

TOWN OF EDGEWOOD
ORDINANCE No. 2018-01

AN ORDINANCE IMPOSING FIRE AND RESCUE IMPACT FEES

Section 1. FIRE/RESCUE/EMS IMPACT FEES ORDINANCE

A. Short Title

This Ordinance shall be known and cited as the Fire/Rescue/EMS Impact Fees Ordinance.

B. Findings and Declarations

The Town of Edgewood Governing Body hereby finds and declares that:

- 1) The County of Santa Fe (County) provides services to the Town of Edgewood (Town) including Emergency Medical Services, Fire Suppression, Rescue Services, Emergency Communications and Fire Prevention in accordance with Joint Powers Agreement (JPA) dated January 25, 2000; and
- 2) The County and Town agrees that providing Capital funds for fire and rescue improvements are important priorities for their residents; and
- 3) New residential and non-residential development causes and imposes increased and excessive demands on Town and County public facilities and services including fire protection; and
- 4) The Land Use Assumptions, adopted on February 18, 2004, and incorporated herein, indicate that such development will continue and will place ever increasing demands on the County to provide necessary public facilities; and
- 5) To the extent that such development in the Town and County places demands on the fire and rescue services that cannot be met by existing funding sources, those demands should be satisfied by shifting the responsibility for financing the provision of such facilities from the public-at-large to the developments actually creating the demands; and
- 6) A review of the existing state funding sources indicates that less than 50% of the State Fire Funds received by the State are actually distributed to the fire districts statewide; and
- 7) The impact fees should be recalculated if the Town and Santa Fe County receive their fair share from the State in the future; and
- 8) The amount of the impact fees to be imposed shall be determined by the cost of the additional fire and rescue facilities and equipment needed to support such development, which shall be identified in the Santa Fe County "Fire Capital Improvements Plan" fully incorporated herein; and

- 9) In accordance with the Joint Powers Agreement, the amount of the impact fees to be imposed shall be at a minimum equivalent to the fees imposed by the County; and
- 10) In the event that the Santa Fe County Fire and Rescue Impact Fees Ordinance be updated so that fees imposed are greater than those stated in this Ordinance, the County rates shall apply until such time that this Ordinance is amended.
- 11) The Governing Body after careful consideration of the matter, hereby finds and declares that it is in the best interest of the general welfare of the Town and its residents to impose an impact fee upon residential and nonresidential development in order to finance specified major fire and rescue facilities and equipment within the Edgewood Fire District; and
- 12) The Governing Body further finds and declares that such an impact fee is equitable, does not impose an unfair burden on development by forcing developers and builders to pay more than their fair and proportionate share of the cost, and deems it advisable to adopt this Ordinance as hereinafter set forth; and
- 13) The Governing Body further finds that there exists a rational relationship between the capital costs of providing the fire and rescue services and the impact fees imposed on development under this Ordinance; and
- 14) The Governing Body further finds that there exists a rational relationship between the impact fees to be collected pursuant to this Ordinance and the expenditure of those funds on capital costs relating to fire and rescue services, as limited and restricted by this Ordinance; and
- 15) The Governing Body further finds and declares that this Ordinance has approached the problem of determining the impact fee in a conservative and reasonable manner and that it is consistent with both the procedural and substantive requirements of the "Development Fees Act" (Sections 5-8-1 through NMSA 5-8-42) and the Joint Powers Agreement, "JPA" dated January 25, 2000.

C. Intent and Purpose

This Ordinance is intended to assess and collect an impact fee in an amount based upon the gross covered floor area of both nonresidential and residential development in order to finance fire and rescue facilities and equipment, the demand for which is generated by development the Edgewood Fire District. The Town through its JPA with Santa Fe County intends to maintain a minimum level of service of ISP 7/9 for fire and rescue protection. The joint powers agreement will reflect the mutual aid response agreements. The County is responsible for and will meet all fire and rescue capital improvement needs associated with existing development within the Town. Only capital improvement needs created by new development in the designated service areas will be met by these impact fees. Impact fees shall not exceed the cost to pay for a proportionate share of the cost of system improvements, based upon service units, needed to serve new development. The impact fees shall be spent on new or enlarged capital facilities and equipment that substantially benefits those developments that pay the fees. The impact fees may also be spent on (1) the estimated cost of preparing and updating the fire capital improvements plan, (2) for the fees paid for services directly related to the construction of capital improvements or facility expansions and (3) for administrative costs associated with this Ordinance, such administrative costs not to exceed three (3%) percent of the total impact fees collected.

