Frederick-Firestone Fire Protection District Impact Fee Study

FINAL REPORT

Final Report

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SECTION I. Introduction

Frederick-Firestone Fire Protection District (FFFPD, or the District) provides fire, rescue, and emergency medical services in Weld County, serving the towns of Frederick and Firestone, as well as segments of Interstate 25, State Highway 52, and St. Vrain State Park, as shown in Figure I-1. FFFPD services a population of more than 34,000 residents in a total area of 36 square miles and responds to approximately 2,500 calls per year. Because of a heightened interest in development, the District is considering implementing *development impact fees* as part of a larger strategy to ensure that future development pays its own way and existing residents and services are not financially burdened by new growth.

Many Colorado communities impose development impact fees for expansion of public infrastructure. Some cities have entire suites of fees with separate charges for multiple infrastructure categories (e.g., streets, parks, and fire protection). Colorado statute and a series of United States Supreme Court decisions dictate the amounts that communities can charge in impact fees and how they can devise, impose, and spend them. Because of those requirements, FFFPD retained BBC Research & Consulting (BBC) to conduct a feasibility assessment and prepare a report documenting the calculation of appropriate fees for its services. This report documents BBC's analysis and recommendations for implementing an impact fee system that would recover the proportional capital costs associated with new development.

A. Impact Fee Requirements

Although there is no universally accepted definition of defensible impact fees, most feasibility assessments focus on the following requirements:

- *One-time application*, meaning that fees are a one-time payment for new development;
- *Restricted use*, meaning that fees are only applicable to infrastructure expansion projects;
- *New development*, meaning that fees are only applicable to new development and not improvements to existing developments; and
- *Proportionality requirements*, meaning that fees must be limited to the proportionate share of the capital costs associated with providing services to the new development.

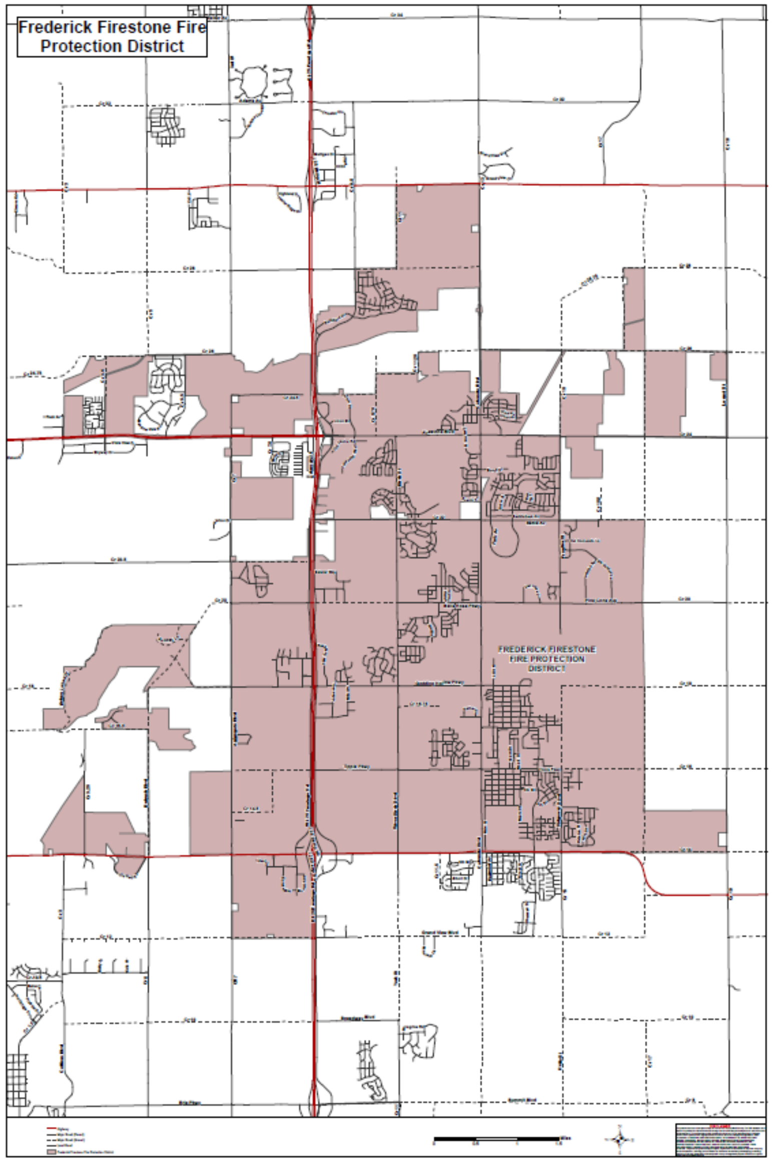
For example, Juergensmeyer and Thomas (2008) describe impact fees as:

