the provisions of projects specified in the Capital Improvements Plan, and that shall provide an annual accounting for each Fire District Impact Fee Account showing the source and amount of all funds collected and the projects that were funded.

1-19-12: - EXPENDITURE OF FIRE DISTRICT IMPACT FEES:

- A. Expenditures of Fire District Impact Fees collected and deposited in the Trust Fund shall be made only for System Improvements within the Service Area for which the Impact Fee was collected in accordance with the Capital Improvements Plan.
- B. *Capital Improvements Plan Reimbursement; Surcharge.* A portion of each Impact Fee collected shall be designated as a surcharge for reimbursement of the Fire District for the cost of preparing the Capital Improvements Plan in accordance with Idaho Code § 67-8208. The surcharge shall not exceed the Development's proportionate share of the cost of preparing the Capital Improvements Plan.

1-19-13: - APPEALS, PROTEST AND MEDIATION:

- A. *Appeals.* Any Fee Payer that is or may be obligated to pay a Fire District Impact Fee, or that claims a right to receive a refund, reimbursement, exemption or credit under this Chapter, and who is dissatisfied with a decision made either by the City or by the Fire District Administrator in applying this Chapter, may appeal such decision as follows:
1. in the case of a decision made by the City to the City Council; and
 2. in the case of a decision made by the Fire District Administrator to the Board of Commissioners.

- B. The Fee Payer shall have the burden on appeal of demonstrating that the decision was in error.
- C. In order to pursue the appeal described in this subsection, the Fee Payer shall file a written notice of the appeal with the City within thirty (30) days after the date of the City's or the Fire District Administrator's decision, or the date on which the Fee Payer submitted a payment of the Fire District Impact Fee under protest, whichever is later. Such written application shall include a statement describing why the Fee Payer believes that the appealed decision was in error, together with copies of any documents that the Fee Payer believes support the claim.
- D. Appeals of the Fire District Administrator's decisions shall be delivered by the City to the Fire District Administrator.
- E. The City Council or the Board of Commissioners, as the case may be, shall hear the appeal within sixty (60) days after receipt of a written notice of appeal. The Fee Payer shall have a right to be present and to present evidence in support of the appeal. The City or Fire District Administrator who made the decision under appeal or their representative shall likewise have the right to be present and to present evidence in support of the decision. The criteria to be used by the City Council or by the Board of Commissioners in considering the appeal shall be whether: (a) the decision or interpretation made by the City or Fire District Administrator; or (b) the alternative decision or interpretation offered by the Fee Payer, more accurately reflects the intent of this Chapter that new development in the City pay its proportionate share of the costs of system improvements to Fire District facilities necessary to serve new development and whether the provisions of this Chapter has been correctly applied. The City Council or Board of Commissioners, as the case may be, shall issue a decision upholding, reversing, or modifying the decision being appealed within thirty (30) days after hearing the appeal.
- F. *Payment Under Protest.* A Fee Payer may pay a Fire District Impact Fee under protest in order not to delay in the issuance of a Building Permit by the City. A Fee Payer making a payment under protest shall not be estopped from exercising the right to appeal provided herein, nor shall such Fee Payer be estopped from receiving a refund of any amount deemed to have been illegally collected.
- G. *Mediation.*
1. Any Fee Payer that has a disagreement with the City or the Fire District Administrator regarding a Fire District Impact Fee Determination that is or may be due for a proposed Development pursuant to this Chapter, may enter into a voluntary agreement with the City or the Fire District, as the case may be, to subject the disagreement to mediation by a qualified independent party acceptable to both the Fee Payer and the Fire District.

