WORK SESSION AGENDA

Monday, September 14, 2020 at 1:00 PM

City of Las Cruces
MOUNTAINS OF OPPORTUNITY

CITY HALL
P.O. BOX 20000
LAS CRUCES, NM 88004

700 N. Main St.
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Remotely via Zoom
View meetings live at
lascruces.civicweb.net

Members of the Planning & Zoning Commission may be in attendance.

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Council Work Session Summary

Meeting: Work Session - Sep 14 2020

TITLE: MINIMUM WAGE ADJUSTMENT.

PURPOSE(S) OF DISCUSSION: ☒ **Inform/Update** ☐ **Direction/Guidance** ☐ **Legislative Development/Policy**

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Review the January 1, 2021 Minimum Wage Increase.

Council Work Session Summary

Meeting: Work Session - Sep 14 2020

TITLE: WATER AND WASTEWATER IMPACT FEES.

PURPOSE(S) OF DISCUSSION: ☒ **Inform/Update** ☐ **Direction/Guidance** ☐ **Legislative Development/Policy**

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

On February 6, 2019, TischlerBise, Inc. ("TischlerBise"), of Bethesda, Maryland, was contracted to review and provide an update to the Water and Wastewater Impact Fees. TischlerBise took into consideration Water and Wastewater usage, capital projects, the most recent Water and Wastewater rate reviews, growth projections, land use assumptions, and outstanding debt.

A credit is included in the fee calculation to make sure that new development does not pay twice for the same improvement costs. Costs for utility capacity improvements are captured both in impact fees and partially in ongoing utility rates. The credit is set up to reduce the impact fee rate for the amount of outstanding debt that is anticipated to be covered by utility rates, thereby, avoiding a situation where a user pays twice for the same capital improvements and expansion.

The initial assumption from TischlerBise, was to use the American Water Works Association guidelines for meter capacity. However, due to the recent Investment Grade Audit, we have actual capacity and current metering technology for residential and larger meters. We then used the residential meter capacity to scale up and establish the appropriate Water and Wastewater Impact Fees.

The draft Water and Wastewater Impact Fee update was presented to the Capital Improvements Advisory Committee ("CIAC"), on October 17, 2019. On December 19, 2019, the CIAC approved the Water and Wastewater Impact Fee Update. On January 9, 2020, the Water and Wastewater Impact Fee update was reviewed by the Las Cruces Utilities Board during a Work Session.

Further discussion needs to occur with the City Council on direction about the current practice of splitting the water and wastewater impact fees between the developer/builder (at the time of building permit issuance), the end user (at the time of utility service application), and the respective utility rate base.

SUPPORT INFORMATION:

Las Cruces Utilities Impact Fee Report_Final

COMMITTEE/BOARD REVIEW:

CIAC, Utilities Board

Utilities Development Fee Study

Prepared for:

Las Cruces Utilities

City of Las Cruces, New Mexico

November 18, 2019

Prepared by:

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EXECUTIVE SUMMARY

Overview

TischlerBise was retained by the City of Las Cruces, New Mexico, to prepare an update to the City's Utilities impact fees. The purpose of this study is to meet the requirements of the New Mexico Development Fees Act. The Act provides local government the authority to impose fees and controls the amount, timing, method of assessment, and use of the funds. This analysis is organized to address the requirements of the Development Fees Act, and in so doing, define an equitable and proportionate assessment that will help fund the requisite facilities, without undue burden on new or existing development.

Development fees (also referred to as impact fees) are one-time payments used to construct system improvements needed to accommodate new development. An impact fee represents new growth's fair share of capital facility needs. By law, impact fees can only be used for capital improvements, not operating or maintenance costs. Impact fees are subject to legal standards, which require fulfillment of three key elements: need, benefit, and proportionality.

- First, to justify a fee for public facilities, it must be demonstrated that new development will create a need for capital improvements.
- Second, new development must derive a benefit from the payment of the fees (i.e., in the form of public facilities constructed within a reasonable timeframe).
- Third, the fee paid by a particular type of development should not exceed its proportional share of the capital cost for system improvements.

TischlerBise documented appropriate demand indicators by type of development for the Utilities' impact fees, which includes both Water and Wastewater impact fees. Specific capital costs have been identified using local data and costs. This report includes summary tables indicating the specific factors used to derive the impact fees. These factors are referred to as level of service standards.

Summary of Capital Improvements and Impact Fees

The impact fees calculated for the City of Las Cruces represent the highest amount feasible by meter size, or maximum allowable amounts, which represents new growth's fair share of the cost for water and wastewater capital facilities. The City may adopt fees that are less than the amounts shown. However, a reduction in impact fee revenue will necessitate an increase in other revenues, a decrease in planned capital expenditures, and/or a decrease in levels of service.

Water and Wastewater impact fees are based on information provided by the Las Cruces Utilities. A summary of methodologies used in the analysis is provided below in Figure 1.

Figure 1. Summary of City of Las Cruces Impact Fee Methodologies

Fee Category	Service Area	Incremental Expansion	Plan-Based	Cost Recovery	Cost Allocation
Water	Utility Service Area	Water Wells/Supply Water Transmission Water Storage	Water Development	Water Support Facilities	Gallons
Wastewater	Utility Service Area	Wastewater Treatment Wastewater Collection System	N/A	Wastewater Support Facilities	Gallons

Exactions

Exactions come in many forms and are used to mitigate capital facility needs. Developers may be required to construct infrastructure or municipal buildings, make a cash payment (e.g., impact fees), and/or dedicate land for public use. Also, credits or agreements can be made in which fees are waived when the developer constructs facilities that would have been constructed by the municipality. Exactions are meant to offset growth-related capital costs and are not used to supplement operating expenditures.

Credits

A general requirement common to impact fee methodologies is the evaluation of *credits*. Two types of credits should be considered, **future revenue credits** and **site-specific credits**. Revenue credits may be necessary to avoid potential double payment situations arising from a one-time impact fee plus the payment of other revenues (e.g., utility rates) that may also fund growth-related capital improvements. Because new development may provide front-end funding of infrastructure, there is a potential for double payment of capital costs due to future payments on debt for public facilities. Credits for existing principal and interest payments are included in the City of Las Cruces' Utilities impact fees because there is outstanding debt for the infrastructure categories in the fee program after the current fiscal year.

The second type of credit is a **site-specific credit** for system improvements that have been included in the Utilities impact fee calculations. Policies and procedures related to site-specific credits for system improvements should be addressed in the ordinance that establishes the development fees. However, the general concept is that developers may be eligible for site-specific credits only if they provide system improvements that have been included in the impact fee calculations. Project improvements normally required as part of the development approval process are not eligible for credits against impact fees.

Maximum Allowable Impact Fees

A summary of maximum supportable impact fees for Water and Wastewater for the City of Las Cruces are shown in Figure 2. The fees represent the highest amount allowable for each type of housing unit, which represents new growth's fair share of the cost for utility capital facilities providing additional capacity.

Also shown is a comparison to current Water and Wastewater impact fees and the percentage change. As shown, proposed Water impact fees are calculated to be lower than current fees and Wastewater impact fees are calculated to be higher than current fees.

The City may adopt fees that are less than the amounts shown. However, **a reduction in impact fee revenue will necessitate an increase in other revenues, a decrease in planned capital expenditures, and/or a decrease in levels of service.**

Figure 2. Summary of Maximum Allowable Utilities Impact Fees

	WATER			WASTEWATER			TOTAL		
Meter Size (inches)	Proposed Fee	Current Fee	Change	Proposed Fee	Current Fee	Change	Proposed Fee	Current Fee	Change
0.625 (5/8) x 0.75 (3/4)	$2,125	$2,420	-12.2%	$2,726	$1,943	40.3%	$4,851	$4,363	11.2%

See each respective chapter for fee schedules by meter type and size.

Please note, calculations throughout this report are based on an analysis conducted using MS Excel software. Results are discussed in the memo using one- and two-digit places (in most cases). Figures are typically either truncated or rounded. In some instances, the analysis itself uses figures carried to their ultimate decimal places; therefore, the sums and products generated in the analysis may not equal the sum or product if the reader replicates the calculation with the factors shown in the report (due to the rounding of figures shown, not in the analysis).

INTRODUCTION TO DEVELOPMENT FEES

Definition

Development fees, also known as impact fees or development impact fees, are one-time payments used to fund capital improvements necessitated by new growth. Impact fees have been utilized by local governments in various forms for at least fifty years. Impact fees do have limitations and should not be regarded as the total solution for infrastructure financing needs. Rather, they should be considered one component of a comprehensive portfolio to ensure adequate provision of public facilities with the goal of maintaining current levels of service in a community. Any community considering development impact fees should note the following limitations:

- Impact fees can only be used to finance capital infrastructure and cannot be used to finance ongoing operations and/or maintenance and rehabilitation costs;
- Impact fees cannot be deposited in the local government's General Fund. The funds must be accounted for separately in individual accounts and earmarked for the capital expenses for which they were collected; and
- Impact fees cannot be used to correct existing infrastructure deficiencies unless there is a funding plan in place to correct the deficiency for all current residents and businesses in the community.

Legal Framework

U.S. Constitution. Like all land use regulations, development exactions—including impact fees—are subject to the Fifth Amendment prohibition on taking of private property for public use without just compensation. Both state and federal courts have recognized the imposition of impact fees on development as a legitimate form of land use regulation, provided the fees meet standards intended to protect against regulatory takings. To comply with the Fifth Amendment, development regulations must be shown to substantially advance a legitimate governmental interest. In the case of impact fees, that interest is in the protection of public health, safety, and welfare by ensuring that development is not detrimental to the quality of essential public services.

There is little federal case law specifically dealing with impact fees, although other rulings on other types of exactions (e.g., land dedication requirements) are relevant. In one of the most important exaction cases, the U. S. Supreme Court found that a government agency imposing exactions on development must demonstrate an "essential nexus" between the exaction and the interest being protected. (See *Nollan v. California Coastal Commission,* 1987.) In a more recent case (*Dolan v. City of Tigard, OR,* 1994), the Court ruled that an exaction also must be "roughly proportional" to the burden created by development.

However, the *Dolan* decision appeared to set a higher standard of review for mandatory dedications of land than for monetary exactions such as development impact fees.

Required Findings

There are three reasonable relationship requirements for impact fees that are closely related to "rational nexus" or "reasonable relationship" requirements enunciated by a number of state courts. Although the term "dual rational nexus" is often used to characterize the standard by which courts evaluate the validity of development impact fees under the U.S. Constitution, we prefer a more rigorous formulation that recognizes three elements: "impact or need," "benefit," and "proportionality." The dual rational nexus test explicitly addresses only the first two, although proportionality is reasonably implied, and was specifically mentioned by the U.S. Supreme Court in the *Dolan* case. The reasonable relationship language of the statute is considered less strict than the rational nexus standard used by many courts. Individual elements of the nexus standard are discussed further in the following paragraphs.

Demonstrating an Impact. All new development in a community creates additional demands on some, or all, public facilities provided by local government. If the supply of facilities is not increased to satisfy that additional demand, the quality or availability of public services for the entire community will deteriorate. Impact fees may be used to recover the cost of development-related facilities, but only to the extent that the need for facilities is a consequence of development that is subject to the fees. The *Nollan* decision reinforced the principle that development exactions may be used only to mitigate conditions created by the developments upon which they are imposed. That principle clearly applies to impact fees. In this study, the impact of development on improvement needs is analyzed in terms of quantifiable relationships between various types of development and the demand for specific facilities, based on applicable level-of-service standards.

Demonstrating a Benefit. A sufficient benefit relationship requires that facility fee revenues be segregated from other funds and expended only on the facilities for which the fees were charged. Fees must be expended in a timely manner and the facilities funded by the fees must serve the development paying the fees. However, nothing in the U.S. Constitution or the State enabling Act requires that facilities funded with fee revenues be available *exclusively* to development paying the fees. In other words, existing development may benefit from these improvements as well.

Procedures for the earmarking and expenditure of fee revenues are typically mandated by the State enabling act, as are procedures to ensure that the fees are expended expeditiously or refunded. All of these requirements are intended to ensure that developments benefit from the fees they are required to pay. Thus, an adequate showing of benefit must address procedural as well as substantive issues.

Demonstrating Proportionality. The requirement that exactions be proportional to the impacts of development was clearly stated by the U.S. Supreme Court in the *Dolan* case (although the relevance of

that decision to impact fees has been debated) and is logically necessary to establish a proper nexus. Proportionality is established through the procedures used to identify development-related facility costs, and in the methods used to calculate impact fees for various types of facilities and categories of development. The demand for facilities is measured in terms of relevant and measurable attributes of development. For example, the need for school improvements is measured by the number of public school-age children generated by development.

Unique Requirements of the New Mexico Development Fees Act

Impact fees in New Mexico are governed by Article 8, Chapter 5 of New Mexico Statutes Annotated (NMSA) – the *Development Fees Act*. The Act imposes certain requirements for impact fee assessment in New Mexico, including[1]:

- Capital facility types that are eligible for impact fee assessment;
- Categories of allowed and prohibited expenses;
- Impact fee administrative procedures and capital facilities plan update requirements, including conditions under which fees must be refunded (impact fees must, for example, be spent within seven years of collection or refunded);
- Requirements guiding the City's definition of an impact fee service area (the area within which fees will be assessed);
- Impact fee analytical requirements that call for preparation of two reports to support the assessment – impact fee Land Use Assumptions, and this Impact Fee Capital Improvement Plan (the IFCIP), which documents the calculation methodology and includes a schedule of impact fees by property type.

The IFCIP includes the following:

- The definition of the impact fee service unit – a standard unit of measure for capital facilities demand planning;
- A demand equivalency table that shows the rate of service unit generation (capital facility capacity demand), by property type;
- The number of projected service units attributable to new development (which is a way to quantify the "impacts" of new development;

[1] See the Appendix for the full text of the New Mexico Development Fees Act.

- The cost per service unit (cost to meet demand from a unit of new development);
- The net cost per service unit (total cost less impact fee reductions);
- An impact fee net cost schedule that shows the net payable impact fee amount, by property type.