D. Authority

The Town is authorized to impose impact fees under Sections 5-8-1 through 5-8-42 NMSA 1978, (the "Development Fees Act"). Section E. "Fire/Rescue/EMS Impact Fees", of the Joint Powers Agreement dated January 25, 2000. The provisions of this Ordinance shall not be construed to limit the power of the Town to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution or in conjunction with this Ordinance.

E. Rules of Construction

For the purposes of administration and enforcement of this Ordinance, unless otherwise stated, the following rules of construction shall apply:

- 1) In case of any difference of meaning or implication between the text of this Ordinance and any caption, illustration, summary table or illustrative table, the text shall control.
- 2) The word "shall" is always mandatory and discretionary; the word "may" is permissive.
- 3) Words used in the present tense shall include the future and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
4. The word "person" includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.
5. The word "includes" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

F. Definitions

As used in this Ordinance, the following words and terms shall have the following meanings, unless another meaning is plainly intended:

- 1) Advisory Committee means the group of citizens appointed by the Mayor with consent of the Town Council pursuant to Section 5-8-37 NMSA 1978.
- 2) Applicant means the person seeking a development approval, a development permit or a refund, whichever is applicable.
- 3) Assess and Assessment means a determination of the amount of the impact fee.
- 4) Capital Improvements means the public buildings for fire and rescue services as well as essential vehicles and equipment costing ten thousand dollars (\$10,000) or more and having a life expectancy of ten years or more. "Capital improvements" does not include costs associated with the operation, administration, maintenance or replacement of capital improvements unless otherwise specified herein.

- 5) Collect and Collection means the time of payment of the impact fee.
- 6) Council means the four elected or appointed Town Councilors.
- 7) County means the County of Santa Fe, a duly constituted political subdivision of the State of New Mexico.
- 8) Development means the division of land; reconstruction, redevelopment, conversion structural alteration, relocation or enlargement of any structure; or any change of use or extension of the use of land; any of which increases the number of service units.
- 9) Development Permit means the permit required for new construction and additions pursuant to Zoning Ordinance, as it may be amended from time to time. The term 'development permit', as used herein, shall not be deemed to include permits required for remodeling, rehabilitation or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided there is no increase in the gross covered floor area nor a change to a higher NFPA risk level.
- 10) Edgewood Fire District means the area designated by the Santa Fe County Fire Department which includes the incorporated areas of the Town of Edgewood and its extraterritorial jurisdiction.
- 11) Extraterritorial Jurisdiction means the area subject to both the county and municipal platting and subdivision jurisdiction.
- 12) Fire Capital Improvements plan means the plan required by the Development Fees Act that identifies capital improvements or facility expansion for which impact fees may be assessed.
- 13) Fire Marshal means the governmental officer charged with administering the local fire district and determining local fire protection needs.
- 14) Governing Body means the duly constituted governing body of the Town of Edgewood, composed of Mayor and Town Council members.
- 15) Gross Covered Area means the total square feet of covered space on each floor or floors comprising the structure whether enclosed or not, including carports, garages, portals, breezeways, verandas and porches.
- 16) Impact Fee means the charge imposed pursuant to this Ordinance on development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the development.