2. Mediation may take place at any time following the filing of a timely appeal pursuant to section 1-19-13C of this Chapter, or as an alternative to such appeal, provided that the request for mediation is filed no later than the last date on which a timely appeal could be filed pursuant to section 1-19-13C of this Chapter.
3. Participation in mediation does not preclude the Fee Payer from pursuing other remedies provided for in this section.
4. If mediation is requested, any related mediation costs shall be shared equally by the Fee Payer and the City or the Fire District, as the case may be, and a written agreement regarding the payment of such costs shall be executed prior to the commencement of mediation.
5. In the event that mediation does not resolve the issues between the Fire District and the Fee Payer, the Fee Payer retains all rights to seek relief from a court of competent jurisdiction.

1-19-14: - PERIODIC REVIEWS:

- A. *Review and Modification of Capital Improvements Plan.* Unless the Board of Commissioners deems some other period is appropriate, the Board of Commissioners shall, at least once every five (5) years, commencing from the date of the original adoption of the Capital Improvements Plan, review the Development potential and update the Capital Improvements Plan in cooperation with the City and in accordance with the procedures set forth in Idaho Code § 67-8206, as amended. Each update shall be prepared by the Fire District Administrator in consultation with the Advisory Committee.
- B. *Annual review.* The Fire District shall annually adopt a capital budget.

1-19-15: - AUDIT:

As part of its annual audit process, the Fire District shall prepare an annual report: (a) describing the amount of all Fire District Impact Fees collected, appropriated or spent during the preceding year by category of Public Facility; and (b) describing the percentage of taxes and revenues from sources other than the Fire District Impact Fees collected, appropriated or spent for System Improvements during the preceding year by Systems Improvements category of Fire District Capital Facilities.

1-19-16: – DEVELOPMENT IMPACT FEE ADVISORY STANDING COMMITTEE

- A. *Committee Created:* A standing committee of the City Council is established. [hereinafter in this Chapter referred also as “Advisory Committee” or “Committee”].
- C. *Membership:* The members on the Committee shall be appointed by the City Council for a term of one (1) year or until someone is appointed in his/her place, and there shall not be fewer than five (5) members of which two (2) or more members shall be active in the business of development, building or real estate and at least two (2) or more members shall not be employees or officials of the City or the Fire District.
1. The members will be appointed during the January regular meeting of the City Council.
 2. Any vacancy occurring on the Committee during the year may be filled during the year, by appointment of the City Council and confirmed by the Board of Commissioners of the Fire District.
- D. *Charge:* The Advisory Committee shall serve as an advisory committee to the City Council and the Board of Commissioners of the Fire District and is charged with the following responsibilities:
1. Assist the City and the Fire District in adopting land use assumptions; and
 2. Review the Capital Improvements Plan; and
 3. Monitor and evaluate implementation of the Capital Improvements Plan;
 4. File with the Fire District, Fire District Administrator and the City Clerk, at least annually, with respect to the Capital Improvements Plan, a report of any perceived inequities in implementing the Capital Improvements Plan or imposing the Fire District Impact Fees;
 5. Advise the City Council and the Board of Commissioners of the Fire District of the need to update or revise land use assumptions, Capital Improvements Plan and Fire District Development Impact Fees; and
 6. The Fire District shall make available to the Advisory Committee, upon request, all financial and accounting information, professional reports in relation to other development and implementation of land use assumptions, the Capital Improvements Plan and periodic updates of the Capital Improvements Plan.
- E. *Reporting:* The Advisory Committee reports directly to the Fire District Board of Commissioners and to the City Council.

- F. *City Council and Fire District Board of Commissioners Review of Committee's Report and Recommendations:* The City Council and the Fire District Board of Commissioners shall each consider the Advisory Committee's recommended revision(s) at least once every twelve (12) months. The Advisory Committee's recommendations and the City Council's and Board of Commissioners' actions are intended to ensure that the benefits to a Development paying Fire District Impact Fees are equitable, so that the Fire District Impact Fee charged to the Development shall not exceed a proportionate share of System Improvements Costs, and that the procedures for administering Fire District Impact Fees remain efficient.