The Development Fees Act includes three other noteworthy provisions:

1. Platted (and un-built) lots are guaranteed, for a period of four years, the impact fee rate in effect at the time of platting. This protection expires at the end of four years, after which the current fee rates apply. Lots platted prior to the adoption of the impact fees in this report have no such protection (because fees in this report have not been assessed in the past). Future impact fee updates will have effect only for lots platted after enactment of the new fees (along with lots platted more than four years before the update).
2. Impact fee exemption is specifically disallowed for public entities.
3. The City may waive fee assessment for "qualified affordable housing." Qualified units are those affordable to households earning 80% or less of HUD area median income, and which have total monthly shelter costs of less than 30% of gross household income.

Methodologies and Credits

Any one of several legitimate methods may be used to calculate impact fees. The choice of a particular method depends primarily on the service characteristics and planning requirements for the facility type being addressed. Each method has advantages and disadvantages in a particular situation, and to some extent can be interchangeable, because each allocates facility costs in proportion to the needs created by development.

Reduced to its simplest terms, the process of calculating impact fees involves two main steps: (1) determining the cost of development-related capital improvements and (2) allocating those costs equitably to various types of development. In practice, though, the calculation of impact fees can become quite complicated because of the many variables involved in defining the relationship between development and the need for facilities. The following paragraphs discuss three basic methods for calculating development impact fees and how those methods can be applied.

Plan-Based Fee Calculation. The plan-based method allocates costs for a specified set of improvements to a specified amount of development. The improvements are identified by a facility plan and development is identified by a land use plan. In this method, the total cost of relevant facilities is divided by total demand to calculate a cost per unit of demand. Then, the cost per unit of demand is multiplied by the amount of demand per unit of development (e.g., housing units or square feet of building area) in each category to arrive at a cost per specific unit of development (e.g., single family detached unit).

Cost Recovery or Buy-In Fee Calculation. The rationale for the cost recovery approach is that new development is paying for its share of the useful life and remaining capacity of facilities already built or land already purchased from which new growth will benefit. This methodology is sometimes used for systems that were oversized.

Incremental Expansion Fee Calculation. The incremental expansion method documents the current level of service (LOS) for each type of public facility in both quantitative and qualitative measures, based on an existing service standard (such as square feet per student). This approach ensures that there are no existing infrastructure deficiencies or surplus capacity in infrastructure. New development is only paying its proportionate share for growth-related infrastructure. The level of service standards are determined in a manner similar to the current replacement cost approach used by property insurance companies. However, in contrast to insurance practices, the fee revenues would not be for renewal and/or replacement of existing facilities. Rather, revenue will be used to expand or provide additional facilities, as needed, to accommodate new development. An incremental expansion cost method is best suited for public facilities that will be expanded in regular increments, with LOS standards based on current conditions in the community.

Credits. Regardless of the methodology, a consideration of "credits" is integral to the development of a legally valid impact fee methodology. There are two types of "credits" each with specific characteristics, but both of which should be addressed in the development of development fees. The first is a credit due to possible double payment situations. This could occur when contributions are made by the property owner toward the capital costs of the public facility covered by the impact fee. This type of credit is integrated into the impact fee calculation. The second is a credit toward the payment of a fee for dedication of public sites or improvements provided by the developer for which the impact fee is imposed. This type of credit is addressed in the administration and implementation of a development fee program.

Generic Impact Fee Calculation

In contrast to development exactions, which are typically referred to as project-level improvements, impact fees fund growth-related infrastructure that will benefit multiple development projects, or the entire jurisdiction (often referred to as "system-level" improvements).The first step is to determine an appropriate demand indicator, or service unit, for the particular type of infrastructure. The demand/service indicator measures the number of demand or service units for each unit of development. For example, an appropriate indicator of the demand for utilities is meter size. The second step is to determine infrastructure units per demand unit, often called Level-Of-Service (LOS) standards. In keeping with the utilities example, a common standard is gallons per day per equivalent dwelling unit (EDU). The third step in the generic impact fee formula is the cost of various infrastructure units. To complete the utilities example, this part of the formula would establish the cost per gallon of capacity for utility capacity improvements.

LAND USE ASSUMPTIONS/DEMAND INDICATORS

New Mexico's *Development Fees Act* states that land use assumptions should include a description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a five-year period (see Section 5-8-2.J). Specifically, the *Development Fees Act* requires that two analytical documents be prepared before impact fees can be assessed:

1. **Land use assumptions** must be defined in order to project the quantity of new development in terms of new service units anticipated over a 5-10 year period.
2. An **impact fee capital improvements plan** must be prepared to show how demand for added capital facility capacity generated by new development is translated into costs, and specifically, cost per new service unit.

Demand Factors

Person per Housing Unit Factors

Household size (persons per housing unit, PPHU) is used to quantify the demand for utility infrastructure from a single family housing unit, which is the Equivalent Dwelling Unit (EDU) in the utility analysis. The 2010 Census did not obtain detailed information using a "long-form" questionnaire. Instead, the U.S. Census Bureau switched to a continuous monthly mailing of surveys, known as the American Community Survey (ACS), which has limitations due to sample-size constraints. For example, data on detached housing units are now combined with attached single units (commonly known as townhouses).

To determine household size for a single family unit, data on population, housing units, and households is from the U.S. Census American Community Survey, 1-Year Estimate for 2017. (Note: housing unit estimates from ACS will not equal 100 percent counts of units, nor current estimates as provided below. Instead, these data are used only to derive the custom PPHU factors for each type of unit).

As shown below, a single family unit has 2.43 persons in Las Cruces per the U.S. Census.

Figure 3. City of Las Cruces Persons per Housing Unit

Type of Unit	Persons	Households	Persons per Household	Housing Units	Persons per Housing Unit
Single Family	78,457	27,622	2.84	32,261	**2.43**
Multifamily	20,817	11,554	1.80	14,111	**1.48**
Subtotal	**99,274**	39,176	2.53	46,372	**2.14**
Group Quarters	2,432				
Total	**101,706**				

Percent Pop. in HH	**98%**

Source: US Census American Community Survey 1-Year Estimate, 2017
Note: Single unit includes detached, attached, and mobile homes.

Residential Development

Population Growth Trends

Development fees require an analysis of current levels of service. For residential development, current levels of service are determined using estimates of population and housing units.

Over the past decade, the City of Las Cruces has experienced slightly higher annual growth rate than Doña Ana County. Over the past ten years, the city has grown by 9,144 residents. The city's estimated population in 2019 is 104,427, almost half of the population of Doña Ana County.

Figure 4. City of Las Cruces and Doña Ana County Historical Population Growth (2009 to 2019)

Year	Doña Ana County Population	City of Las Cruces Population
2009	205,778	95,283
2010	209,233	97,618
2011	210,179	98,327
2012	211,125	99,036
2013	212,071	99,746
2014	213,017	100,455
2015	213,963	101,164
2016	213,825	101,459
2017	215,579	101,706
2018	217,632	103,212
2019	219,686	104,427
Net Increase	**13,908**	**9,144**
Annual Increase	**0.73%**	**1.06%**

Source: ESRI; Mesilla Valley MPO; Economic & Planning Systems

Projected Population Growth

Figure 5 illustrates projected population growth through 2029. Projections are consistent with the City's new *Comprehensive Plan* and provided by Economic & Planning Systems. Las Cruces' population is estimated to grow annually at a rate of approximately 1.2 percent, resulting in a projected increase of 12,965 residents.

Figure 5. City of Las Cruces and Doña Ana County Projected Population Growth (2019-2029)

Year	Doña Ana County Population	City of Las Cruces Population
2019	219,686	104,427
2020	221,739	105,656
2021	223,793	106,900
2022	225,846	108,158
2023	227,899	109,431
2024	229,953	110,720
2025	232,006	112,023
2026	234,060	113,342
2027	236,113	114,676
2028	238,166	116,026
2029	240,220	117,392
Net Increase	**20,534**	**12,965**
Avg. Annual Increase	**0.9%**	**1.18%**

Source: ESRI; Mesilla Valley MPO; Economic & Planning Systems

Housing Unit Estimate and Projections

The current population estimate in the City of Las Cruces and the above household size and population in household figures are used to determine the current estimate of housing units. Current number of housing units within the City is 47,631.

Figure 6. City of Las Cruces Current Housing Unit Estimate (2019)

	2019
Population Estimate [1]	104,427
% Population in Housing Units [2]	98%
Population in Housing Units	101,930
Persons per Housing Unit [2]	2.14
Estimated Total Housing Units	47,631

[1] ESRI; Mesilla Valley MPO; Economic & Planning Systems
[2] US Census American Community Survey 1-Year Estimate, 2017

Projections of housing units are shown below. Residential projections will be used to determine demand for utilities as well as to project revenues from development fees. Housing unit projections are derived from the population projections developed for the City's Comprehensive Plan update and the weighted average household size identified above.

Figure 7. City of Las Cruces Housing Unit Projections (2019-2029)

Year	City of Las Cruces Population	City of Las Cruces Housing Units
2018	103,212	47,077
2019	104,427	47,631
2020	105,656	48,191
2021	106,900	48,759
2022	108,158	49,333
2023	109,431	49,913
2024	110,720	50,501
2025	112,023	51,095
2026	113,342	51,697
2027	114,676	52,306
2028	116,026	52,921
2029	117,392	53,544
Net Increase	**12,965**	**5,913**

Source: ESRI; Mesilla Valley MPO; Economic & Planning Systems

Nonresidential Development

Current estimates and future projections of nonresidential development are detailed in this section including jobs and nonresidential floor area.

Base Year Employment and Nonresidential Square Footage Estimates

In addition to data on residential development, the calculation of development fees requires data on employment (number of jobs) and nonresidential square footage in Las Cruces. TischlerBise uses the term "jobs" to refer to employment by place of work. TischlerBise analyzed recent employment trends, reviewed data available as part of the *Elevate Las Cruces Comprehensive Plan* effort, and the U.S. Census Bureau.

TischlerBise uses a multi-step process to estimate base year job and nonresidential footage estimates. First, employment estimates are derived using 2015 data from the U.S. Census, On the Map Application and Longitudinal-Employer Household Dynamics Program (LEHD), Origin-Destination Employment Statistics, which is a key data source for employment estimates at the municipal level. However, 2015 is the latest year for which data is available. Second, job estimates are organized by type: Retail, Office and

Other (includes institutional) and Industrial. Third, estimated nonresidential square footage in the City of Las Cruces for 2015 is estimated using average square feet per job factors shown in Figure 8.

Figure 8. Employee and Building Area Ratios (ITE)

ITE Code	Land Use / Size	Demand Unit	Wkdy Trip Ends Per 1,000 Sq. Ft.	Wkdy Trip Ends Per Employee*	Employees Per 1,000 Sq. Ft.	Sq. Ft. Per Emp
110	Light Industrial	1,000 Sq Ft	4.96	3.05	1.63	613
130	Industrial Park	1,000 Sq Ft	3.37	2.91	1.16	862
140	Manufacturing	1,000 Sq Ft	3.93	2.47	1.59	629
150	Warehousing	1,000 Sq Ft	1.74	5.05	0.34	2,941
254	Assisted Living	bed	2.60	4.24	0.61	na
320	Motel	room	3.35	25.17	0.13	na
520	Elementary School	1,000 Sq Ft	19.52	21.00	0.93	1,075
530	High School	1,000 Sq Ft	14.07	22.25	0.63	1,587
540	Public/Institutional	1,000 Sq Ft	20.25	14.61	1.39	721
565	Day Care	1,000 Sq Ft	47.62	21.38	2.23	448
610	Hospital	1,000 Sq Ft	10.72	3.79	2.83	353
710	General Office (avg size)	1,000 Sq Ft	9.74	3.28	2.97	337
720	Medical-Dental Office	1,000 Sq Ft	34.80	8.70	4.00	250
730	Government Office	1,000 Sq Ft	22.59	7.45	3.03	330
750	Office Park	1,000 Sq Ft	11.07	3.54	3.13	319
760	Research & Dev Center	1,000 Sq Ft	11.26	3.29	3.42	292
770	Business Park	1,000 Sq Ft	12.44	4.04	3.08	325
820	Shopping Center (avg size)	1,000 Sq Ft	37.75	16.11	2.34	427

Source: Trip Generation, Institute of Transportation Engineers, 10th Edition (2017).

Results are shown below in Figure 9 by land use type. Nonresidential square footage is estimated by multiplying number of jobs by square feet per employee (e.g., retail jobs at 13,981 x 427 sq. ft. per job = 5,969,887 square feet).

Figure 9. 2015 Employment and Distribution by Industry Type

Land Use	Jobs [1]	% Jobs	Sq Ft per Job [2]	Sq. Ft.	% Sq. Ft.
Retail	13,981	30%	427	5,969,887	33%
Office & Other	26,472	57%	337	8,921,064	49%
Industrial	5,595	12%	613	3,429,735	19%
Total	**46,048**	**100%**		**18,320,686**	**100%**

[1] U.S. Census, OnTheMap 6.1.1 Application and LEHD Origin-Destination Employment Statistics
[2] Trip Generation, Institute of Transportation Engineers, 10th Edition (2017).

To determine current (2019) nonresidential square footage and job estimates, TischlerBise obtained data on the total amount of nonresidential square footage in the City from the *Elevate Las Cruces Comprehensive Plan* data collection at almost 20 million square feet. Current square footage is allocated

to existing nonresidential land uses using the detailed data from 2015. Existing nonresidential square footage is then converted to an estimated number of existing jobs using the square foot per employee factors from above.

Figure 10. 2019 Employment and Distribution by Industry Type

Land Use	Sq. Ft. [1]	% Sq. Ft. [2]	Sq Ft per Job [3]	Jobs	% Jobs
Retail	6,510,505	33%	427	15,247	30%
Office & Other	9,725,816	49%	337	28,860	57%
Industrial	3,734,553	19%	613	6,092	12%
Total	**19,970,874**	**100%**		**50,199**	**100%**

[1] Total square footage from EPS and Halff Assoc., Elevate Las Cruces; allocated by type from 2015 Summary
[2] From 2015 Summary
[3] Trip Generation, Institute of Transportation Engineers, 10th Edition (2017).