- 17) Impact Fee Coefficient means the charge per square foot of development as calculated for each NFPA Class.
- 18) Planning & Zoning Administrator means the governmental officer charged with administering development regulations within the Town of Edgewood.
- 19) Land Use Assumptions means the analysis and projections of future growth and development prepared as the basis for planning future capital improvements. The “land use assumptions” includes a description of the service area(s) and projections of changes in land uses, densities, intensities and population in the service area(s) over at least a five-year period.
- 20) Mobile Home means any vehicle or transportable structure without motive power, that is equipped with wheels and axels, is designed with bathroom and kitchen facilities, and is intended for occupancy as a dwelling for unlimited periods of time.
- 21) Mobile Home Park means any area of land upon which five or more mobile homes, occupied for dwelling or sleeping purposes are located, and where a charge is made for such accommodations or where mobile homes are proposed to be located and a charge made.
- 22) NFPA means the National Fire Protection Act which classifies land use according to risk on a scale of 3 to 7 with 7 being the least risky of the classes.
- 23) Risk Level means the classifications prepared by the NFPA for various types of buildings and structures and the risks for fire inherent in such classifications.
- 24) Service Areas means those areas designated on the County of Santa Fe Fire Protection Service Areas Map, incorporated herein, to be served by the capital improvements or facility expansions specified in the fire capital improvements plan.
- 25) Service Units means the gross covered area of a structure or building and the applicable NFPA risk level.
- 26) Site means the land on which development takes place.
- 27) Town means the Town of Edgewood, a duly constituted political entity located within the counties of Santa Fe, Bernalillo, and Sandoval.

G. Applicability of Impact Fee

This Ordinance shall be uniformly applicable to all development that occurs within the Town of Edgewood Municipal Boundaries.

Advisory Committee

- A. **Creation.** There is hereby created a Fire Impact Fee Advisory Committee, pursuant to Section 5-8-37, NMSA 1978.

- B. Membership.** The Advisory Committee shall be composed of not less than five members who shall be approved by a majority vote of the governing body. Not less than forty percent of the membership of this advisory committee must be representative of the real estate, development or building industries. No members shall be employees or officials of a municipality or county or other governmental entity. A quorum shall be a majority of the membership of the Advisory Committee.
- C. Terms.** A majority of the members on the first Fire Impact Fee Advisory Committee shall be appointed by the Mayor for one year-terms and the balance of the members shall be appointed for two-year terms. Each subsequent term shall be for two years or less in order to maintain the original staggering. Appointments, re-appointments, and vacancies shall be filled by Mayoral appointment with Council approval. Vacancies shall be filled for the remainder of the member's unexpired term. The Mayor may remove, with Town Council approval and for cause stated in writing and made part of the public record, a member of the Fire Impact Fee Advisory Committee.
- D. Powers and Duties.** Delegation of powers and duties. The Fire Impact Fee Advisory Committee shall have such powers and duties as may be delegated to it by the Town Governing Body. They are hereby delegated the following:

1. Advise and assist the Town of Edgewood in adopting land use assumptions;
2. Review the fire capital improvements plan and file written comments;
3. Monitor and evaluate implementation of the fire capital improvements plan;
4. File annual reports with respect to the progress of the fire capital improvements plan and report to the Town of Edgewood any perceived inequities in implementing the plan or imposing the impact fee; and
5. Advise the Town of Edgewood of the need to update or revise the land use assumptions, fire capital improvements plan and impact fee.

The Town of Edgewood shall make available to the Advisory Committee any professional reports with respect to developing and implementing the fire capital improvements plan. The Town Planning Department and Santa Fe County Fire Marshal's Office shall serve as staff to the Advisory Committee. The Advisory Committee shall coordinate its efforts with the Santa Fe County Fire Marshal's Office.

6. Meetings. The Advisory Committee shall meet at the direction of the Governing Body or from the Committee itself in order to file annual written reports with the Governing Body. All meetings of the Fire Impact Fee Advisory Committee shall be held in accordance with the New Mexico Open Meetings Act.
7. Records. A public record shall be kept of all actions and considerations undertaken by the Advisory Committee. The records shall be filed with the Town Clerk/Treasurer and kept available subject to the Inspection of Public Records Act, for public inspection in the office of the Town Clerk/Treasurer during normal office hours.

H. Establishment of Service Area

The service area is the Town of Edgewood which includes all areas within the Boundary of the corporate limits and is consistent with the service areas paying the fees and the benefits received to ensure that those developments paying impact fees receive substantial benefits.