1-19-17: - ENFORCEMENT AND COLLECTION:

- A. When any Fire District Impact Fee is due pursuant to this Chapter, or pursuant to the terms of any written agreement between a Fee Payer and the Fire District, and such Fire District Impact Fee has not been paid in a timely manner, the City, or Fire District Administrator on behalf of the Fire District, may exercise any or all of the following powers as applicable to their authority, in any combination, to enforce the collection of the Fire District Impact Fee:
1. Withhold Building Permits, manufactured home installation permits, or other City Development Approval related to the Development for which the Fire District Impact Fee is due until all Fire District Impact Fees due have been paid, and issue stop work orders, and revoke or suspend a Building Permit.
 2. Withhold utility services from the Development for which the Fire District Impact Fee is due until all Fire District Impact Fees due have been paid; and
 3. Add interest to the Fire District Impact Fee not paid in full at the legal rate provided for in Idaho Code § 28-22-104, as amended, plus five percent (5%) beginning on the date at which the payment of the Fire District Impact Fee was due until paid in full.
 4. Impose a penalty of five percent (5%) of the total Fire District Impact Fee (not merely the portion dishonored, late or not paid in full) per month beginning on the date at which the payment of the Fire District Impact Fee was due until paid in full.
 5. Impose a lien pursuant to the authority of Idaho Code § 67-8213(4) for failure to timely pay a Fire District Impact Fee following the procedures contained in Idaho Code Title 45, Chapter 5.

1-19-18: - CITY/ FIRE DISTRICT INTERGOVERNMENTAL AGREEMENT:

- A. The City is a governmental entity that is empowered by the Act to adopt development impact fee ordinances and as such is authorized, by Idaho Code § 67-8204A, to enter into the Intergovernmental Agreement with the Fire District for the purpose of agreement to collect and expend Fire District Impact Fees for System Improvements as provided in this Chapter.
- B. The City and the Fire District have entered into the Intergovernmental Agreement which is in full force and effect.
- C. The Intergovernmental Agreement complies with this Chapter and requires the Fire District to be governed by and to fully abide by the provisions of this Chapter.
- D. Any amendments of the Intergovernmental Agreement shall be implemented by corresponding relevant amendments of this Chapter which amendments shall not apply to any Fire District Impact Fees then not expended and currently held in the Trust Fund.

1-19-19: - MISCELLANEOUS PROVISIONS:

- A. Nothing in this Chapter shall prevent the Fire District from requiring a Developer to construct reasonable Project Improvements, as are required by the fire codes and other rules that are adopted by the state fire marshal, in conjunction with a Development.
- B. Nothing in this Chapter shall be construed to prevent or prohibit private agreements between property owners or developers, the Idaho Transportation Department and governmental entities in regard to the construction or installation of System Improvements or providing for credits or reimbursements for System Improvements Costs incurred by a Developer including inter-project transfers of credits or providing for reimbursement for Project Improvements which are used or shared by more than one (1) Development project.
- C. Nothing in this Chapter shall obligate the City to approve Development which results in an Extraordinary Impact.
- D. Nothing in this Chapter shall obligate the Fire District to approve any Development request which may reasonably be expected to reduce levels of service below minimum acceptable levels established in this Chapter.