Employment and Nonresidential Floor Area Projections

Future employment growth and nonresidential development in Las Cruces are based on projections developed for the *Elevate Las Cruces Comprehensive Plan*, which projects a total of 25.5 million square feet of nonresidential space by the year 2045. Projections for the development fee study are limited to 10 years, therefore TischlerBise interpolated between the current estimate and the 2045 projection. It is projected that the City will grow by just under 2 million square feet over the next ten years.

To project growth in at-place employment, TischlerBise applied the previously discussed square feet per employee factors to the projected increase in square footage. The results of these calculations are shown in Figure 11. Over the next 10 years, Las Cruces is projected to grow by 4,932 jobs and add an estimated 1.96 million square feet of nonresidential development.

Figure 11. Nonresidential Development Projections

Year	City of Las Cruces Nonres Sq. Ft.	City of Las Cruces Jobs
2018		49,161
2019	19,970,874	50,199
2020	20,158,928	50,672
2021	20,348,753	51,149
2022	20,540,365	51,631
2023	20,733,782	52,117
2024	20,929,020	52,608
2025	21,126,096	53,103
2026	21,325,029	53,603
2027	21,525,834	54,108
2028	21,728,530	54,617
2029	21,933,135	55,132
Net Increase	**1,962,261**	**4,932**
Avg. Annual Increase	**0.98%**	**0.98%**

Source: City of Las Cruces, Elevate Las Cruces Comprehensive Plan (Halff Assoc., EPS); TischlerBise analysis

Summary of Land Use Assumptions

Provided below is a summary of cumulative land use projections used in the development impact fee study. Base year estimates for 2019 are used in the development fee calculations. Development projections are used to illustrate a possible future pace of demand for service units and cash flows resulting from revenues and expenditures associated with those demands.

Figure 12. Summary of Land Use Assumptions

		Multi Year Increments>>>						
	2019	2020	2021	2022	2023	2024	2029	10-Year Change
	Base	1	2	3	4	5	10	
Population								
Subtotal Household Population	**101,930**	**103,130**	**104,344**	**105,572**	**106,814**	**108,072**	**114,585**	**12,655**
Group Quarters Population	2,497	2,526	2,556	2,586	2,617	2,648	2,807	**310**
Total Population	**104,427**	**105,656**	**106,900**	**108,158**	**109,431**	**110,720**	**117,392**	**12,965**
Net Increase Per Year		*1,229*	*1,244*	*1,258*	*1,273*	*1,289*	*1,366*	
Housing Units								
Total Housing Units	**47,631**	**48,191**	**48,759**	**49,333**	**49,913**	**50,501**	**53,544**	**5,913**
Net Increase Per Year		*561*	*567*	*574*	*581*	*588*	*623*	
Jobs								
Total Jobs	**50,199**	**50,672**	**51,149**	**51,631**	**52,117**	**52,608**	**55,132**	**4,932**
Net Increase Per Year		*473*	*477*	*482*	*486*	*491*	*514*	
Nonresidential Floor Area (KSF)								
Total Floor Area (KSF)	**19,970,874**	**20,158,928**	**20,348,753**	**20,540,365**	**20,733,782**	**20,929,020**	**21,933,135**	**1,962,261**
Net Increase Per Year		*188,054*	*189,825*	*191,612*	*193,417*	*195,238*	*204,605*	

Demand for Water and Wastewater Facilities

Based on the above projections, demand for Water and Wastewater improvements and facilities can be projected as well. A summary of projected demand is provided below with detail in the respective report chapters.

Summary of Projected Water Demand

Over the next 10 years, it is projected there will be an increase of 4,491 water customers. Accordingly, water demand is projected to increase by almost 2.0 million gallons per day by the end of the 10-year projection period. Average daily total demand at the end of the 10-year period is projected at 19.4 million average gallons per day. Detail is provided in Figure 13.

Figure 13. Projected Water Demand

Year		Residential Customers	Nonresidential/ Other Customers	Total Customers	Annual Increase		Cumulative Increase		
					Customers	Avg. Gallons per Day	Customers	Avg. Gallons per Day	Grand Total Avg. Gallons per Day
Base	2019	32,597	4,518	37,115					17,460,711
1	2020	32,981	4,561	37,541	426	188,574	426	188,574	17,649,285
2	2021	33,369	4,603	37,972	431	190,686	857	379,260	17,839,971
3	2022	33,762	4,647	38,408	436	192,707	1,293	571,967	18,032,678
4	2023	34,159	4,691	38,850	441	194,831	1,735	766,798	18,227,509
5	2024	34,561	4,735	39,296	447	197,061	2,181	963,859	18,424,570
6	2025	34,968	4,779	39,747	451	199,099	2,632	1,162,958	18,623,669
7	2026	35,380	4,824	40,204	457	201,341	3,089	1,364,299	18,825,010
8	2027	35,796	4,870	40,666	462	203,491	3,551	1,567,790	19,028,501
9	2028	36,218	4,916	41,133	467	205,737	4,018	1,773,526	19,234,237
10	2029	36,644	4,962	41,606	473	207,987	4,491	1,981,513	19,442,224

Source: TischlerBise, using Average Day Demand factors and projected development shown in the Land Use Assumptions.

Summary of Projected Wastewater Demand

Over the next 10 years, it is projected there will be an increase of 4,251 wastewater customers. Accordingly, the projected wastewater demand increases by approximately 1.2 million gallons per day by the end of the 10-year projection period. Average daily total demand at the end of the 10-year period is projected at almost 12.4 million average gallons per day. Detail is provided in Figure 14.

Figure 14. Projected Wastewater Demand

Year		Residential Customers	Nonresidential/ Other Customers	Total Customers	Annual Increase		Cumulative Increase		
					Customers	Avg. Gallons per Day	Customers	Avg. Gallons per Day	Grand Total Avg. Gallons per Day
Base	2019	31,507	3,454	34,961					11,147,620
1	2020	31,878	3,487	35,364	403	118,016	403	118,016	11,265,636
2	2021	32,253	3,519	35,772	408	119,309	811	237,326	11,384,946
3	2022	32,633	3,552	36,185	413	120,554	1,224	357,880	11,505,500
4	2023	33,017	3,586	36,603	418	121,857	1,642	479,737	11,627,357
5	2024	33,406	3,620	37,025	423	123,218	2,064	602,955	11,750,575
6	2025	33,799	3,654	37,453	427	124,477	2,492	727,431	11,875,051
7	2026	34,197	3,688	37,885	432	125,847	2,924	853,278	12,000,898
8	2027	34,599	3,723	38,322	437	127,169	3,361	980,447	12,128,067
9	2028	35,007	3,758	38,765	442	128,545	3,804	1,108,992	12,256,612
10	2029	35,419	3,793	39,212	447	129,924	4,251	1,238,916	12,386,536

Source: TischlerBise, using Average Day Demand factors and projected development shown in the Land Use Assumptions.

WATER

Methodology

Water impact fees are derived using the incremental, plan based, and cost recovery approaches. Impact fees are by meter size and calibrated to average daily gallons of water demand for a single-family housing unit (or an Equivalent Dwelling Unit (EDU)). The cost per meter size is based on the net capital costs per gallon of system capacity or per EDU multiplied by the applicable capacity ratio. Water impact fees include infrastructure components for: water wells/supply, transmission, storage, development and support facilities. Impact fees to be paid by multifamily and nonresidential development are derived from capacity ratios according to the size of the new customer's water meter. Capacity ratios are from Las Cruces Utilities.

Water Demand

Water impact fees use average water usage per Equivalent Dwelling Unit (EDU) as the service unit. TischlerBise obtained water usage data from Las Cruces Utilities to determine demand from residential and nonresidential land uses. Residential customers shown below reflect single units and do not include multifamily housing units. Therefore, the usage figure can be used to derive average daily water demand from an EDU at 315 gallons per day. Detail is provided below in Figure 15.

Figure 15. Water Usage by Customer Class (2018) and Levels of Service

Test Year 2018	Annual Sales (1,000 gal)	Avg. Customers	Avg. Annual Gallons per Customer	Avg. GPD
Residential Customers	3,686,978	32,072	114,959	315
Small Commercial	792,498	3,635	218,019	597
Large Commercial	941,081	432	2,178,428	5,968
Industrial	359,906	18	19,994,778	54,780
San Pablo MDWCA	9,748	1	9,748,000	26,707
Parks	73,390	35	2,096,857	5,745
Parks Non-Potable	12,337	4	3,084,250	8,450
Off Peak	126,481	58	2,180,707	5,975
Reclaimed Water	118,893	6	19,815,500	54,289
Total/Average	6,121,312	36,261	168,813	463

Summary	Annual Sales (1,000 gal)	Avg. Customers	Avg. Annual Gallons per Customer	Avg. GPD
Residential	3,686,978	32,072	114,959	315
Nonresidential/Other	2,434,334	4,189	581,125	1,592
Total/Average	6,121,312	36,261	168,813	463

Source: Las Cruces Utilities, Water Utility Rate Review, Test Year 2018

Ratio of Service Unit to Development Unit

Residential water facilities development fees are assessed on a per meter basis, calibrated to average gallons per day per single family unit, which is an equivalent dwelling unit (EDU). Multifamily units should be assessed based on the corresponding meter size and capacity ratio shown below and would establish a ratio of service units to land use.

For nonresidential water facilities development fees, capacity ratios by meter size are the appropriate demand indicator for water facilities. Capacity ratios equate .625 (5/8) or .75 (3/4) inch meters (standard single family unit meter) to the average gallons per day for a single-family residential unit. Utilizing average gallons per day is the most efficient way to show a direct relationship between development units, usage, and system capacity. Water facilities development impact fees assessed on nonresidential development are calculated by multiplying the number of gallons per residential unit by the capacity ratio for the corresponding size and type of water meter needed to serve the nonresidential land use.

Maximum flow rate capacity for .625 (5/8) or .75 (3/4) inch meters is 25 gallons per minute (gpm), reflecting the City's transition to induction flow measurement with a Kamstrup meter having a higher maximum capacity than the average bronze main case documented by the American Water Works Association (AWWA). Other types of meters are utilized in the City of Las Cruces with a range of capacities, which are scaled to the capacity for a standard residential meter. Maximum capacity standards for the other meters and sizes are from Las Cruces Utilities and shown below in Figure 16.

Figure 16. Water Facilities Ratio of Service Units to Development Units

Water

Residential Development Service Units

Number of Persons per Single Family Unit (EDU)	2.43
Average Gallons per Day per EDU	315
Average Gallons per Person	130

Sources: US Census; Las Cruces Utilities; TischlerBise

All Development Service Units

Meter Size	Meter Capacity by Type of Meter			Capacity Ratio by Type of Meter		
	Capacity Kamstrup Flow IQ	*Capacity Elster EVO Q4*	*Capacity Master Meter Octave Ultra*	*Ratio Kamstrup Flow IQ*	*Ratio Elster EVO Q4*	*Ratio Master Meter Octave Ultra*
5/8 x 3/4"	25			1.00		
3/4	32			1.28		
1"	55			2.20		
1-1/2"	120			4.80		
2"	160	220	250	6.40	8.80	10.00
3"		550	500		22.00	20.00
4"		880	1000		35.20	40.00
6"		1400	1600		56.00	64.00
8"		3500	2800		140.00	112.00

Source: Las Cruces Utilities

Current Water Demand

Las Cruces Utilities current water usage is estimated based on customer count for Fiscal Year 2019 (as of February 2019) and gallons per customer from the data in Figure 16 above. Total estimated average daily demand is approximately 17.5 million gallons per day.

Figure 17. Current (2019) Average Daily Water Demand by Land Use

Land Use Class	Customers*	Gallons per Customer per Day^	Estd. Water Demand (GPD)
Residential	32,597	315	10,268,055
Nonresidential	4,518	1,592	7,192,656
Total	***37,115***		***17,460,711***

** FY19 Actual Customer Count, Las Cruces Utilities*

^ City of Las Cruces Utilities, Water Utility Rate Review, Test Year 2018

Projected Water Demand

Using current demand factors as summarized below in Figure 18 and the land use assumptions detailed in this chapter, future water demand can be projected.

Figure 18. Water Level of Service/Demand Factors (Base Year 2019)

32,597	Residential Customers
47,631	City of Las Cruces Housing Units (HU)
0.684	Customers/HU
315	GPD/Customer

4,518	Nonresidential Customers
50,199	City of Las Cruces Jobs
0.090	Customers/Job
1,592	GPD/Customer

Source: Las Cruces Utilities; TischlerBise analysis.

Over the next 10 years, it is projected there will be an increase of 4,491 water customers. Accordingly, water demand is projected to increase by almost 2.0 million gallons per day by the end of the 10-year projection period. Average daily total demand at the end of the 10-year period is projected at 19.4 million average gallons per day. This equates to an increase of 6,291 EDUs. Detail is provided in Figure 19.

Figure 19. Projected Water Demand

Year		Residential Customers	Nonres / Other Customers	Total Customers	Annual Increase		Cumulative Increase			Projected EDUs		
					Customers	Avg. Gallons per Day	Customers	Avg. Gallons per Day	Grand Total Avg. Gallons per Day	Annual Increase in EDUs	Cumulative Increase in EDUs	Total EDUs
Base	2019	32,597	4,518	37,115					17,460,711			55,431
1	2020	32,981	4,561	37,541	426	188,574	426	188,574	17,649,285	599	599	56,030
2	2021	33,369	4,603	37,972	431	190,686	857	379,260	17,839,971	605	1,204	56,635
3	2022	33,762	4,647	38,408	436	192,707	1,293	571,967	18,032,678	612	1,816	57,247
4	2023	34,159	4,691	38,850	441	194,831	1,735	766,798	18,227,509	619	2,435	57,866
5	2024	34,561	4,735	39,296	447	197,061	2,181	963,859	18,424,570	626	3,061	58,492
6	2025	34,968	4,779	39,747	451	199,099	2,632	1,162,958	18,623,669	632	3,693	59,124
7	2026	35,380	4,824	40,204	457	201,341	3,089	1,364,299	18,825,010	639	4,332	59,763
8	2027	35,796	4,870	40,666	462	203,491	3,551	1,567,790	19,028,501	646	4,978	60,409
9	2028	36,218	4,916	41,133	467	205,737	4,018	1,773,526	19,234,237	653	5,631	61,062
10	2029	36,644	4,962	41,606	473	207,987	4,491	1,981,513	19,442,224	660	6,291	61,722

Source: TischlerBise, using Average Day Demand factors and projected development shown in the Land Use Assumptions.