I. Land Use Assumptions

1. The land use assumptions provide a description of the service areas and projections of changes in land uses, densities, intensities and population in the service areas over at least a five-year period. The Governing Body hereby adopts the Land Use Assumptions approved by the Governing Body on February 18, 2004, which is incorporated herein by reference.
2. The Land Use Assumptions shall be reviewed and updated, if necessary, in conjunction with the update of the fire capital improvements plan described below.

J. Fire Capital Improvements Plan

1. The Fire Capital Improvements Plan identifies capital improvements or facility expansions for which impact fees may be assessed. The Council hereby adopts the 1995-2000 Fire Capital Improvements Plan by reference, adopted by the Santa Fe County Commission, particularly as it relates to the allocation of a fair share of the costs of new facilities for fire protection and emergency services to be borne by new users of such facilities and services, and level of service to be provided to the citizens of the County for fire and rescue.
2. The Fire Capital Improvements Plan shall be updated at least every five years from the date of adoption of the Santa Fe County Ordinance. Appropriate revisions and amendments to the impact fee schedule and this Ordinance shall be made following such updates, if necessary.

K. Presumption of Maximum Impact

New development shall be presumed to have maximum impact on the necessary fire and rescue capital facilities and equipment as permitted under the highest risk level based on the NFPA classifications for that development.

L. Assessment and Collection of Impact Fee

1. No development permit shall be issued for development within the Town of Edgewood as herein defined unless the impact fee is assessed and collected pursuant to this Ordinance.
2. No business license shall be issued for a new business which involves a change of use or conversion of an existing structure to a higher NFPA risk level unless the impact fee is assessed and collected pursuant to this Ordinance. The impact fee will be assessed by calculating the applicable fee for the higher risk level minus the fee which would have been applicable for the previous occupancy.
3. Mobile Home Parks as defined herein, shall be assessed impact fees based on the average size of a mobile home unit (adding the typical double-wide unit and typical single-wide unit together and dividing by two) multiplied by the total number of spaces provided in the mobile home park. (See Section N. Schedule of Impact Fees, below.) Impact fees shall also be assessed for any community buildings located within the mobile home park. The applicable impact fee shall be collected at the time the owner of the mobile home park obtains the development permit for the park. Mobile homes located outside of established mobile home parks shall be assessed impact fees based on the gross covered area in the applicable risk level for a single-family home. Mobile homes shall be exempt from the fifty (50') foot requirements in Section M (5).

4. The Town shall calculate the amount of the applicable impact fee due by:
 - a) Determining the applicable designated service area; and
 - b) Determining the NFPA Classes (3-7) of the development; and
 - c) Verifying the gross covered area of the development in each class; and
 - d) Determining the applicable impact fee coefficient(s) from the table below; and
 - e) Multiplying the gross covered area(s) by the impact fee coefficient(s).
 - f) If gross covered area is not known at the time of assessment, the impact fee shall be stated in terms of the applicable coefficient for such development.
5. If the development for which a development permit is sought contains a mix of uses in different NFPA classes, the Town shall calculate the impact fee due for the highest risk and apply it to the entire structure. If the development consists of structures separated fifty (50') feet to each other shall be considered in the same and highest NFPA class for purposes of assessing the impact fee.
6. The Town shall retain a record of the impact fee assessment. A copy shall be provided to the applicant on the form(s) prescribed by the Town.
7. The impact fee shall be due and payable at the time of issuance of a development permit or a business license, whichever is applicable.

M. Schedule of Impact Fees

The impact fee imposed by this Ordinance shall be determined by assignments of various types of structures and buildings to risk levels, and application of the impact fee coefficients below. In the event that a question arises to which Risk Level applies to a particular development, the Fire Marshal shall make the final determination. Such determination may be appealed to the Council as provided in Section T below.

(A) Risk Assignments

- 1) Risk Level RL 3 – Occupancies in this classification shall be considered SEVERE HAZARD OCCUPANCIES, where quantity and combustibility of contents are very high. Fires in these occupancies can be expected to develop very rapidly and have high rates of heat release. Such occupancies include: aircraft hangars, cereal/flour mills, chemical plants, chemical storage, chemical works cotton processing, distilleries, explosive manufacturing, explosives storage, feed mills, grain elevators, grain warehouses, grist mills, hay bale storage, linseed mills, lumber yards, oil refineries, plastics manufacturing, plastics storage, sawmill, solvent extracting, straw bale storage, varnish/ paint manufacturing, wood chip storage.