> *"Fees collected through a set schedule or formula, spelled out in a local ordinance …. fees are levied only against new development projects as a condition of permit approval to fund infrastructure needed to serve the proposed development. Impact fees are calculated to cover the proportionate share of the capital costs for that infrastructure…"*[1]

[1] Juergensmeyer, Julian C., and Thomas E. Roberts. Land Use Planning and Development Regulatory Law. St. Paul, MN: WestGroup, 2003; and ImpactFees.com, Duncan Associates, 20 February 2008.

Figure I-1.
FFFPD boundaries

Source: FFFPD.



1. Colorado requirements. Consistent with Juergensmeyer and Thomas's (2008) description of impact fees, Colorado law specifies the following requirements for impact fees:

- Impact fees are a one-time payment levied on new development;
- Funds can only be used for capital infrastructure projects:
  - Applicable projects must have a five-year life.
  - No funds can be diverted for operations, maintenance, repair, or facility replacement.
- Impact fee revenue must be segregated from other revenue and used for the purposes for which it was collected;
- Fees must be imposed on all forms of development and cannot be limited to one type of land use;
- Impact fee revenue must be used for capital infrastructure expansion. No funds can be used for correcting existing system deficiencies; and

- There must be a reasonable expectation of benefit by the fee payer.

2. Supreme Court decisions. Impact fees must also be in accordance with a series of United States Supreme Court rulings. The two most notable court decisions that speak to impact fee requirements are often referred to as *Nollan* and *Dolan*.[2] Guidance from those decisions requires that there be an "essential nexus" between the fee and the community's interest. In *Dolan v. City of Tigard* (1994), the Supreme Court held that, in addition to an "essential nexus," there must be "rough proportionality" between the proposed fee and the impacts that the fee is intended to mitigate. In *Dolan,* the Court further ruled that "rough proportionality" need not be derived with mathematical exactitude but must demonstrate some relationship to the specific impact of the project:

> *"We think a term such as 'rough proportionality' best encapsulates what we hold to be the requirements of the Fifth Amendment. No precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development."*[3]

Over the past two decades since *Dolan*, many communities have imposed impact fees, resulting in a broad set of common practices when considering how best to reflect judicial and statutory requirements in designing new fees.

B. Fee Applicability

As noted above, communities can only use impact fee revenue to cover the costs of any necessary expansion of public infrastructure that is needed to serve new development. In addition, fee amounts can only be set in a manner that is proportional to the cost of such infrastructure expansion.

1. Public infrastructure. *Public or capital infrastructure* is the physical component of public services. Under Colorado statute, the definition of *infrastructure* can include all equipment that has at least a five-year lifetime. It does not include personnel or any elements of service costs, even in circumstances where new staff is required to operate new facilities. Public infrastructure generally includes buildings, facilities, parking, lighting, ball fields, or other support facilities. Capital infrastructure generally includes streets, parks, administrative facilities, specialized fire or police buildings, and recreational facilities.

2. Nature of infrastructure investments. Not all capital infrastructure costs are associated with community growth or with the expansion of facility capacity. Most communities make infrastructure investments not because of growth pressures but for the repair and replacement of existing facilities. For example, communities often make infrastructure investments related to:

- *Repair and replacement of existing facilities*, such as annual building maintenance or replacing a roof;

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2 *Nollan v. California Coastal Commission*, 483 U.S. 82; 1987 and Dolan v. City of Tigard (1994) 114S.Ct. 2309.

3 *Dolan v. City of Tigard* (1994) 114S.Ct. 2309

- *Betterment of existing facilities*, such as introducing new services or improving existing infrastructure without increasing service capacity; and
- *Facilities expansions*, such as expanding an existing building to accommodate growing personnel requirements.

Communities are not allowed to account for such investments as part of impact fee calculations.