Service Area

The service area for the Water Development Fee is citywide within Las Cruces water service area.

Water System Levels of Service and Cost Factors

Water Wells/Supply

The City of Las Cruces obtains its water from twenty-seven City of Las Cruces Wells and twelve Jornada System Wells, which were recently acquired by Las Cruces Utilities. Grand total water capacity is almost 53 million gallons per day with a firm capacity at 80 percent of the total, or 42 million gallons per day. A summary of current water well/supply is shown below in Figure 20.

Figure 20. Water Supply Level of Service

Well #	Capacity (gpm)	Capacity (gpd)
City of Las Cruces Wells		
25	610	878,400
28	500	720,000
29	1800	2,592,000
31	1600	2,304,000
32	1100	1,584,000
33	400	576,000
35	1000	1,440,000
39	500	720,000
40	1250	1,800,000
41	1700	2,448,000
42	1400	2,016,000
43	1000	1,440,000
46	2500	3,600,000
58	1400	2,016,000
59	1800	2,592,000
61	1200	1,728,000
62	700	1,008,000
63	2700	3,888,000
65	1250	1,800,000
67	2000	2,880,000
68	500	720,000
69	1000	1,440,000
70	2850	4,104,000
71	2900	4,176,000
18	90	129,600
27	225	324,000
Paz*	400	
Subtotal		**48,924,000**

Well #	LRG	Capacity (gpm)	Capacity (gpd)
Jornada System Wells			
103	LRG-50-S-7	130	187,200
106	LRG-50-S-13	600	864,000
107	LRG-50-S-11	600	864,000
115	LRG-1882-S	90	129,600
116	LRG-1882-S-2POD4	150	216,000
117	LRG-47-S-3	215	309,600
119	LRG-47-S-6	275	396,000
120	LRG-47-S-5	150	216,000
121	LRG-47-S-4	115	165,600
122	LRG-47	85	122,400
123	LRG-48	105	151,200
125	LRG-48-S-2	175	252,000
Subtotal			**3,873,600**
GRAND TOTAL WELL CAPACITY			**52,797,600**
FIRM PRODUCTION CAPACITY			**42,238,080**

** Irrigation use; not potable. Not included in capacity figures.*

^ Firm capacity estimated at 80% of total production capacity, per City of Las Cruces Water and Wastewater System Master Plan Update, 2008.

Source: Las Cruces Utilities

Maximum day demand is estimated at approximately 35 million gallons per day, assuming a peaking factor of 2, per the Water and Wastewater Master Plan Update and 2013 Impact Fee Study.

This results in a utilization factor of 83 percent of firm water capacity as shown in Figure 21.

Figure 21. Water Usage and Capacity

Estimated Avg. Daily Water Demand (GPD)	17,460,711
Peaking Factor*	2.0
Estimated Max Daily Water Demand (GPD)	34,921,422
Estimated Water Supply Capacity (GPD)	52,797,600
Estimated Firm Water Supply Capacity (GPD)^	42,238,080
Utilization	83%

** Water and Wastewater System Master Plan Update*

^ 80% of production capacity, per Water and Wastewater System Master Plan Update

Source: Las Cruces Utilities

Water Supply Cost

Las Cruces Utilities plans to continue to expand water supply capacity from future well development. Below is the current cost per gallon of capacity for water supply based on recent well construction, including drilling and pump house construction. Interest costs are included in the estimates. The resulting cost per gallon is $1.05.

Figure 22. Water Supply Cost Factors

Water Supply	Est. Construction Cost [1]	Est. Interest Cost [2]	Est. Total Cost [2]	Capacity (gpd) [3]	Cost/gpd
Well 40 - Drilling and Pump Station	$2,380,000	$1,071,000	$3,451,000	1,800,000	$1.92
Well 70 - Drilling and Pump Station	$2,450,000	$1,102,500	$3,552,500	4,104,000	$0.87
Well 71 - Drilling and Pump Station	$2,450,000	$1,102,500	$3,552,500	4,176,000	$0.85
Total	**$7,280,000**	**$3,276,000**	**$10,556,000**	**10,080,000**	**$1.05**

[1] Las Cruces Utilities; includes drilling and pump house construction.

[2] Interest estimated at 4% over 20 years.

[3] Las Cruces Utilities.

Water Distribution

Water is distributed in the City of Las Cruces through a system of transmission lines, valves, and booster pumps. Las Cruces Utilities plans to continue to add capacity in the system by expanding components of the water distribution system to accommodate growth. Current levels of service and costs are detailed below in the next series of figures.

A total of 328,028 linear feet of system transmission lines at a range of sizes from 16 to 36 inches distribute water in the City of Las Cruces. The infrastructure is currently valued at approximately $64 million (costs are appreciated using the Engineering News Record cost index for a Southwest city (Dallas, Texas). This equates to a cost per EDU of $1,147.96.

Figure 23. Water Transmission Lines Level of Service and Cost Factor

Line Size	Linear Feet [1]	2013 Cost / Lin. Ft. [2]	2019 Cost / Lin. Ft. [2]	2019 Cost
16"	31,982	$140.95	$154.30	$4,934,837
18"	164,496	$153.86	$168.44	$27,706,903
24"	87,815	$179.69	$196.71	$17,274,215
30"	8,727	$210.17	$230.08	$2,007,921
36"	35,009	$305.51	$334.45	$11,708,633
Total	328,028		$193.98	**$63,632,509**

Current Number of Water EDUs	**55,431**
Cost per EDU	**$1,147.96**

[1] Las Cruces Utilities

[2] City of Las Cruces Water and Wastewater Impact Fee Study, 2013; cost updated to 2019 dollars with Engineering News-Record (ENR) Construction Cost Index for southwest city (Dallas, TX).

Five water control valve stations serve the water system in Las Cruces to regulate and maintain water pressure through the system. Current estimated value for the existing control valve stations total $663,588. This equates to a cost per EDU of $11.97. Detail is provided below.

Figure 24. Water Valves Level of Service and Cost Factor

Control Valve Station	Diameter (inches)	2013 Cost	2019 Cost
West Mesa	36	$96,376	$105,506
Spruce and Triviz	14	$150,336	$164,577
Triviz	14	$150,336	$164,577
Telshor	12	$119,078	$130,358
University and Telshor	12	$90,040	$98,569
			$663,588

Current Number of Water EDUs	**55,431**
Cost per EDU	**$11.97**

Sources: Las Cruces Utilities; City of Las Cruces Water and Wastewater Impact Fee Study, 2013; cost updated to 2019 dollars with Engineering News-Record (ENR) Construction Cost Index for southwest city (Dallas, TX).

The City is served by 11 booster pump stations with 32 pumps to pump water from lower service zones to higher service zones. The pump stations have an estimated current value of $2.2 million. This equates to $39.02 per EDU.

Figure 25. Water Booster Pumps Level of Service and Cost Factor

Pump Station	No. of Pumps	2013 Cost*	2019 Cost
Loma Vista	3	$114,000	$124,799
Jornada	3	$76,000	$83,199
South Jornada	3	$161,500	$176,799
Upper Griggs	3	$190,000	$311,998
Missouri 1	3	$142,500	$116,999
Missouri 2	3	$199,500	$218,398
Telshor 1	3	$76,000	$83,199
Telshor Skid	2	$87,400	$95,679
Telshor 2	3	$104,500	$171,599
Airport	3	$95,000	$155,999
West Mesa	3	$380,000	$623,996
	32		**$2,162,665**

Current Number of Water EDUs	**55,431**
Cost per EDU	**$39.02**

** Reflects inventory and asset value at time of 2013 Impact Fee Study*

Sources: Las Cruces Utilities; City of Las Cruces Water and Wastewater Impact Fee Study, 2013; cost updated to 2019 dollars with Engineering News-Record (ENR) Construction Cost Index southwest city (Dallas, TX).

Water Storage

Lac Cruces Utilities provides water storage in 13 storage tanks with a total capacity of 27.4 million gallons. The current level of service provided to existing Las Cruces Utilities water customers is 494 gallons per EDU. See Figure 26.

Figure 26. Water Storage Level of Service

Storage Tank Name	Year Built	Capacity (MG)
North Zone 2	2001	2.0
North Zone 1A	1992	2.0
South Zone	1995	2.0
Telshor	1965	2.0
Loma Vista	1964	2.0
North Jornada	1992	2.0
South Jornada	2009	2.0
Spruce	1970	3.0
Upper Griggs	1962	3.0
Missouri	1956	2.0
Airport Ground	1983	0.4
Airport Elevated	1983	0.5
West Mesa	2000	4.5
Total		**27.4**

Current Number of Water EDUs	**55,431**
Gallons per EDU	**494**

Source: Las Cruces Utilities; City of Las Cruces Water and Wastewater Impact Fee Study, 2013

Based on current capacity upgrades in Las Cruces' Capital Improvement Plan, the current cost to Las Cruces Utilities to provide water storage capacity is $1.27 per gallon. This cost is applied to the demand per EDU of 494 gallons in the impact fee schedule to derive new growth's share of the cost for water storage improvements.

Figure 27. Water Storage Cost Factor

Description	Cost [1]	Capacity (MG) [2]	Cost per Gallon
Elevated (Airport) Tank Improvements	$1,200,000	0.5	$2.40
Missouri Tank Improvements	$2,000,000	2	$1.00
Upper Griggs Tank Improvements	$2,195,000	3	$0.73
N. Zone 1 Tank Improvements	$1,712,000	2	$0.86
S. Zone Tank Improvements	$1,096,500	2	$0.55
Subtotal (principal)	*$8,203,500*	*9.5*	*$0.86*
Subtotal (interest) [3]	*$3,869,058*	*9.5*	*$0.41*
Grand Total Cost	**$12,072,558**	**9.5**	**$1.27**

[1] Las Cruces Utilities Capital Improvement Plan (FY2020)

[2] Las Cruces Utilities

[3] TischlerBise estimated at 4% interest rate

Planned Water Development

Las Cruces Utilities operates as a system, and as such, is connected within its system and connects to other water systems, primarily for emergency and redundancy purposes. Las Cruces Utilities plans to continue to expand its system of interconnectors with two projects in Zone I shown below. These projects are anticipated to serve demand over the next 20 years and are allocated to projected water demand over that time period. Estimated total costs and projected net new water demand over the next 20 years are shown below along with the resulting cost per gallon of capacity.

Figure 28. Water Development Level of Service and Cost Factor

Project	Year	Cost
Zone I Interconnect Project 2-Phase B	2020	$1,160,000
Zone I Interconnect Project 3 South-Phase B	2021	$1,450,000
Total		**$2,610,000**

Projected increase in demand (gpd) (20-Year Increase)	4,189,179
Cost per Gallon	**$0.62**

Source: Las Cruces Utilities Capital Improvement Plan (FY2020); TischlerBise projections.

Water Support Facilities

Las Cruces Utilities is currently constructing a Water Quality Lab to provide water and wastewater testing. Per Las Cruces Utilities, the facility will be utilized 30 percent for water testing (with the remaining 70 percent for wastewater testing). Costs are allocated to each fee category accordingly. This facility is anticipated to serve current and future demand over the next 20 years. Level of service and cost factors are shown below.

Figure 29.Water Quality Lab Level of Service and Cost Factor: Water Portion

Project	Year	Cost	% Water*	$ Water
Water Quality Laboratory (WQL)	2019	$4,734,222	30%	$1,420,267
Total		**$4,734,222**		**$1,420,267**

Projected Total Water Demand (GPD) (20-Year)	21,649,890
Cost per GPD	**$0.07**

** Remainder serves Wastewater*

Source: Las Cruces Utilities; TischlerBise projections.

Credit Analysis for Water System Improvements

Las Cruces debt finances some water system improvements, including the purchase of the Jornada Water System and other capacity improvement projects. To avoid potential double payment for water system improvements, a credit is necessary because new residential and nonresidential development that will pay the impact fee will also contribute to future principal payments through utility rates on this remaining debt.

As shown in Figure 30, outstanding principal and interest payments for financed water capacity improvements is approximately $21 million, reflecting 100 percent of the Jornada Water System acquisition debt and 20 percent of remaining Water Fund for capacity projects. To derive the credit amount, principal and interest subtotal per year is divided by the total demand (average gallons per day) in the water system in each year.

To account for the time value of money, annual payments per gallon of capacity are discounted using a net present value formula based on an average interest rate of 4.0 percent. The total net present value of future debt service payments for capacity improvements is $0.79 per gallon. This amount is subtracted from the gross capital cost per gallon amount to derive a net capital cost per gallon for water facilities.