- 2) Risk Level RL 4 – Occupancies in this classification shall be considered HIGH HAZARD OCCUPANCIES, where quantity and combustibility of contents are high. Fires in these occupancies can be expected to develop very rapidly and have high rates of heat release. Such occupancies include: auditoriums, commercial barns, bingo halls, casinos, convention centers, department stores, exhibition halls, feed stores, freight terminals, gaming parlors, mercantile, paper/pulp mills, paper processing, repair garages, rubber manufacturing, rubber storage, commercial stables, theaters, storage warehouses, department store, furniture storage, general storage, paint storage, paper storage, liquor storage, woodworking shops.

- 3) Risk Level RL 5 – Occupancies in this classification shall be considered MODERATE HAZARD OCCUPANCIES, where quantity and combustibility of contents are moderate and stockpiles of combustibles do not exceed twelve (12) feet in height. Fires in these occupancies and be expected to develop quickly and have moderately high rates of heat release. Such occupancies include: amusement parks, clothing manufacturing, cold storage warehouses, dairy barns, farm storage, grain storage, hatcheries, laundries, leather manufacturing plants, libraries (large rack), lithography shops, machine shops, metalworking shops, pharmaceutical manufacturing, plant nurseries, printing plants, publishing plants, restaurants, rope/twine manufacturing, sugar refineries, tanneries, textile manufacturing plants, tobacco barns, unoccupied buildings.

- 4) Risk Level RL 6 – Occupancies in this classification shall be considered LOW HAZARD OCCUPANCIES, where quantity and combustibility of contents are moderate and stockpiles of combustibles do not exceed eight (8) feet in height. Fires in these occupancies can be expected to develop at a moderate rate and have moderate rates of heat release. Such occupancies include: armories, auto parking garages, bakeries, barber shops, beauty salons, beverage manufacturing, boiler rooms, breweries, brick tile manufacturing, canneries, cement plants, churches, creameries, doctor’s offices, electronics plants, foundries, fur processing plants, gas stations, glass products manufacturing, municipal/county buildings, post offices, slaughterhouses, telephone exchanges, undertaking establishments, watch jewelry manufacturing, wineries.

- 5) Risk Level RL 7 – Occupancies in this classification shall be considered LIGHT HAZARD OCCUPANCIES, where quantity and combustibility of contents are low. Fires occupancies can expect to develop at a relatively low rate and have relatively low rates of heat release. Such occupancies include: apartments, colleges/universities, convalescent homes, detention centers, dormitories, dwellings, fire stations, fraternity/sorority houses, hospitals, hotels/motels, libraries (small rack), mental health uses, museums, nursing homes, business offices, police stations, prisons, reformatories, schools.

(B) Impact Fee Coefficients

NFPA Class	Vehicle Fee	Station Fee	Admin & Project Fee	Total Impact Fee
Class 7	\$ 0.170/sq. ft.	\$ 0.095/sq. ft.	\$ 0.010/sq. ft.	\$ 0.275/sq. ft.
Class 6	\$ 0.215/sq. ft.	\$ 0.110/sq. ft.	\$ 0.010/sq. ft.	\$ 0.335/sq. ft.
Class 5	\$ 0.215/sq. ft.	\$ 0.130/sq. ft.	\$ 0.010/sq. ft.	\$ 0.355/sq. ft.
Class 4	\$ 0.285/sq. ft.	\$ 0.160/sq. ft.	\$ 0.015/sq. ft.	\$ 0.460/sq. ft.
Class 3	\$ 0.355/sq. ft.	\$ 0.215/sq. ft.	\$ 0.015/sq. ft.	\$ 0.585/sq. ft.

(C) Impact Fee Applicable to Mobile Home Parks

\$ 385.00 per mobile home space X (multiplied times) the number of spaces – plus any and all applicable impact fees for community buildings.