C. Capital Standards

In designing impact fees, communities must determine the appropriate capital standards applicable to each category of infrastructure. Facility standards, such as library space or recreation facilities per household, can vary widely between communities. Whereas some states have legislation that describes such criteria with great specificity, other states—like Colorado—use more general standards.

1. Replacement value approach. Typically, determining capital standards involves estimating the replacement value of specific capital facilities and the qualified equipment necessary for each category of infrastructure. For example, a city of 2,500 homes with a 20,000 square foot recreation center that has a replacement value of $5 million would have a recreation center standard of 8 square feet per housing unit (i.e., 20,000 square feet/2,500 homes = 8 square feet per home) and a replacement value of $250 per square foot (i.e., $5 million/20,000 square feet = $250 per square foot). Thus, each existing residence would have an embedded recreational investment of $2,000 per home (i.e., $250 x 8 square feet = $2,000 per home), representing the community's recreational facility standard, which is what a developer could be charged for recreational facilities for each new unit.

If capital standards are defined using a replacement value approach, then calculations of those standards must account for any debt that applies against the relevant infrastructure. Because current residents are already responsible for that debt, it would be duplicative and inappropriate to charge developers impact fees that also include that debt.

2. Plan-based approach. Sometimes, communities use a *plan-based approach* to set capital standards, which relies on capital improvement or other specific plans for each department. A plan-based approach requires forecasts of residential and commercial growth and detailed data on capital expansion plans. Plan-based approaches must focus on expansion-related projects or the expansion portion of projects rather than betterment or replacement projects.

D. Other Considerations

Over time, some consensus has emerged on how best to ensure that impact fees comply with state statutes and court rulings. Many of the factors that communities must consider in designing fees appropriately are described above, but BBC also presents other considerations that communities must make.

- **Allocation by land use**. Courts have indicated that all forms of development that have facility impacts—that is, residential, industrial, and commercial developments—must pay their fair share of expansion costs. If one type of development is exempted from fees, then fees may not be sufficient to cover expansion costs that result from new development.

- **Use specificity**. Impact fee calculations vary between different forms and sizes of residential development and different uses of commercial buildings and how they impact demand for public services. When compelling evidence is available that the forms, sizes, or uses of particular types of development will result in substantially different demands for public services, then communities' impact fees should reflect that information.
- **Redevelopment**. The application of impact fees raises questions about how to deal with the redevelopment of existing properties. The redevelopment of a residence—even if it involves full scraping—does not lead to an increase in service demands, because it is still one residential unit with no implications for service delivery costs or capital needs. In contrast, the redevelopment of a larger lot into multiple homes would be assessed an impact fee based on the net number of new residential units, because there would be clear implications for service delivery and capital needs. Commercial redevelopment would be subject to the same considerations.
- **Waivers**. Communities should not waive fees unless the funds are reimbursed from other sources such as the general fund or other contributions by the developer to system expansion that exceed the calculated fees.
- **Timing.** Fees should be assessed at the time that building permits are issued.
- **Updates**. Impact fee calculations should be updated periodically. Most communities update their fees every two or three years.
- **Fee design costs.** The cost of fee design studies can be recovered through impact fees and used to reimburse communities' general funds.

SECTION II.
Impact Fee Derivation

As described in Section I, there are several types of information that communities must consider to appropriately set their development impact fees, including determining capital standards. BBC used data from various sources to make appropriate considerations in developing FFFPD's development impact fees.

- **Capital standards.** BBC used FFFPD's current investment in facilities as the basis for determining capital standards for its new fees. We obtained that information directly from the District. The valuation included estimates of investments in furniture, fixtures, and durable equipment. Calculations of capital standards must account for any debt that exists in connection with relevant infrastructure.
- **Demand for services by land use.** It is important for communities to determine how impact fees should be allocated according to demand for services by land use so that all forms of development pay their fair share of expansion costs. FFFPD's data on calls for service indicate that the majority of demand for services is for single family residential purposes (65% single family residential, 3% multifamily residential, and 32% non-residential). BBC allocated FFFPD's new development impact fees accordingly, because the mix of future development in the region is not expected to differ substantially from current land use.
- **Use specificity.** To the extent possible, impact fees should reflect the degree to which different forms, sizes, and uses of particular types of development will result in different demand for public services. However, there is no compelling evidence that suggests that larger homes create more demand for public services than smaller homes. In addition, FFFPD has modest expectations for commercial growth, and there is uncertainty about the nature of future commercial development. As a result, BBC treated all residential units equally and all commercial units equally as the they relate to public service demand.
- **Fee design costs**: The cost of fee design studies can be recovered through impact fees, so BBC has included the cost of this report in the fee calculations.
- **Proportionality:** By using FFFPD's current investment in facilities to derive capital standards and then setting fee rates to replace the current standards of facility investment, BBC has ensured that proportionality has been reasonably and fairly derived. New growth is simply replicating its proportional share of an existing facility standard. Existing standards will be the standards to which new growth will be held accountable.