Figure 30. Water Principal & Interest Payment Credit Evaluation

	2016 Bond Series Jornada				All Other Debt (Fund 5300)				GRAND TOTAL	CREDIT	
Year	*Principal*	*Interest*	*Total P&I*	*Capacity $ 100%*	*Principal*	*Interest*	*Total P&I*	*Capacity $ 20%*	*Capacity $ P&I*	*Proj. Demand GPD*	*Credit per Gallon*
2020	$279,808	$213,408	$493,216	$493,216	$2,615,590	$1,667,662	$4,283,252	$856,650	**$1,349,867**	17,649,285	$0.08
2021	$292,924	$199,418	$492,342	$492,342	$2,535,276	$1,574,979	$4,110,255	$822,051	**$1,314,393**	17,839,971	$0.07
2022	$308,226	$184,772	$492,998	$492,998	$2,850,945	$1,475,075	$4,326,020	$865,204	**$1,358,202**	18,032,678	$0.08
2023	$321,342	$172,443	$493,785	$493,785	$3,039,638	$1,366,759	$4,406,397	$881,279	**$1,375,064**	18,227,509	$0.08
2024	$332,272	$159,589	$491,861	$491,861	$2,906,732	$1,256,630	$4,163,361	$832,672	**$1,324,533**	18,424,570	$0.07
2025	$347,574	$146,298	$493,872	$493,872	$3,129,896	$1,136,700	$4,266,596	$853,319	**$1,347,191**	18,623,669	$0.07
2026	$360,690	$132,395	$493,085	$493,085	$2,866,946	$1,012,770	$3,879,716	$775,943	**$1,269,028**	18,825,010	$0.07
2027	$375,992	$117,967	$493,959	$493,959	$2,622,333	$911,491	$3,533,824	$706,765	**$1,200,724**	19,028,501	$0.06
2028	$389,108	$102,928	$492,036	$492,036	$1,978,337	$817,730	$2,796,067	$559,213	**$1,051,249**	19,234,237	$0.05
2029	$397,852	$94,659	$492,511	$492,511	$1,935,178	$755,122	$2,690,301	$538,060	**$1,030,571**	19,442,224	$0.05
2030	$406,596	$85,708	$492,304	$492,304	$2,089,644	$692,498	$2,782,142	$556,428	**$1,048,732**	19,652,460	$0.05
2031	$417,526	$76,051	$493,577	$493,577	$2,295,776	$623,096	$2,918,873	$583,775	**$1,077,352**	19,864,969	$0.05
2032	$426,270	$65,613	$491,883	$491,883	$2,412,133	$547,592	$2,959,725	$591,945	**$1,083,828**	20,079,776	$0.05
2033	$437,200	$54,956	$492,156	$492,156	$2,558,849	$466,611	$3,025,460	$605,092	**$1,097,248**	20,296,906	$0.05
2034	$450,316	$41,840	$492,156	$492,156	$2,710,543	$377,281	$3,087,825	$617,565	**$1,109,721**	20,516,384	$0.05
2035	$465,618	$28,331	$493,949	$493,949	$2,712,657	$289,166	$3,001,823	$600,365	**$1,094,313**	20,738,235	$0.05
2036	$478,734	$14,362	$493,096	$493,096	$2,168,000	$191,856	$2,359,856	$471,971	**$965,067**	20,962,485	$0.05
2037	$0	$0	$0	$0	$1,646,362	$112,225	$1,758,587	$351,717	**$351,717**	21,189,160	$0.02
2038	$0	$0	$0	$0	$1,561,021	$54,636	$1,615,657	$323,131	**$323,131**	21,418,286	$0.02
2039	$0	$0	$0	$0	$0	$0	$0	$0	**$0**	21,649,890	$0.00
Total	**$6,488,048**	**$1,890,737**	**$8,378,785**	**$8,378,785**	**$46,635,856**	**$15,329,880**	**$61,965,736**	**$12,393,147**	**$20,771,932**		**$1.08**

Discount Rate	**4.0%**
Net Present Value	**$0.79**

Source: Las Cruces Utilities; TischlerBise projections.

Proposed Impact Fees for Water

Input variables for the Water Impact Fees are shown in the upper section of Figure 31. For each component of the impact fee, capital costs per equivalent dwelling unit (EDU) are calculated by multiplying the average number of gallons per residential unit (EDU) by the net capital cost per gallon of system capacity. The net capital cost per EDU of $2,125 is the impact fee for a single family unit, or EDU.

Nonresidential impact fees are based on size and type of water meter and their restrictive capacity. Water development fees are calculated by multiplying the cost per EDU by the capacity ratio for the corresponding size and type of water meter. The capacity ratio is calibrated to the maximum flow rate capacity for .625 (5/8) or .75 (3/4) inch meters, the standard for a single family unit (or EDU). The full impact fee schedule by meter type and size is shown in Figure 32.

Figure 31. Proposed Water Impact Fees

	Cost per Gallon of Capacity	Water Gallons per Day per EDU	Water Capital Cost per EDU
Water Wells/Supply	$1.05	315	$330.75
Water Transmission			$1,198.95
Water Storage	$1.27	494	$627.38
Water Development	$0.62	315	$195.30
Water Support Facilities	$0.07	315	$22.05
Subtotal			**$2,374.43**
Water Credit	($0.79)	315	($248.85)
		Water Capital Cost per EDU =>	**$2,125.58**
		Water Capital Cost per EDU (Truncated) =>	**$2,125.00**

Proposed Fees: 5/8 or 3/4 Inch Meter

Meter Size (inches)	Capacity Ratio	Proposed Water Fee	Fee to Builder 50%	Customer Surcharge 28%	Fee to Rate Base 22%
0.625 (5/8) or 0.75 (3/4)	1.00	**$2,125**	$1,063	$595	$468

Figure 32. Proposed Water Impact Fees: All Meter Types and Sizes

Water									
Meter Size	Capacity Kamstrup Flow IQ	Capacity Elster EVO Q4	Capacity Master Meter Octave Ultra	Ratio Kamstrup Flow IQ	Ratio Elster EVO Q4	Ratio Master Meter Octave Ultra	Fee Kamstrup Flow IQ	Fee Elster EVO Q4	Fee Master Meter Octave Ultra
5/8 x 3/4"	25			1.00			$2,125.00		
3/4	32			1.28			$2,720.00		
1"	55			2.20			$4,675.00		
1-1/2"	120			4.80			$10,200.00		
2"	160	220	250	6.40	8.80	10.00	$13,600.00	$18,700.00	$21,250.00
3"		550	500		22.00	20.00		$46,750.00	$42,500.00
4"		880	1000		35.20	40.00		$74,800.00	$85,000.00
6"		1400	1600		56.00	64.00		$119,000.00	$136,000.00
8"		3500	2800		140.00	112.00		$297,500.00	$238,000.00

Source: Las Cruces Utilities

Below is a comparison of the updated proposed residential development impact fee amount to the current rate and the calculated difference.

Figure 33. Proposed Water Impact Fees Comparison to Current Water Fees

Proposed Fees: 5/8 or 3/4 Inch Meter

Meter Size (inches)	Capacity Ratio	Proposed Water Fee	Fee to Builder 50%	Customer Surcharge 28%	Fee to Rate Base 22%
0.625 (5/8) or 0.75 (3/4)	1.00	$2,125	$1,063	$595	$468

Current Fees: 5/8 or 3/4 Inch Meter

Meter Size (inches)	Capacity Ratio	Current Water Fee	Fee to Builder 50%	Customer Surcharge 28%	Fee to Rate Base 22%
0.625 (5/8) or 0.75 (3/4)	1.00	$2,420	$1,210	$678	$532

Change in Fees: 5/8 or 3/4 Inch Meter

Meter Size (inches)	Increase or (Decrease) in Fees	Fee to Builder 50%	Customer Surcharge 28%	Fee to Rate Base 22%
0.625 (5/8) or 0.75 (3/4)	($295)	($148)	($83)	($65)

It should be noted that the above schedules/comparisons reflects the City of Las Cruces' current policy of allocating payment of the fee—to the builder (50 percent), customer (28 percent), and rate base (22 percent). This allocation is a policy decision and does not reflect an impact fee requirement or a recommendation of the consultant.

Water System Growth-Related Needs

Figure 34 lists the 10-year growth needs for water system facilities. Found in the top half of the figure, the current level of services for water system components are listed and applied to growth projections to calculate infrastructure needs to accommodate future growth. The projected cost for water infrastructure to accommodate growth in Las Cruces totals approximately $15 million.

Figure 34. Water System Needs to Accommodate Growth

Water Standards

Water Wells/Supply	315.00	gallons per EDU
Water Transmission	$1,198.95	cost per EDU
Water Storage	494.00	gallons per EDU
Water Development	315.00	gallons per EDU
Water Support Facilities	315.00	gallons per EDU

Water Needs: City of Las Cruces	Base Year 2019	*1* 2020	*2* 2021	*3* 2022	*4* 2023	*5* 2024	*10* 2029	10-Year Increase	Cost per Unit	Cost of Future Dev.
						multi-year interval>>				
Projected Increase in EDUs		***599***	***605***	***612***	***619***	***626***	***660***	***6,291***		
Water Supply GPD		188,685	190,575	192,780	194,985	197,190	207,900	1,981,665	$1.05	**$2,080,748**
Water Transmission EDUs		599	605	612	619	626	660	6,291	$1,198.95	**$7,542,594**
Wate Storage GPD		295,906	298,870	302,328	305,786	309,244	326,040	3,107,754	$1.27	**$3,946,848**
Water Development GPD		188,685	190,575	192,780	194,985	197,190	207,900	1,981,665	$0.62	**$1,228,632**
Water Support Facilities GPD		188,685	190,575	192,780	194,985	197,190	207,900	1,981,665	$0.07	**$138,717**

Total Cost of Growth	**$14,937,539**

Projected Revenue from Water Impact Fee

Projected revenue from the City's Water Impact Fee is shown in Figure 35. A total of 6,291 new water EDUs is projected to be served by Las Cruces Utilities by 2029. Multiplying this growth by the development fee per EDU, projected revenue is calculated ($2,125 per EDU x 6,291 EDUs = $13.4 million). The remaining cost not offset by the impact fee is a result of the credit included in the fee calculation to prevent fee payers from paying twice for comparable improvements.

Figure 35. Projected Revenue from Water System Impact Fee

	Total Cost	10-Year Growth Cost
Water Wells/Supply	$2,080,748	$2,080,748
Water Transmission	$7,542,594	$7,542,594
Water Storage	$3,946,848	$3,946,848
Water Development	$2,610,000	$1,228,632
Water Support Facilities	$1,420,267	$138,717
Total Expenditures	**$17,600,457**	**$14,937,539**

Projected Development Impact Fee Revenue

Year		All Development $2,125 per EDU EDU
Base	2019	55,431
Year 1	2020	56,030
Year 2	2021	56,635
Year 3	2022	57,247
Year 4	2023	57,866
Year 5	2024	58,492
Year 6	2025	59,124
Year 7	2026	59,763
Year 8	2027	60,409
Year 9	2028	61,062
Year 10	2029	61,722
	10-Year Increase	**6,291**
	Projected Revenue =>	**$13,368,375**
	Projected Growth Cost =>	**$14,937,539**
	Non-Impact Fee Funding =>	**($1,569,164)**

WASTEWATER

Methodology

Wastewater impact fees are derived using the incremental and cost recovery approaches. Impact fees are by meter size and calibrated to average daily gallons of water demand for a single-family housing unit (or an Equivalent Dwelling Unit (EDU)). The cost per meter size is based on the net capital costs per gallon of system capacity or per EDU multiplied by the applicable capacity ratio. Wastewater impact fees include infrastructure components for: wastewater treatment, wastewater collection, and wastewater support facilities. Impact fees to be paid by multifamily and nonresidential development are derived from capacity ratios according to the size of the new customer's water meter. Capacity ratios are from Las Cruces Utilities and the American Water Works Association (AWWA)).

Wastewater Demand

Wastewater development fees use average wastewater usage per Equivalent Dwelling Unit (EDU) as the service unit. TischlerBise obtained wastewater usage data from Las Cruces Utilities to determine demand from residential and nonresidential land uses. Residential customers shown below reflect single units and do not include multifamily housing units. Therefore, the usage figure can be used to derive average daily wastewater demand from an EDU at 176 gallons per day. Detail is provided below in Figure 36.

Figure 36. Wastewater Usage by Customer Class (2018)

Test Year 2018	Annual Sales (1,000 gal)	Avg. Customers	Avg. Annual Gallons per Customer	Avg. GPD
Residential	1,929,941	30,088	64,143	176
Small Commercial	415,580	2,427	171,232	469
Large Commercial	906,638	357	2,539,602	6,958
Industrial	201,715	4	50,428,750	138,161
Industrial High-Strength	43,693	3	14,564,333	39,902
Winterhaven	3,080	1	3,080,000	8,438
West Mesa Park-Industrial	15,859	2	7,929,500	21,725
County/Village	39,013	2	19,506,500	53,442
Mesilla	33,804	1	33,804,000	92,614
Strength Charges	0	6	0	0
Total/Average	3,589,323	32,891	109,128	299

Summary	Annual Sales (1,000 gal)	Avg. Customers	Avg. Annual Gallons per Customer	Avg. GPD
Residential	1,929,941	30,088	64,143	176
Nonresidential/Other	1,659,382	2,803	592,002	1,622
Total/Average	3,589,323	32,891	109,128	299

Source: Las Cruces Utilities, Wastewater Utility Rate Review, Test Year 2018

Ratio of Service Unit to Development Unit

Residential Wastewater Facilities development fees are assessed on a per meter basis, calibrated to average gallons per day for a single family unit, which is an equivalent dwelling unit (EDU). Multifamily units should be assessed based on the corresponding meter size and capacity ratio shown below and would establish a ratio of service units to land use.

For nonresidential wastewater facilities development fees, capacity ratios by meter size are the appropriate demand indicator for wastewater facilities. Capacity ratios equate .625 (5/8) or .75 (3/4) inch meters (standard single family unit meter) to the average gallons per day for a single-family residential unit. Utilizing average gallons per day is the most efficient way to show a direct relationship between development units, usage, and system capacity. Wastewater facilities development impact fees assessed on nonresidential development are calculated by multiplying the number of gallons per residential unit

by the capacity ratio for the corresponding size and type of water meter needed to serve the nonresidential land use.

Maximum flow rate capacity for .625 (5/8) or .75 (3/4) inch meters is 25 gallons per minute (gpm), reflecting the City's transition to induction flow measurement with a Kamstrup meter having a higher maximum capacity than the average bronze main case documented by the American Water Works Association (AWWA). Other types of meters are utilized in the City of Las Cruces with a range of capacities, which are scaled to the capacity for a standard residential meter. Maximum capacity standards for the other meters and sizes are from Las Cruces Utilities and shown below in Figure 37.

Figure 37: Wastewater Facilities Ratio of Service Units to Development Units

Wastewater

Residential Development Service Units

Number of Persons per Single Family Unit (EDU)	2.43
Average Gallons per Day per EDU	176
Average Gallons per Person	72

Sources: US Census; Las Cruces Utilities; TischlerBise

All Development Service Units

Meter Size	Meter Capacity by Type of Meter			Capacity Ratio by Type of Meter		
	Capacity Kamstrup Flow IQ	*Capacity Elster EVO Q4*	*Capacity Master Meter Octave Ultra*	*Ratio Kamstrup Flow IQ*	*Ratio Elster EVO Q4*	*Ratio Master Meter Octave Ultra*
5/8 x 3/4"	25			1.00		
3/4	32			1.28		
1"	55			2.20		
1-1/2"	120			4.80		
2"	160	220	250	6.40	8.80	10.00
3"		550	500		22.00	20.00
4"		880	1000		35.20	40.00
6"		1400	1600		56.00	64.00
8"		3500	2800		140.00	112.00

Source: Las Cruces Utilities

Current Wastewater Demand

Las Cruces Utilities current wastewater usage is estimated based on customer count for Fiscal Year 2019 (as of February 2019) and gallons per customer from the data in above in Figure 38. Total estimated average daily demand is approximately 11.1 million gallons per day.

