

**TOWN OF EAGLE, COLORADO
ORDINANCE NO. 10
(Series of 2019)**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE,
COLORADO ADOPTING A PUBLIC SAFETY IMPACT FEE FOR NEW DEVELOPMENT**

WHEREAS, the Town is authorized by C.R.S. § 29-20-104.5 to assess impact fees;

WHEREAS, the Eagle Police Department commissioned a study by BBC Research & Consulting, known as the Eagle Police Department Impact Fee Study and dated December 31, 2018 (the "Impact Fee Study"), to set forth reasonable methodologies for determining the impacts of various types of development on public safety infrastructure;

WHEREAS, the public safety impact fee established by this ordinance is based on the findings and calculations in the Impact Fee Study, and does not exceed costs greater than necessary to defray the projected impacts on capital facilities caused by proposed development; and

WHEREAS, the Board of Trustees wishes to now adopt and codify a public safety impact fee pursuant to the findings and methodologies of the Impact Fee Study.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. Chapter 4.07 of the Eagle Municipal Code is hereby amended by the addition of a new Section 4.07.170, to read as follows:

4.07.170. Public safety impact fee.

Every approved development shall require the payment of a public safety impact fee pursuant to Section 4.13.250.

Section 2. Chapter 4.13 of the Eagle Municipal Code is hereby amended by the addition of a new Section 4.13.250, to read as follows:

4.13.250. Public safety impact fee.

A. *Purpose.* It is the purpose of this Section to:

1. Adopt a rational system for identifying and mitigating growth-related costs incurred by the Eagle Police Department and provide for new and expanded public safety infrastructure made necessary by expanded population and economic activity levels. The Town desires to adopt a fee structure to ensure that the Eagle Police Department's facilities and equipment needed to support

new development meet or exceed the adopted level of service standards established by the Town for public safety services.

2. Ensure that the public safety impact fees are based upon, and do not exceed, the incremental costs of providing capital improvements necessitated by new development for which the fees are levied.

3. Implement the methodology and analysis for the determination of the impact of new development on the need for, and cost of, additional capital improvements as contained in the Eagle Police Department's Study of Fiscal Impact dated December 2018.

4. Regulate the use and development of land so as to ensure that new developments bear a roughly proportionate share of the cost of capital expenditures necessary to provide adequate public safety and protection by the Eagle Police Department with the Town.

5. Ensure that the system of fees implemented herein will be linked to an implemented capital improvements program designed to provide the facilities and equipment for which the fees are imposed.

B. *Definitions.* For purposes of this Section, the following terms shall have the following meanings:

Capital improvement includes without limitation police protection planning, preliminary architectural and engineering services, architectural and engineering design studies, land surveys, land acquisition, site improvements and off-site improvements associated with new or expanded facilities; the construction of buildings and facilities; and the purchase of public safety and police apparatus and equipment, including communications equipment, with an average useable life of at least five years, and other similar expenditures necessary to adequately protect and defend new development and its inhabitants while maintaining the Eagle Police Department's current insurance services organization rating. "Capital improvement" does not include periodic or routine maintenance of facilities and equipment, personnel costs or operational expenses.

Development approval means: the approval of any final subdivision plat, other than a lot line adjustment; a planned unit development; a development permit; or a special use.

Land development activity means any change in land use or any construction of buildings or structures, or any change in the use of a structure that requires the rendering of additional public safety services over and above the demand of the previous use.

Public safety services means the services undertaken by the Eagle Police Department for the welfare and protection of the general public to maintain

public order and safety, including without limitation enforcing the law, conducting neighborhood patrols, providing for traffic calming, responding to medical emergencies, disasters, and threats of violence, performing welfare checks, and preventing, detecting, and investigating criminal activities.

C. *Imposition of public safety impact fee.* Any person who seeks approval of any development activity requiring the availability of additional public safety services shall pay a public safety impact fee in the manner and amount set forth in this Section.

D. *Computation.*

1. At the option of the applicant, the amount of the public safety impact fee may be determined in accordance with the fee schedule established by resolution of the Board of Trustees, as amended.

a. If the approval requested is for mixed uses, the fee shall be determined using the applicable schedule by apportioning the space committed to uses specified on the schedule.

b. For applications for an amendment or change to an approval previously obtained, but not constructed, the amount of the fee is the difference between the fee now applicable and any amount previously paid pursuant to this Section.

c. In the case of a change of use, redevelopment, expansion or modification of an existing use, the fee shall be based upon the net positive increase in the fee for the new use as compared to the previous use.

d. If the amount of the fee cannot be calculated at the time of approval, because the specific type of uses and the floor area for such uses are unknown, the Town may elect to defer computation and payment of the fee until approval of the development permits, or the Town may require that an estimated fee be paid. If an estimated fee is paid, any underpayment shall be recovered at the time of development permit approval. If an overpayment is made, such overpayment shall be refunded, without interest, within 30 days following the date the fee can be completely computed.