N. Use of Impact Fees Collected

1. The funds collected pursuant to this Ordinance shall be used solely for the purpose of administering, planning, acquisition, expansion, and development of off-site related fire and rescue capital improvements determined to be needed to serve new development, including:
 - a) Estimated capital improvements plan cost; and
 - b) Planning, surveying, and engineering fees related to the construction of capital improvements or facility expansions; and
 - c) Fees related to the preparation or updating of the fire capital improvements plan.
2. All funds shall be used exclusively within the service area from which they were collected and in a manner consistent with this Ordinance and the requirements of the Development Fees Act [Sec, 5-8-1 NMSA 1978 et seq.]
3. Notwithstanding the above, the Town shall be entitled to retain three percent (3%) of the impact fees collected annually. The retained funds shall be utilized to offset the administrative costs associated with the collection and use of such funds.

O. Variances. Petitions for variances to the application of this Ordinance shall be made to the Planning & Zoning Administrator in accordance with procedures to be established by resolution of the Governing Body.

P. Administration of Impact Fee

1. *Transfer of funds to Santa Fe County Fire Department, Edgewood Fire District:* Upon receipt of impact fees, the Town Clerk shall be responsible for transfer of such funds to the Santa Fe County Fire Department, Edgewood Fire District. All such funds shall be deposited in interest-bearing accounts in a bank authorized to receive deposits of Town funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account.
2. *Maintenance of Records:* The Town Clerk/Treasurer shall maintain and keep accurate financial records for each transfer that shall clearly identify the payer of the impact fee, the date of receipt of the impact fee and the amount received. The financial records shall show the disbursement of all revenues. The Planning & Zoning Administrator shall prepare an annual report describing the amount of any impact fees collected, encumbered and used during the preceding year.
3. *Public Inspection:* The records of the accounts shall be available for public inspection and copying during ordinary Town Hall business hours.

(R) Refunds

1. The current record owner of property on which an impact fee has been paid may apply for a refund of such fee if:
 - a) The County has failed to provide a capital improvement included in the fire capital improvements plan within that service area within seven (7) years from the date of payment, or
 - b) The fire and rescue service is not available within a reasonable period of time after completion of construction considering the type of capital improvement or facility expansion to be constructed, or
 - c) The development permit for which the impact fee has been paid has lapsed for no commencement of construction.
2. A petition for refund must be filed by the applicant within one (1) year of the event giving rise to the right to claim refund.
3. The petition for refund must be submitted to the Planning & Zoning Administrator or his duly designated agent on a form provided by the Town for such purpose.
4. Within thirty (30) days from the date of receipt of a petition for refund, the Planning & Zoning Administrator or his/her duly designated agent must provide the applicant, in writing, with a decision on the refund request including the reasons for the decision. If a refund is due the applicant, the Planning & Zoning Administrator or his duly designated agent shall notify the Town Clerk/Treasurer who in turn shall notify the County and request that a refund payment be made to the applicant.
5. The applicant may appeal the determination of the Planning & Zoning Administrator to the Governing Body within thirty (30) days of such determination, as provided in Section T below.
6. A refund shall bear interest calculated from the date of collection of the impact fee to the date of refund at the statutory rate as set forth in Section 56-8-3 NMSA 1978.

S. Credits

1. A property owner may elect to construct or purchase a capital improvement listed in the Fire Capital Improvements Plan. If the property owner elects to make such improvement, the property owner must enter into a written agreement with the Town prior to issuance of any development permit. The agreement must establish the estimated cost of the improvement, the schedule for initiation and completion of the improvement, a requirement that the improvement be completed to accepted Town standards and such other terms and conditions as deemed necessary by the Town. The Town must review the improvement plan, verify costs and time schedules, determine if the improvement is an eligible improvement, and determine the amount of the applicable credit for such improvement to be applied to the otherwise applicable impact fee prior to issuance of any development permit. In no event may the Town provide a refund for a credit that is greater than the applicable impact fee. If, however, the amount of the credit is calculated to be greater than the amount of the impact fee due, the property owner may utilize such excess credit toward the impact fees imposed on other development permits for development on the same site and in the same ownership.