Figure 38. Current (2019) Average Daily Wastewater Demand

Land Use Class	Customers*	Gallons per Customer per Day^	Estd. Wastewater Demand (GPD)
Residential	31,507	176	5,545,232
Nonresidential	3,454	1,622	5,602,388
Total	***34,961***		***11,147,620***

** FY19 Actual Customer Count, Las Cruces Utilities*

^ City of Las Cruces Utilities, Wastewater Utility Rate Review, Test Year 2018

Projected Wastewater Demand

Using current demand factors as summarized below in Figure 39 and the land use assumptions detailed in this report, future wastewater demand can be projected.

Figure 39. Wastewater Demand Factors (Base Year 2019)

31,507	Residential Customers
47,631	City of Las Cruces Housing Units (HU)
0.661	Customers/HU
176	GPD/Customer

3,454	Nonresidential Customers
50,199	City of Las Cruces Jobs
0.069	Customers/Job
1,622	GPD/Customer

Source: Las Cruces Utilities; TischlerBise analysis.

Over the next 10 years, it is projected there will be an increase of 4,251 wastewater customers. Accordingly, the projected wastewater demand increases by approximately 1.2 million gallons per day by the end of the 10-year projection period. Average daily total demand at the end of the 10-year period is projected at almost 12.4 million average gallons per day. This equates to a projected increase in 7,039 equivalent dwelling units (EDU) of demand. Detail is provided in Figure 40.

Figure 40. Projected Wastewater Demand

Year		Residential Customers	Nonres. / Other Customers	Total Customers	Annual Increase		Cumulative Increase			Projected EDUs		
					Customers	Avg. Gallons per Day	Customers	Avg. Gallons per Day	Grand Total Avg. Gallons per Day	Annual Increase in EDUs	Cumulative Increase in EDUs	Total EDUs
Base	2019	31,507	3,454	34,961					11,147,620			63,339
1	2020	31,878	3,487	35,364	403	118,016	403	118,016	11,265,636	671	671	64,010
2	2021	32,253	3,519	35,772	408	119,309	811	237,326	11,384,946	678	1,349	64,688
3	2022	32,633	3,552	36,185	413	120,554	1,224	357,880	11,505,500	685	2,034	65,373
4	2023	33,017	3,586	36,603	418	121,857	1,642	479,737	11,627,357	692	2,726	66,065
5	2024	33,406	3,620	37,025	423	123,218	2,064	602,955	11,750,575	700	3,426	66,765
6	2025	33,799	3,654	37,453	427	124,477	2,492	727,431	11,875,051	707	4,133	67,472
7	2026	34,197	3,688	37,885	432	125,847	2,924	853,278	12,000,898	715	4,848	68,187
8	2027	34,599	3,723	38,322	437	127,169	3,361	980,447	12,128,067	723	5,571	68,910
9	2028	35,007	3,758	38,765	442	128,545	3,804	1,108,992	12,256,612	730	6,301	69,640
10	2029	35,419	3,793	39,212	447	129,924	4,251	1,238,916	12,386,536	738	7,039	70,378

Source: TischlerBise, using Average Day Demand factors and projected development shown in the Land Use Assumptions.

Service Area

The service area for the Wastewater Development Fee is citywide within Las Cruces wastewater service area.

Wastewater System Levels of Service and Cost Factors

Wastewater Treatment

The City of Las Cruces is served by three wastewater treatment plants. Grand total capacity is almost 15 million gallons per day. A summary of current wastewater treatment plants and their capacities are shown below in Figure 41.

Figure 41. Wastewater Treatment Level of Service

	Capacity (mgd)
Jacob A Hands WWTP (JHWWTP)	13.5
West Mesa Industrial Park Treatment Facility	0.4
East Mesa Water Reclamation Facility	1.0
Total	14.9

Sources: Las Cruces Utilities; Water and Wastewater Impact Fee Study, 2013; City of Las Cruces Water and Wastewater System Master Plan Update, 2008.

Wastewater Treatment Cost

Las Cruces Utilities plans to continue to expand wastewater treatment capacity with improvements at its existing treatment plants. Below is the current cost per gallon of capacity for wastewater treatment improvements including construction cost as well as interest costs. The resulting cost per gallon of capacity is $4.79.

Figure 42. Wastewater Treatment Cost Factors

Wastewater Facility	Cost per Gallon [1]
JHWWTP Expansion (Capital Cost)	$3.30
JHWWTP Expansion (Interest Cost)	$1.49
Total	$4.79

[1] City of Las Cruces Water and Wastewater Impact Fee Study, 2013; updated to 2019 dollars with ENR Construction Cost Index for southwest city (Dallas, TX).

Wastewater Collection

Wastewater is collected in the City of Las Cruces through a system of collection lines and lift stations. Las Cruces Utilities plans to continue to add capacity in the system by expanding these components of the wastewater collection system to accommodate growth. Current levels of service and costs are detailed below in the next series of figures.

A total of 551,005 linear feet of system collection lines at a range of sizes from 10 to 42 inches collect wastewater in the Las Cruces service area. The infrastructure is currently valued at approximately $114 million. This equates to a cost per EDU of $1,793.98.

Figure 43. Wastewater Collection Lines Current Level of Service and Cost Factor

Line Size	Linear Feet	2013 Cost/Lin. Ft.	2019 Cost/Lin. Ft.	2019 Cost
10"	172,316	$145.75	$159.56	$27,494,240
12"	152,503	$158.01	$172.98	$26,379,744
15"	114,027	$190.70	$208.76	$23,804,743
16"	31,586	$197.33	$216.02	$6,823,218
18"	17,222	$222.03	$243.06	$4,186,065
24"	6,379	$233.59	$255.72	$1,631,167
30"	18,749	$273.23	$299.11	$5,607,939
33"	5,499	$273.23	$299.11	$1,644,741
34"	2,167	$273.23	$299.11	$648,186
36"	10,831	$397.16	$434.78	$4,709,105
42"	19,727	$495.42	$542.35	$10,699,027
Total	551,005		$206.22	**$113,628,175**

Current Number of Wastewater EDUs	**63,339**
Cost per EDU	**$1,793.98**

Source: Las Cruces Utilities; City of Las Cruces Water and Wastewater Impact Fee Study, 2013; cost updated to 2019 dollars using Engineering News-Record (ENR) Construction Cost Index for southwest city (Dallas, TX).

Fourteen lift stations serve the wastewater system in Las Cruces to convey waste to the City's treatment facilities. Current estimated value for the existing lift stations total approximately $5.4 million. This equates to a current cost per EDU of $84.59. Detail is provided below.

Figure 44. Wastewater Lift Stations Level of Service and Cost Factor

Lift Station	No. of Pumps	Capacity (gpm)	Cost (2013)*	2019 Cost
Boutz 1^	1	900	$511,623	$560,089
Boutz 2^	2	2100	$1,193,787	$1,306,874
Brown	2	323	$183,616	$201,010
Carver (Rios Encantados)	2	111	$63,100	$69,078
Chisholm	2	160	$90,955	$99,571
Frenger	2	950	$540,047	$591,205
Mesilla Park	2	300	$170,541	$186,696
Sandhill	2	1000	$568,470	$622,321
Shadow Run	2	90	$51,162	$56,009
Tortugas	2	240	$136,433	$149,357
University	3	1200	$454,776	$746,785
Inspiration	2	750	$426,353	$466,741
Sanctuary	2	300	$170,541	$186,696
Holman	2	185	$0	$115,129
	28	8609	$4,561,404	**$5,357,559**

Current Number of Wastewater EDUs	**63,339**
Cost per EDU	**$84.59**

** Reflects inventory and asset value at time of 2013 Impact Fee Study*

^ Boutz 1 and 2 were transposed in the 2013 Impact Fee Study

Sources: Las Cruces Utilities; City of Las Cruces Water and Wastewater Impact Fee Study, 2013; cost updated to 2019 dollars using Engineering News-Record (ENR) Construction Cost Index for southwest city (Dallas, TX). City of Las Cruces Water and Wastewater System Master Plan Update, 2008.

Wastewater Support Facilities

Las Cruces Utilities is currently constructing a Water Quality Lab to provide water and wastewater testing. Per Las Cruces Utilities, the facility will be utilized 70 percent for wastewater testing (with the remaining 30 percent for water testing). Costs are allocated to each fee category accordingly. This facility is anticipated to serve current and future demand over the next 20 years. Level of service and cost factors are shown below.

Figure 45.Water Quality Lab Level of Service and Cost Factor: Wastewater Portion

Project	Year	Cost	% Wastewater*	$ Wastewater
Water Quality Laboratory (WQL)	2019	$4,734,222	70%	$3,313,956
Total		**$4,734,222**		**$3,313,956**

Projected Total Wastewater Demand (GPD) (20-Year)	13,763,984
Cost per GPD	**$0.24**

** Remainder serves Water*

Source: Las Cruces Utilities; TischlerBise projections.

Credit Analysis for Wastewater System Improvements

Las Cruces has debt financed wastewater improvements to add capacity to the system. To avoid potential double payment for these wastewater system improvements, a credit is necessary because new residential and nonresidential development that will pay the impact fee will also contribute to future principal payments through utility rates on this remaining debt.

As shown in Figure 46, outstanding principal and interest payments for financed wastewater capacity improvements is approximately $3.4 million, reflecting 20 percent of remaining Wastewater Fund debt issued for capacity projects per Las Cruces Utilities. To derive the credit amount, principal and interest subtotal per year is divided by the total demand (average gallons per day) in the wastewater system in each year.

To account for the time value of money, annual payments per gallon of capacity are discounted using a net present value formula based on an average interest rate of 4.0 percent. The total net present value of future debt service payments for capacity improvements is $0.21 per gallon. This amount is subtracted from the gross capital cost per gallon amount to derive a net capital cost per gallon for wastewater facilities.

Figure 46. Wastewater Principal & Interest Payment Credit Evaluation

	All Other Debt (Fund 5400)					
Year	*Principal*	*Interest*	*Total*	*Capacity $ 20%*	*Proj. Demand GPD*	*Credit per Gallon*
2020	$868,179	$467,272	$1,335,451	$267,090	11,265,636	$0.024
2021	$895,246	$438,045	$1,333,291	$266,658	11,384,946	$0.023
2022	$936,457	$398,396	$1,334,853	$266,971	11,505,500	$0.023
2023	$979,178	$356,487	$1,335,664	$267,133	11,627,357	$0.023
2024	$1,016,076	$312,465	$1,328,541	$265,708	11,750,575	$0.023
2025	$1,063,277	$267,622	$1,330,899	$266,180	11,875,051	$0.022
2026	$1,102,862	$231,596	$1,334,458	$266,892	12,000,898	$0.022
2027	$678,692	$200,738	$879,430	$175,886	12,128,067	$0.015
2028	$642,655	$180,208	$822,863	$164,573	12,256,612	$0.013
2029	$661,300	$160,890	$822,190	$164,438	12,386,536	$0.013
2030	$684,367	$140,002	$824,370	$164,874	12,517,837	$0.013
2031	$703,012	$118,044	$821,056	$164,211	12,650,530	$0.013
2032	$663,737	$96,784	$760,521	$152,104	12,784,630	$0.012
2033	$685,460	$76,033	$761,493	$152,299	12,920,151	$0.012
2034	$706,605	$54,481	$761,086	$152,217	13,057,109	$0.012
2035	$611,650	$31,734	$643,384	$128,677	13,195,518	$0.010
2036	$162,500	$11,403	$173,903	$34,781	13,335,395	$0.003
2037	$167,500	$5,829	$173,329	$34,666	13,476,754	$0.003
2038	$0	$0	$0	$0	13,619,612	$0.000
2039	$0	$0	$0	$0	13,763,984	$0.000
Total	**$13,228,754**	**$3,548,028**	**$16,776,782**	**$3,355,356**		**$0.278**

Discount Rate	**4.0%**
Net Present Value	**$0.21**

Source: Las Cruces Utilities; TischlerBise analysis

Proposed Impact Fees for Wastewater

Input variables for the Wastewater Impact Fees are shown in the upper section of Figure 47. For each component of the impact fee, capital cost per equivalent dwelling unit (EDU) is calculated by multiplying the average number of gallons per residential unit (EDU) by the net capital cost per gallon of system capacity. The net capital cost per EDU of $2,726 is the impact fee for a single family unit, or EDU.

Nonresidential impact fees are based on size and type of water meter and their restrictive capacity. Wastewater development fees are calculated by multiplying the cost per EDU by the capacity ratio for the corresponding size and type of water meter. The capacity ratio is calibrated to the maximum flow rate capacity for .625 (5/8) or .75 (3/4) inch meters, the standard for a single family unit (or EDU). The full impact fee schedule by meter type and size is shown in Figure 48.

Figure 47. Proposed Wastewater Impact Fees

	Cost per Gallon of Capacity	Wastewater Gallons per Day per EDU	Wastewater Capital Cost per EDU
Wastewater Treatment	$4.79	176	$843.04
Wastewater Collection System			$1,878.57
Wastewater Support Facilities	$0.24	176	$42.24
Subtotal			**$2,763.85**
Wastewater Credit	($0.21)	176	($36.96)
		Wastewater Capital Cost per EDU =>	**$2,726.89**
		Wastewater Capital Cost per EDU (Truncated) =>	**$2,726.00**

Proposed Fees: 5/8 or 3/4 Inch Meter

Meter Size (inches)	Capacity Ratio	Proposed Wastewater Fee	Fee to Builder 50%	Customer Surcharge 20%	Fee to Rate Base 30%
0.625 (5/8) or 0.75 (3/4)	1.00	**$2,726**	$1,363	$545	$818

Figure 48. Proposed Wastewater Impact Fees: All Meter Types and Sizes

Wastewater									
Meter Size	Capacity Kamstrup Flow IQ	Capacity Elster EVO Q4	Capacity Master Meter Octave Ultra	Ratio Kamstrup Flow IQ	Ratio Elster EVO Q4	Ratio Master Meter Octave Ultra	Fee Kamstrup Flow IQ	Fee Elster EVO Q4	Fee Master Meter Octave Ultra
5/8 x 3/4"	25			1.00			$2,726.00		
3/4	32			1.28			$3,489.00		
1"	55			2.20			$5,997.00		
1-1/2"	120			4.80			$13,084.00		
2"	160	220	250	6.40	8.80	10.00	$17,446.00	$23,988.00	$27,260.00
3"		550	500		22.00	20.00		$59,972.00	$54,520.00
4"		880	1000		35.20	40.00		$95,955.00	$109,040.00
6"		1400	1600		56.00	64.00		$152,656.00	$174,464.00
8"		3500	2800		140.00	112.00		$381,640.00	$305,312.00

Source: Las Cruces Utilities

Below is a comparison of the updated proposed residential development impact fee amount to the current rate and the calculated difference.