A. FFFPD Budget Overview

FFFPD collects property tax revenue through a 13.90 property tax mill in Weld County. A millage rate is the tax rate used to calculate local property taxes and represents the amount per every $1,000 of a property's assessed value that a community would charge. The 2020 FFFPD Budget indicates the District will collect approximately $11.1 million of revenue this year, the vast majority of which will come from property taxes and specific ownership taxes. After interfund transfers for pension funds, bond repayment, and capital fund, FFFPD projects operating expenses of $10.4 million, most of which is allocated to personnel costs, including salaries, benefits, and volunteer incentives. However, FFFPD also funds capital purchases through its operating budget. As discussed in Section I, capital investments are generally used for repair and replacement, betterment of facilities and service standards, and facilities expansion.

B. Impact Fee Calculations

BBC's calculations of development impact fees for FFFPD includes the following steps:

1. Quantify the infrastructure investment needed to maintain current level of service;
2. Develop estimates of FFFPD's current patterns for calls for service; and
3. Calculate the fire protection infrastructure costs per unit of development (per household or per square foot of nonresidential development).

1. Infrastructure investment. A conservative method of establishing FFFPD's current level of service for fire protection is to quantify its financial investment in infrastructure and capital equipment. Specifically, FFFPD has four types of capital infrastructure-related spending that should be included in the calculation of current infrastructure investment:

- Land and buildings, including four fire stations;
- Major apparatus, such as fire engines and specialized vehicles;
- A variety of lifesaving and fire-fighting apparatus; and
- The cost of this impact fee study.

FFFPD holds no debt, so its equity in its assets is 100 percent of their replacement value. Figure II-1 presents FFFPD's current infrastructure and the value eligible to be included in impact fee calculations. As shown in the last row of Figure II-1, the total replacement value of FFFPD's current infrastructure is approximately $16.9 million.

2. Demand for services by land use. Demand for services is not always equal across different land uses. BBC used existing calls for fire and EMS service as a proxy for demand in the fee calculations. In order to mitigate year-to-year fluctuations, BBC evaluated six years of call data (2014 through 2019) to determine the typical distribution of calls for service across different land use categories. Figure II-2 displays FFFPD's calls for service by land use category. Calls classified as "Roadways" and/or "Other" cannot be attributed to a specific land use and are excluded from the impact fee calculation model. Over the six-year period, FFFPD received close to 13,000 calls for service. Excluding calls that could not be classified by land use, 65 percent were from single family residential units, 3 percent were from multifamily residential developments, and 32 percent were from non-residential developments.

Figure II-1.
FFFPD's Current Assets

Type of Capital Infrastructure	Total Replacement Value
Buildings and Land	
Administration Building - 8426 Kosmerl Place, Frederick	$1,625,359
Station 1 - 31 Walnut Drive, Frederick	$1,740,690
Station 2 - 3991 Rowe Street, Frederick	$1,315,910
Station 3 - 6800 Tilbury Avenue, Firestone	$1,935,925
Station 4 - 10706 Weld County Rd 7, Frederick	$2,100,000
Training Facility - 7301 Eagle Blvd, Frederick	$225,000
Vehicles	
1998 Ford F150 Truck	$5,000
2001 Pierce Pumper	$525,000
2003 Pierce Quint Aerial	$950,000
2004 Spartan Heavy Rescue	$525,000
2007 Dodge Dakota	$10,000
2007 Dodge Durango	$15,000
2008 Haulmark Trailer	$22,000
2009 Pierce Prumper	$525,000
2009 8x16 CGR Cargo Trailer	$15,000
2011 Mobile Training Unit Trailer	$225,000
2012 Chevrolet Silverado	$45,000
2012 Haulmark Trailer	$2,675
2012 Dodge Ram 1500 Truck	$45,000
2013 Ford Explorer	$38,000
2011 Chevy Ambulance	$175,000
2013 Pierce Pumper	$525,000
2013 Chevy G4500 Ambulance	$175,000
2015 Dodge Ram 2500	$45,000
2016 Chevrolet Tahoe	$65,000
2016 Chevrolet Express G4500 Ambulance	$187,010
2016 Carryon Trailer	$2,500
2017 Pierce Saber Pumper	$534,128
2017 Dodge Ram Truck 1500 4x4	$44,309
2017 Ford Police Intercept	$40,539
2019 Ford F550 Utility Truck	$169,915
2019 Ford Utility Explorer	$37,677
2019 Ford Utility Explorer	$42,451
2019 Ford F550 Ambulance	$295,000
2019 International Water Tender	$274,000
2020 Ford Ranger	$34,568
2020 Ford Transit Van	$31,985
Fire Equipment and Business Property	
Fleet equipment	$2,349,000
Fee Study	
Cost of study	$7,000
Total Value of Fire Infrastructure for Fee Calculation	**$16,925,641**