- E. Nothing in this Chapter shall be construed to create any additional right to develop real property or diminish the City in regulating the orderly development of real property within its boundaries.
- F. Nothing in this Chapter shall work to limit the use by the City of the power of eminent domain or supersede or conflict with requirements or procedures authorized in the Idaho Code for local improvement districts or general obligation bond issues.
- G. Nothing herein shall restrict or diminish the power of the City to annex property into its territorial boundaries or exclude property from its territorial boundaries upon request of a developer or owner, or to impose reasonable conditions thereon, including the recovery of Project or System Improvements Costs required as a result of such voluntary annexation.
- H. The Fire District shall develop a plan for alternative sources of revenue, which shall include but not necessarily be limited to plans generated during the Fire District's annual budget process, lobbying efforts, tax increment financing, and implementation of user fees, administrative and regulatory fees and other forms of revenue.
- I. Notwithstanding any other provision of this Chapter, that portion of a Project for which a complete application for a Building Permit has been received by the City, prior to the effective date of this Chapter, shall not be subject to the Fire District Impact Fee imposed by this Chapter. If the resulting Building Permit is later revised or replaced after the effective date of the ordinance codified in this Chapter, and the new Building Permit(s) reflects a development density, intensity, development size or number of units more than ten percent (10%) higher than that reflected in the original Building Permit, then the Fire District Impact Fee may be charged on the difference in density, intensity, development size or number of units between the original and the revised or replacement Building Permit.
- J. Any monies, including any accrued interest not assigned to specific System Improvements within such Capital Improvements Plan and not expended pursuant to section 1-19-12 of this Chapter or refunded pursuant to section 1-19-10 of this Chapter shall be retained in the same account until the next Fire District fiscal year.
- K. If the Fire District discovers an error in the Capital Improvements Plan that results in assessment or payment of more than a proportionate share of System Improvements Costs on any proposed Development, the Fire District Administrator shall: (a) adjust the Fire District Impact Fee to collect no more than a proportionate share; or (b) discontinue the collection of any Fire District Impact Fees until the error is corrected by ordinance.

- L. If Fire District Impact Fees are calculated and paid based on a mistake or misrepresentation, they shall be recalculated. Any amounts overpaid by a Fee Payer shall be refunded by the Fire District within thirty (30) days after the Fire District's acceptance of the recalculated amount, with interest at the legal rate provided for in Idaho Code § 28-22-104 from the date on which the fee was paid. Any amounts underpaid by the Fee Payer shall be paid to the Fire District within thirty (30) days after the Fire District Administrator's acceptance of the recalculated amount, with interest at the legal rate provided for in Idaho Code § 28-22-104 from the date on which the fee was paid. In the case of an underpayment to the Fire District, the Administrator may request the City and the City may withhold issuance of the Building Permits or Development Approval for the project for which the Fire District Impact Fee was paid until such underpayment is corrected, and if amounts owed to the Fire District are not paid within such thirty-day (30) period, the Fire District Administrator may also ask the City to and the City may revoke any Building Permits or Development Approval issued in reliance on the previous payment of such Fire District Impact Fee and refund such fee to the Fee Payer.
- M. The Advisory Committee that was established during the preparation of the Capital Improvements Plan shall continue in existence, and shall by operation of this Ordinance become the Advisory Committee created herein.

1-19-20: - PUNISHMENT:

Any person who violates any provision of this Chapter shall be guilty of a misdemeanor, punishable by up to one (1) year in the county jail, and/or a one thousand dollar (\$1,000.00) fine, or both. Knowingly furnishing false information to any official of the City or the Fire District charged with the administration of this Chapter, including without limitation, the furnishing of false information regarding the expected size, use or impacts from a proposed Development, shall be a violation of this Chapter.

1-19-21: - CONSTRUCTION OF INTENT:

All provisions, terms, phrases and expressions contained in this Chapter shall be liberally construed in order that the true intent and meaning of the Act and the City Council and the Board of Commissioners may be fully carried out.



SECTION 2: DATE OF EFFECT AND PUBLICATION

2.1 This Ordinance, as required by Idaho Code § 67-8206(6), shall be in full force and effect on the 30th day following its passage and approval; and shall be published in full or by summary as provided in Idaho Code §§ 50-901 and 50-901A within one month of its passage and approval all according to law.

PASSED BY THE COUNCIL OF THE CITY OF MIDDLETON, IDAHO, THIS _____ DAY OF _____, 2020.

APPROVED BY THE MAYOR OF THE CITY OF MIDDLETON, IDAHO, THIS _____ DAY OF _____, 2020.

CITY OF MIDDLETON

Steve Rule, *Mayor*

ATTEST:

Becky Crofts, *City Clerk*