Figure 49. Proposed Wastewater Impact Fees Comparison to Current Wastewater Fees

Proposed Fees: 5/8 or 3/4 Inch Meter

Meter Size (inches)	Capacity Ratio	Proposed Wastewater Fee	Fee to Builder 50%	Customer Surcharge 20%	Fee to Rate Base 30%
0.625 (5/8) or 0.75 (3/4)	1.00	$2,726	$1,363	$545	$818

Current Fees: 5/8 or 3/4 Inch Meter

Meter Size (inches)	Capacity Ratio	Current Wastewater Fee	Fee to Builder 50%	Customer Surcharge 20%	Fee to Rate Base 30%
0.625 (5/8) or 0.75 (3/4)	1.00	$1,943	$971	$389	$583

Change in Fees: 5/8 or 3/4 Inch Meter

Meter Size (inches)	Increase or (Decrease) in Fees	Fee to Builder 50%	Customer Surcharge 20%	Fee to Rate Base 30%
0.625 (5/8) or 0.75 (3/4)	$783	$392	$157	$235

It should be noted that the above schedules/comparisons reflect the City of Las Cruces' current policy of allocating payment of the fee—to the builder (50 percent), customer (20 percent), and rate base (30 percent). This allocation is a policy decision and does not reflect an impact fee requirement or a recommendation of the consultant.

Wastewater System Growth-Related Needs

Figure 50 lists the 10-year growth needs for wastewater system facilities. Found in the top half of the figure, the current level of services for wastewater system components are listed and applied to growth projections to calculate infrastructure needs to accommodate future growth. The projected cost for wastewater infrastructure to accommodate growth in Las Cruces totals approximately $19.5 million.

Figure 50. Wastewater System Needs to Accommodate Growth

Wastewater Standards

Wastewater Treatment	176.00	gallons per EDU
Wastewater Collection System	$1,878.57	cost per EDU
Wastewater Support Facilities	176.00	gallons per EDU

multi-year interval>>

Wastewater Needs: City of Las Cruces	Base Year 2019	*1* 2020	*2* 2021	*3* 2022	*4* 2023	*5* 2024	*10* 2029	10-Year Increase	Cost per Unit	Cost of Future Dev.
Projected Increase in EDUs		***671***	***678***	***685***	***692***	***700***	***738***	***7,039***		
Wastewater Treatment GPD		118,096	119,328	120,560	121,792	123,200	129,888	1,238,864	$4.79	**$5,934,159**
Wastewater Collection EDUs		671	678	685	692	700	738	7,039	$1,878.57	**$13,223,254**
Wastewater Support Facilities GPD		118,096	119,328	120,560	121,792	123,200	129,888	1,238,864	$0.24	**$297,327**

Total Cost of Growth	**$19,454,740**

Projected Revenue from Wastewater Impact Fee

Projected revenue from the City's Wastewater Impact Fee is shown in Figure 51. A total of 7,039 new wastewater EDUs is projected to be served by Las Cruces Utilities by 2029. Multiplying this growth by the development fee per EDU, projected revenue is calculated ($2,726 per EDU x 7,039 EDUs = $19.2 million). The remaining cost not offset by the impact fee is a result of the credit included in the fee calculation to prevent fee payers from paying twice for comparable improvements.

Figure 51. Projected Revenue from Wastewater System Impact Fee

	Total Cost	10-Year Growth Cost
Wastewater Treatment	$5,934,159	$5,934,159
Wastewater Collection System	$13,223,254	$13,223,254
Wastewater Support Facilities	$3,313,956	$297,327
Total Expenditures	**$22,471,368**	**$19,454,740**

Projected Development Impact Fee Revenue

		All Development $2,726 per EDU
Year		**EDU**
Base	2019	63,339
Year 1	2020	64,010
Year 2	2021	64,688
Year 3	2022	65,373
Year 4	2023	66,065
Year 5	2024	66,765
Year 6	2025	67,472
Year 7	2026	68,187
Year 8	2027	68,910
Year 9	2028	69,640
Year 10	2029	70,378
	10-Year Increase	7,039
	Projected Revenue =>	**$19,188,314**
	Projected Expenditures =>	**$19,454,740**
	Non-Impact Fee Funding =>	**($266,426)**

IMPLEMENTATION AND ADMINISTRATION

Impact fees should be evaluated and updated to reflect recent data. One approach is to adjust for inflation in construction costs by means of an index like the one published by Engineering News Record (ENR). This index can be applied against the calculated impact fee. If cost estimates change significantly, the City should recalculate the fees.

As specified in the New Mexico Development Fees Act, certain accounting requirements need to be met by the City of Las Cruces. Impact fees must be deposited in separate interest bearing ledger accounts (Sec. 5-8-16 NMSA 1978). Fees should be spent within seven years of when they are collected, with the expenditures for system improvements for which the fee was collected.

The New Mexico Development Fees Act also provides guidance on **refunds** (Sec. 5-8-17 NMSA 1978).

Credits are addressed in the New Mexico Act in Section 5-8-15 NMSA 1978. Developer reimbursements would be provided for system improvements that have been included in the impact fee calculations. Project improvements normally required as part of the development approval process are not eligible for credits against impact fees. Specific policies and procedures related to credits or developer reimbursements for system improvements should be addressed in the ordinance that establishes the City's fees.

The general concept is that developers may be eligible for credits or reimbursements only if they provide system improvements that have been included in the impact fee calculations. If a developer constructs a system improvement that was included in the fee calculations, it is necessary to either reimburse the developer or provide a credit against the fees. The latter option is more difficult to administer because it creates unique fees for specific geographic areas. Based on TischlerBise's experience, it is better for a reimbursement agreement to be established with the developer that constructs a system improvement.

APPENDIX: NEW MEXICO DEVELOPMENT FEES ACT[2]

ARTICLE **8**
Land Development Fees and Rights

5-8-1. Short title.

This act [5-8-1 through 5-8-42 NMSA 1978] may be cited as the "Development Fees Act".

History: Laws 1993, ch. 122, § 1.

ANNOTATIONS

Cross references. — For land use easements, *see* Chapter 47, Article 12 NMSA 1978.

Law reviews. — For article, "Water Supply and Urban Growth in New Mexico: Same Old, Same Old or a New Era," see 43 Nat. Resources J. 803 (2003).

5-8-2. Definitions.

As used in the Development Fees Act:

A. "affordable housing" means any housing development built to benefit those whose income is at or below eighty percent of the area median income; and who will pay no more than thirty percent of their gross monthly income towards such housing;

B. "approved land use assumptions" means land use assumptions adopted originally or as amended under the Development Fees Act;

C. "assessment" means a determination of the amount of an impact fee;

D. "capital improvement" means any of the following facilities that have a life expectancy of ten or more years and are owned and operated by or on behalf of a municipality or county:

(1) water supply, treatment and distribution facilities; wastewater collection and treatment facilities; and storm water, drainage and flood control facilities;

(2) roadway facilities located within the service area, including roads, bridges, bike and pedestrian trails, bus bays, rights of way, traffic signals, landscaping and any local components of state and federal highways;

[2] Source: Ch. 5, art. 8 NMSA 1978, <https://laws.nmonesource.com/w/nmos/Chapter-5-NMSA-1978#!b/a8>, retrieved on 09/12/2019. (Annotations from the source.)

(3) buildings for fire, police and rescue and essential equipment costing ten thousand dollars ($10,000) or more and having a life expectancy of ten years or more; and

(4) parks, recreational areas, open space trails and related areas and facilities;

E. "capital improvements plan" means a plan required by the Development Fees Act that identifies capital improvements or facility expansion for which impact fees may be assessed;

F. "county" means a county of any classification;

G. "facility expansion" means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization or expansion of an existing facility to better serve existing development, including schools and related facilities;

H. "hook-up fee" means a reasonable fee for connection of a service line to an existing gas, water, sewer or municipal or county utility;

I. "impact fee" means a charge or assessment imposed by a municipality or county on new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, development fees and any other fee that functions as described by this definition. The term does not include hook-up fees, dedication of rights of way or easements or construction or dedication of on-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks or curbs if the dedication or construction is required by a previously adopted valid ordinance or regulation and is necessitated by and attributable to the new development;

J. "land use assumptions" includes a description of the service area and projections of changes in land uses, densities, intensities and population in the service area over at least a five-year period;

K. "municipality" means any incorporated city, town or village, whether incorporated under general act, special act or special charter, and H class counties, including any home rule municipality or H class county chartered under the provisions of Article 10, Section 6 of the constitution of New Mexico;

L. "new development" means the subdivision of land; reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units;

M. "qualified professional" means a professional engineer, surveyor, financial analyst or planner providing services within the scope of his license, education or experience;

N. "roadway facilities" means arterial or collector streets or roads that have been designated on an officially adopted roadway plan of the municipality or county, including bridges, bike and pedestrian trails, bus bays, rights of way, traffic signals, landscaping and any local components of state or federal highways;

O. "service area" means the area within the corporate boundaries or extraterritorial jurisdiction of a municipality or the boundaries of a county to be served by the capital improvements or facility expansions specified in the capital improvements plan designated on the basis of sound planning and engineering standards; and

P. "service unit" means 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 or facility expansions.

History: Laws 1993, ch. 122, § 2.

ANNOTATIONS

Cross references. — For establishment of H class county, *see* 4-44-3 NMSA 1978.

5-8-3. Authorization of fee.

A. Unless otherwise specifically authorized by the Development Fees Act, no municipality or county may enact or impose an impact fee.

B. If it complies with the Development Fees Act, a municipality or county may enact or impose impact fees on land within its respective corporate boundaries.

C. A municipality and county may enter into a joint powers agreement to provide capital improvements within an area subject to both county and municipal platting and subdivision jurisdiction or extraterritorial jurisdiction and may charge an impact fee under the agreement, but if an impact fee is charged in that area, the municipality and county shall comply with the Development Fees Act.

D. A municipality or county may waive impact fee requirements for affordable housing projects.

History: Laws 1993, ch. 122, § 3; 2001, ch. 176, § 1.

ANNOTATIONS

The 2001 amendment, effective June 15, 2001, added Subsection D.

No vested development rights under impact fee ordinance. — Where the municipal impact fee ordinance exempted developers who possessed development rights that vested prior to the ordinance's date of enactment from paying the impact fee; prior to the date the ordinance was enacted, the municipal planning commission approved a site plan for subdivision of land owned by plaintiff; the approved plan established zoning, tract boundaries, vehicle access, bicycle and trail access, public transit access, internal circulation requirements, building heights, setbacks, and common landscape standards; none of the tracts

were platted; and the regulations which were promulgated pursuant to the ordinance defined vested rights as development rights acquired and resulting from building permit approval, final plat approval, preliminary plat approval, or site plan for subdivision or site plan for building permit approval and defined site plan for subdivision as a plat that covers at least one lot and specifies access and building criteria, under the ordinance, a developer receives development rights at the time it receives approval of a reliable platting pattern, the developer's original site plan for subdivision did not confer the development rights necessary to establish vested rights under the ordinance, because it did not provide a reliable platting pattern, and the developer was not exempt from paying impact fees. *Andalucia Dev. Corp., Inc. v. City of Albuquerque*, 2010-NMCA-052, 148 N.M. 277, 234 P.3d 929.

No common law vested development rights. — Where the municipal impact fee ordinance exempted developers who possessed development rights that vested prior to the ordinance's date of enactment from paying the impact fee; prior to the date the ordinance was enacted, the municipal planning commission approved a site plan for subdivision of land owned by plaintiff; the approved plan established zoning, tract boundaries, vehicle access, bicycle and trail access, public transit access, internal circulation requirements, building heights, setbacks, and common landscape standards; none of the tracts were platted; and development of the property was subject to subsequent municipal approvals and the continuance of the project remained entirely within the municipality's discretion, the original site plan for subdivision did not confer a vested development right under common law and the developer was not exempt from paying impact fees. *Andalucia Dev. Corp., Inc. v. City of Albuquerque*, 2010-NMCA-052, 148 N.M. 277, 234 P.3d 929.

5-8-4. Items payable by fee.

A. An impact fee may be imposed only to pay the following specified costs of constructing capital improvements or facility expansions:

(1) estimated capital improvements plan cost;

(2) planning, surveying and engineering fees paid to an independent qualified professional who is not an employee of the municipality or county for services provided for and directly related to the construction of capital improvements or facility expansions;

(3) fees actually paid or contracted to be paid to an independent qualified professional, who is not an employee of the municipality or county, for the preparation or updating of a capital improvements plan; and

(4) up to three percent of total impact fees collected for administrative costs for municipal or county employees who are qualified professionals.

B. Projected debt service charges may be included in determining the amount of impact fees only if the impact fees are used for the payment of principal and interest on bonds, notes or other obligations issued

to finance construction of capital improvements or facility expansions identified in the capital improvements plan.

History: Laws 1993, ch. 122, § 4.

5-8-5. Items not payable by fee.

Impact fees shall not be imposed or used to pay for:

A. construction, acquisition or expansion of public facilities or assets that are not capital improvements or facility expansions identified in the capital improvements plan;

B. repair, operation or maintenance of existing or new capital improvements or facility expansions;

C. upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

D. upgrading, updating, expanding or replacing existing capital improvements to provide better service to existing development;

E. administrative and operating costs of a municipality or county except as provided in Paragraph (4) of Subsection A of Section 4 [5-8-4 NMSA 1978] of the Development Fees Act;

F. principal payments or debt service charges on bonds or other indebtedness, except as allowed by Section 4 of the Development Fees Act; or

G. libraries, community centers, schools, projects for economic development and employment growth, affordable housing or apparatus and equipment of any kind, except capital improvements defined in Paragraph (3) of Subsection C [D] of Section 2 [5-8-2 NMSA 1978] of the Development Fees Act.