2. If the applicant elects not to have the public safety impact fee determined in accordance with subsection(D)(1) hereof, the applicant shall prepare and submit to the Town Planner a site-specific fiscal impact and fee calculation study for the land development activity for which approval is requested. The site-specific fiscal impact and fee calculation study shall follow the prescribed methodologies and formats established by the Town Planner following consultation with the Eagle Police Department. The fiscal impact study shall show

the basis upon which the site-specific fee calculation was made, and shall be prepared and presented by professionals qualified in their respective fields. The Town Planner shall consider the documentation submitted by the applicant, but is not required to accept such documentation he reasonably deems to be inaccurate or not reliable, and may, in the alternative, require the applicant to submit additional or different documentation for consideration. If an acceptable study is not presented, the applicant shall pay the public safety impact fee based upon the fee schedule. A determination of the Town Planner pursuant to this subsection may be appealed to the Board of Trustees by filing a written request with the Town Manager within ten (10) days of the Town Planner's determination.

E. *Time for payment.*

1. An applicant for subdivision approval shall pay the public safety impact fee prior to the recording of a final plat.

2. An applicant for a planned unit development shall pay the public safety impact fee prior to the approval of the development plan.

3. An applicant requesting issuance of a development permit or special use permit shall pay such fee prior to the issuance of the permit.

F. *Use of funds.*

1. All public safety impact fees shall be transferred to the Eagle Police Department within 60 days following payment to the Town, and shall be accounted for in the manner required by C.R.S. § 29-1-801, *et seq.*, and other applicable law.

2. Funds collected from public safety impact fees shall be used exclusively for the benefit of the Eagle Police Department for purposes of land acquisition and capital improvements to, and the expansion of, public safety services. Funds shall be expended in the order in which they are collected. No funds shall be used for periodic or routine maintenance, personnel costs or operational expenses.

3. If bonds or similar debt instruments are used for the advanced provision of capital improvements for which public safety impact fees may be expended, such fee revenue may be used to pay debt service on such bonds or similar debt instruments.

4. The Town shall be entitled to retain up to one percent (1%) of the public safety impact fees collected as an administrative fee to offset the cost of administering this Section.

G. *Refunds.*

1. If a development approval expires without commencement of construction or development, the applicant may file a written request for a refund, without interest, of the public safety impact fees paid. The request shall be filed with the Town Manager within thirty (30) days of the expiration of such approval. The Town shall retain one percent (1%) to off-set the costs of collection and refunding.

2. Any funds not expended or encumbered by the end of the calendar quarter immediately following ten (10) years from the date the public safety impact fee was paid shall, upon application of the then-current landowner, be returned to such landowner with interest at the legal rate, provided that the landowner submits an application for a refund to the Town Manager within 180 days of the expiration of such ten-year period; provided, however, the Eagle Police Department may, for good cause shown, request the Town to extend the ten-year period of time specified in this subsection. Such request shall be made at a public hearing held by the Board of Trustees. The Board of Trustees, in its discretion and for good cause shown, may extend such period of time for an additional period as the Board of Trustees deems reasonable and necessary.

H. *Credit.* Upon approval by the Board of Trustees, any applicant obligated to pay the public safety impact fee shall receive a credit against the amounts due or to become due for public safety capital improvements installed, purchased and paid for by such applicant when such public safety capital improvements are in addition to those required under this Title.

I. *Exemption.* The Board of Trustees may, by resolution, grant an exemption from all or any part of the public safety impact fee upon a finding that such waiver is in the best interest of the public by encouraging activities that provide significant social, economic or cultural benefits.

J. *Lien.* All public safety impact fees shall constitute a lien upon each lot or parcel of land within a development from the due date thereof until paid. If such fee is not paid when due, in addition to any other means provided by law, the Town Clerk shall certify such delinquent fees to the County Treasurer to be collected in the same manner as taxes. The Town reserves the right to withhold or revoke any permits, certificates or other approvals if public safety impact fees are unpaid.

K. *Adjustment and review.* The public safety impact fee and the funds expended by the Eagle Police Department for capital improvements shall be reviewed and adjusted as follows:

1. The public safety impact fee shall be adjusted annually for inflation effective January 15 of each year. The adjustment shall be based upon the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder, all items, all urban consumers, or its successor index.

2. The Town Manager shall, annually, in conjunction with the presentation of the Town's proposed budget, recommend any further adjustments to the public safety impact fee, following consultation with the Eagle Police Department.

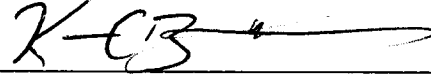
Section 3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one, or part, or parts be declared unconstitutional or invalid.

Section 4. Safety. This Ordinance is deemed necessary for the protection of the public health, safety and welfare.

Section 5. Effective Date. This Ordinance shall take effect 30 days after publication following adoption.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 14th day of May, 2019.

TOWN OF EAGLE, COLORADO



Kevin Brubeck, Mayor Pro Tem

ATTEST:



Jenny Rakow, Town Clerk