2. The Town shall reasonable provide for credits for other past and future monetary and nonmonetary contributions by the developer to the constitution of the same capital improvements, as follows:
 - a) Present value of amounts contributed within the past two years for any land dedications, physical improvements, financial contributions, or property taxes;
 - b) Present land dedications and physical improvements;
 - c) Future land dedications, physical improvements and property taxes for a period of two years.
3. No credits shall be given for the construction of local on-site facilities required by zoning, subdivision, or other Town regulation intended to serve only that development.
4. The applicant shall have the burden of claiming such credit at the time the impact fee assessment is made. The Planning & Zoning Administrator shall make the final determination regarding the applicable credits. The applicant may appeal the decision of the Planning & Zoning Administrator to the Governing Body as provided in Section T below.

T. Appeals

After calculation and assessment of the impact fee, an applicant may appeal the amount of the impact fee to the Town. The applicant must file a notice of appeal with the Planning & Zoning Administrator or his duly designated agent within thirty (30) days following the assessment of the impact fee. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the Town Attorney in an amount equal to the impact fee assessed, the Planning & Zoning Administrator or his duly designated agent shall issue the development permit. The filing of an appeal shall not stay the collection of the impact fee unless a bond or other sufficient surety has been filed.

U. Bonding of Excess Facility Projects

The Town may issue bonds, revenue certificates, and other obligations of indebtedness in such a manner and subject to such limitations as may be provided by law in furtherance of the provision of capital improvement projects. Funds pledged toward retirement of bonds, revenue certificates and other obligations of indebtedness for such projects may include impact fees and other Town revenues as may be allocated by the Governing Body. Impact fees paid pursuant to this Ordinance, however, shall be restricted to use solely and exclusively for financing directly, or as a pledge against bonds, revenue certificates, and other obligations of indebtedness for the cost of capital improvements as specified herein.

V. Effect of Impact Fee on Zoning and Subdivision Regulations

This ordinance shall not affect in any manner, the permissible use of property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of capital improvements subject to the zoning and subdivision regulations of the Town, which shall be operative and remain in full force and effect without limitation with respect to all such development.

W. Impact Fee as Additional and Supplemental Requirement

The impact fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the Town on the development of land or the issuance of development permits. It is intended to be consistent with and to further the objectives and policies of the comprehensive plan, the fire capital improvements plan, and other Town policies, ordinances and resolutions by which the Town seeks to ensure the provision of public facilities in conjunction with the development of land.

X. Review and Amendment

The Planning & Zoning Administrator and Fire Marshal shall review, update and propose any amendments to the land use assumptions, fire capital improvements plan and the impact fee at least every five years from the effective date of this Ordinance. The Advisory Committee shall be consulted during such review and file its written comments concerning any amendments with the Governing Body. The Governing Body shall take action on any proposed amendments consistent with the provision of the "Development Fees Act" [Sec. 5-8-1 NMSA 1978 et seq.].

Section 2. LIBERAL CONSTRUCTION

The provisions of this Ordinance are hereby found and declared to be in furtherance of the public health, safety, welfare and convenience, and shall be liberally construed to effectively carry out its purposes.

Section 3. REPEALER

All ordinances, code sections or parts thereof in conflict herewith be and the same are hereby repealed to the extent of the conflict.

Section 4. CORRECTIONS.

The Town Clerk/Treasurer and the codifiers of this ordinance are authorized to make necessary clerical corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 5. SEVERABILITY

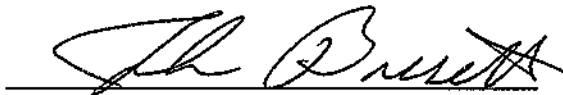
Should any sentence, section, clause, part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part declared to be invalid.

Section 6. EFFECTIVE DATE

This Ordinance shall take effect on April 9, 2018.

APPROVED, ADOPTED, AND PASSED this 4th day of April, 2018 and hereby repealing and replacing Ordinance No. 2004-9.

TOWN OF EDGEWOOD



John Bassett, Mayor

ATTEST:



Juan Torres, Town Clerk/Treasurer