Source: FFFPD and BBC Research & Consulting.

3. Impact fee calculation. Figure II-3 uses FFFPD's current service standards and infrastructure replication costs to determine appropriate single family residential, multifamily residential, and non-residential impact fees. BBC used FFFPD's calls for service by land use as a proxy for demand and assigned costs to different types of development accordingly. Figure II-3 presents fee calculations for each relevant type of development. The value of total fire infrastructure is presented in the top row of Figure II-3 (and is identical to the last row of Figure II-1).

- The first step in calculating the impact fees was to allocate the total value of fire infrastructure proportionally to each type of development based on FFFPD's burden distribution (i.e., demand for service) by land use. Thus, BBC allocated 65.1 percent, or $11 million, to single family residential development, 2.9 percent, or $491,000, to multifamily residential development, and 32 percent, or $5.4 million, to non-residential development.
- Next, BBC allocated infrastructure value for each type of development to each unit of existing development within that category—that is, each dwelling unit for residential development and each square foot for non-residential development—to determine the relevant burden of each unit of existing development on current infrastructure.

The result of allocating costs in the manner described above resulted in full cost recovery impact fees, which, as shown in the last three rows of Figure II-3 are $974 per single family residential dwelling unit, $825 per multifamily residential dwelling unit ,and $0.81 per square foot of non-commercial development. FFFPD can choose to charge less than those amounts but it must apply discounts uniformly to all land use categories.

Figure II-3.
Full Cost Recovery Impact Fees for FFFPD

Source:
FFFPD and BBC Research & Consulting.

Calculation of impact fees	
Value of fire infrastructure	$16,925,641
Burden distribution (based on calls for service)	
Single family Residential	65.1%
Multifamily Residential	2.9%
Nonresidential	32.0%
Costs by development type	
Single family Residential	$11,018,592
Multifamily Residential	$490,844
Non-Residential	$5,416,205
Existing development	
Single family (in dwelling units)	11,309
Multifamily (in dwelling units)	595
Non-Residential (in square feet)	6,720,001
Impact fee by land use	
Single family (per dwelling unit)	**$974**
Multifamily (per dwelling unit)	**$825**
Nonresidential (per square foot)	**$0.81**

SECTION III.
Summary and Recommendations

The development impact fees of $974 per single family residential dwelling unit, $825 per multifamily residential dwelling unit, and $0.81 per non-residential square foot that BBC recommends for FFFPD's consideration represent maximum defensible amounts, and we recognize that the District may choose not to adopt fees as high as those amounts. BBC offers the following recommendations:

- FFFPD should maintain its impact fee fund separate and apart from its general fund and make withdrawals from the former only to pay for growth-related infrastructure.
- FFFPD should adhere to a written policy governing its expenditure of monies from its impact fee fund. The District should be prohibited from paying for operational expenses with impact fees, including the repair and replacement of existing infrastructure not necessitated by growth. In cases when FFFPD expects new infrastructure to partially replace existing capacity and to partially serve new growth, cost sharing between its general fund (or capital fund) and its impact fee fund should be allowed on a proportional basis as determined by the District's board.
- FFFPD's impact fees should be updated periodically as it invests in additional infrastructure beyond what is listed in this report or the District's population or inventory of commercial square footage changes substantially.
- FFFPD's fees should be updated annually based on established inflation indices, such as the Consumer Price Index or the Engineering News Record.