History: Laws 1993, ch. 122, § 5.

ANNOTATIONS

Bracketed material. — The bracketed material was inserted by the compiler and it is not part of the law.

The reference in Subsection G to Subsection C of 5-8-2 NMSA 1978, appears to actually refer to Subsection D of that section.

5-8-6. Capital improvements plan.

A. A municipality or county shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan shall follow the infrastructure capital improvement planning guidelines established by the department of finance and administration and shall address the following:

(1) a description, as needed to reasonably support the proposed impact fee, which shall be prepared by a qualified professional, of the existing capital improvements within the service area and the costs to

upgrade, update, improve, expand or replace the described capital improvements to adequately meet existing needs and usage and stricter safety, efficiency, environmental or regulatory standards;

(2) an analysis, which shall be prepared by a qualified professional, of the total capacity, the level of current usage and commitments for usage of capacity of the existing capital improvements;

(3) a description, which shall be prepared by a qualified professional, of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(6) the projected demand for capital improvements or facility expansions required by new service units accepted over a reasonable period of time, not to exceed ten years; and

(7) anticipated sources of funding independent of impact fees.

B. The analysis required by Paragraph (2) of Subsection A of this section may be prepared on a system-wide basis within the service area for each major category of capital improvement or facility expansion for the designated service area.

C. The governing body of a municipality or county is responsible for supervising the implementation of the capital improvements plan in a timely manner.

History: Laws 1993, ch. 122, § 6.

5-8-7. Maximum fee per service unit.

The fee 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.

History: Laws 1993, ch. 122, § 7.

5-8-8. Time for assessment and collection of fee.

A. Assessments of an impact fee shall be made at the earliest possible time. Collection of the impact fee shall occur at the latest possible time.

B. For land that has been platted in accordance with the subdivision or platting procedures of a municipality or county before the effective date of the Development Fees Act or for land on which new

development occurs or is proposed without platting, the municipality or county may assess the impact fees at the time of development approval or issuance of a building permit, whichever date is earlier. The assessment shall be valid for a period of not less than four years from the date of development approval or issuance of a building permit, whichever date is earlier.

C. For land that is platted after the effective date of the Development Fees Act, the municipality or county shall assess the fees at the time of recording of the subdivision plat and this assessment shall be valid for a period of not less than four years from the date of recording of the plat.

D. Collection of impact fees shall occur no earlier than the date of issuance of a building permit.

E. For new development that is platted in accordance with the subdivision or platting procedures of a municipality or county before the adoption of an impact fee, an impact fee shall not be collected on any service unit for which a valid building permit has been issued.

F. After the expiration of the four-year period described in Subsections B and C of this section, a municipality or county may adjust the assessed impact fee to the level of current impact fees as provided in the Development Fees Act.

History: Laws 1993, ch. 122, § 8.

ANNOTATIONS

Compiler's notes. — The phrase "effective date of the Development Fees Act", in Subsections B and C, refers to the effective date of Laws 1993, ch. 122, which was July 1, 1993.

5-8-9. Additional fee prohibited; exception.

Except as provided in Subsection F of Section 8 [5-8-8 NMSA 1978] of the Development Fees Act, after assessment of the impact fees attributable to the new development or execution of an agreement for payment of impact fees, additional impact fees or increases in fees may not be assessed for any reason unless the number of service units to be developed increases. In the event of an increase in the number of service units, the impact fees to be imposed are limited to the amount attributable to the additional service units.

History: Laws 1993, ch. 122, § 9.

5-8-10. Agreement with owner regarding payment.

A municipality or county is authorized to enter into an agreement with the owner of a tract of land for which a plat has been recorded providing for a method of payment of the impact fees over an extended period of time otherwise in compliance with the Development Fees Act.

History: Laws 1993, ch. 122, § 10.

5-8-11. Collection of fees if services not available.

Impact fees may be assessed but shall not be collected unless the:

A. collection is made to pay for a capital improvement or facility expansion that has been identified in the capital improvements plan and the municipality or county commits to complete construction within seven years and to have the service available within a reasonable period of time after completion of construction considering the type of capital improvement or facility expansion to be constructed but in no event longer than seven years;

B. municipality or county agrees that the owner of a new development may construct to adopted municipal or county standards or finance the capital improvements or facility expansions and agrees that the costs incurred or funds advanced will be credited against the impact fees otherwise due from the new development or agrees to reimburse the owner for such costs from impact fees paid from other new developments that will use such capital improvements or facility expansions, which fees shall be collected and reimbursed to the property owner of record at the time the plat of the other new development is recorded; or

C. time period set forth in Subsection A of this section can be extended, provided the municipality or county obtains a performance bond or similar surety securing performance of the obligation to construct the capital improvements or facility expansions but in no event longer than seven years from commencement of construction of the capital improvements or facility expansion for which fees have been collected. The municipality or county shall establish written procedures to ensure that the owner of a new development shall not lose the value of the credits. Any refund for fees shall be made as provided in Section 17 [5-8-17 NMSA 1978] of the Development Fees Act.

History: Laws 1993, ch. 122, § 11.

5-8-12. Entitlement to services.

Any new development for which an impact fee has been paid is entitled to the permanent use and benefit of the services for which the fee was exacted and is entitled to receive prompt service from any existing facilities with actual capacity to serve the new service units.

History: Laws 1993, ch. 122, § 12.

5-8-13. Authority of municipality or county to spend funds or enter into agreements to reduce fees.

Municipalities or counties may spend funds from any lawful source or pay for all or a part of the capital improvements or facility expansions to reduce the amount of impact fees. A developer and a municipality or county may agree to offset or reduce part or all of the impact fee assessed on that new development, provided that the public policy which supports the reduction is contained in the appropriate planning documents of the municipality or county and provided that the development's new proportionate share of the system improvement is funded with revenues other than impact fees from other new developments.

History: Laws 1993, ch. 122, § 13.

5-8-14. Requirement for governmental entities to pay fees.

Governmental entities shall pay all impact fees imposed under the Development Fees Act.

History: Laws 1993, ch. 122, § 14.

5-8-15. Credits against facilities fees.

Any construction of, contributions to or dedications of on-site or off-site facilities, improvements, or real or personal property with off-site benefits not required to serve the new development, in excess of minimum municipal and county standards established by a previously adopted and valid ordinance or regulation and required by a municipality or county as a condition of development approval shall be credited against impact fees otherwise due from the development. The credit shall include the value of:

A. dedication of land for parks, recreational areas, open space trails and related areas and facilities or payments in lieu of that dedication; and

B. dedication of rights of way or easements or construction or dedication of on-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks or curbs.

History: Laws 1993, ch. 122, § 15.

5-8-16. Accounting for fees and interest.

A. The order, ordinance or resolution imposing an impact fee shall provide that all money collected through the adoption of an impact fee shall be maintained in separate interest-bearing accounts clearly identifying the payor and the category of capital improvements or facility expansions within the service area for which the fee was adopted.

B. Interest earned on impact fees shall become part of the account on which it is earned and shall be subject to all restrictions placed on the use of impact fees under the Development Fees Act.

C. Money from impact fees may be spent only for the purposes for which the impact fee was imposed as shown by the capital improvements plan and as authorized by the Development Fees Act.

D. The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours of the municipality or county.

E. As part of its annual audit process, a municipality or county shall prepare an annual report describing the amount of any impact fees collected, encumbered and used during the preceding year by category of capital improvement and service area identified as provided in Subsection A of this section.

History: Laws 1993, ch. 122, § 16.

5-8-17. Refunds.

A. Upon the request of an owner of the property on which an impact fee has been paid, the municipality or county shall refund the impact fee if existing facilities are available and service is not provided or the municipality or county has, after collecting the fee when service was not available, failed to complete construction within the time allowed under Section 11 [5-8-11 NMSA 1978] of the Development Fees Act or 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, but in no event later than seven years from the date of payment under Subsection A of Section 11 of the Development Fees Act.

B. Upon completion of the capital improvements or facility expansions identified in the capital improvements plan, the municipality or county shall recalculate the impact fee using the actual costs of the capital improvements or facility expansion. If the impact fee calculated based on actual costs is less than the impact fee paid, including any sources of funding not anticipated in the capital improvements plan, the municipality or county shall refund the difference if the difference exceeds the impact fee paid by more than ten percent, based upon actual costs.

C. The municipality or county shall refund any impact fee or part of it that is not spent as authorized by the Development Fees Act within seven years after the date of payment.

D. A refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 56-8-3 NMSA 1978.

E. All refunds shall be made to the record owner of the property at the time the refund is paid. However, if the impact fees were paid by a governmental entity, payment shall be made to the governmental entity.

F. The owner of the property on which an impact fee has been paid or a governmental entity that has paid the impact fee has standing to sue for a refund under this section.

History: Laws 1993, ch. 122, § 17.

5-8-18. Compliance with procedures required.

Except as otherwise provided by the Development Fees Act, a municipality or county shall comply with that act to levy an impact fee.

History: Laws 1993, ch. 122, § 18.

5-8-19. Hearing on land use assumptions.

To impose an impact fee, a municipality or county shall schedule and publish notice of a public hearing to consider land use assumptions within the designated service area that will be used to develop the capital improvements plan.

History: Laws 1993, ch. 122, § 19.

5-8-20. Information about assumptions available to public.

On or before the date of the first publication of the notice of the hearing on land use assumptions, the municipality or county shall make available to the public its land use assumptions, the time period of the projections and a description of the general nature of the capital improvement facilities that may be proposed.

History: Laws 1993, ch. 122, § 20.

5-8-21. Notice of hearing on land use assumptions.

A. The municipality or county shall publish notice of the hearing conforming to locally adopted regulations governing change-of-zone requests, except as otherwise provided in this section.

B. The notice shall contain:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON LAND

USE ASSUMPTIONS RELATING

TO POSSIBLE ADOPTION OF

IMPACT FEES";

(2) the time, date and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the land use assumptions that will be used to develop a capital improvements plan under which an impact fee may be imposed;

(4) an easily understandable map of the service area to which the land use assumptions apply; and

(5) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the land use assumptions.

C. The municipality or county, within thirty days after the date of the public hearing, shall approve or disapprove the land use assumptions.

D. An ordinance, order or resolution approving land use assumptions shall not be adopted as an emergency measure and its adoption must comply with the procedural requirements of the Development Fees Act.

History: Laws 1993, ch. 122, § 21.

5-8-22. System-wide land use assumptions.

A. A municipality or county may adopt system-wide land use assumptions for water supply and treatment facilities in lieu of adopting land use assumptions for each service area for such facilities.

B. Prior to adopting system-wide land use assumptions, a municipality or county shall follow the public notice, hearing and other requirements for adopting land use assumptions.

C. After adoption of system-wide land use assumptions, a municipality or county is not required to adopt additional land use assumptions for a service area for water supply, treatment and distribution facilities or wastewater collection and treatment facilities as a prerequisite to the adoption of a capital improvements plan or impact fee, provided the capital improvements plan and impact fee are consistent with the system-wide land use assumptions.

History: Laws 1993, ch. 122, § 22.

5-8-23. Capital improvements plan required after approval of land use assumptions.

If the governing body adopts an ordinance, order or resolution approving the land use assumptions, the municipality or county shall provide for a capital improvements plan to be developed by qualified professionals using generally accepted engineering and planning practices in accordance with Section 6 [5-8-6 NMSA 1978] of the Development Fees Act.

History: Laws 1993, ch. 122, § 23.

5-8-24. Hearing on capital improvements plan and impact fee.

Upon completion of the capital improvements plan, the governing body shall schedule and publish notice of a public hearing to discuss the adoption of the capital improvements plan and imposition of the impact fee. The public hearing must be held by the governing body of the municipality or county to discuss the proposed ordinance, order or resolution adopting a capital improvements plan and imposing an impact fee.

History: Laws 1993, ch. 122, § 24.

5-8-25. Information about plan available to public.

On or before the date of the first publication of the notice of the hearing on the capital improvements plan and impact fee, the plan shall be made available to the public.

History: Laws 1993, ch. 122, § 25.

5-8-26. Notice of hearing on capital improvements plan and impact fee.

A. The municipality or county shall publish notice of the hearing conforming to locally adopted regulations governing change-of-zone requests, except as otherwise provided in this section.

B. The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON CAPITAL

IMPROVEMENTS PLAN AND

ADOPTION OF IMPACT

FEES";

(2) the time, date and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the proposed capital improvements plan and the adoption of an impact fee;

(4) an easily understandable map of the service area in which the proposed fee will be imposed;

(5) the amount of the proposed impact fee per service unit; and

(6) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the plan and proposed fee.

History: Laws 1993, ch. 122, § 26.

5-8-27. Advisory committee comments on capital improvements plan and impact fees.

The advisory committee created under Section 37 [5-8-37 NMSA 1978] of the Development Fees Act shall file its written comments on the proposed capital improvements plan and impact fees before the fifth business day before the date of the public hearing on the plan and fees.

History: Laws 1993, ch. 122, § 27.

5-8-28. Approval of capital improvements plan and impact fee required.

A. The municipality or county, within thirty days after the date of the public hearing on the capital improvements plan and impact fee, shall approve, disapprove or modify the adoption of the capital improvements plan and imposition of an impact fee.

B. An ordinance, order or resolution approving the capital improvements plan and imposition of an impact fee shall not be adopted as an emergency measure and its adoption must comply with the procedural requirements of the Development Fees Act.

History: Laws 1993, ch. 122, § 28.

5-8-29. Consolidation of land use assumptions and capital improvements plan.

A. In lieu of separately adopting the land use assumptions and capital improvements plan for a service area containing not greater than three hundred units, a municipality or county may consolidate the land use assumptions and the capital improvements plan, and adopt the assumptions, the plan and the impact fee simultaneously.

B. If a municipality or county elects to consolidate the land use assumptions and capital improvements plan as authorized by Subsection A of this section, the municipality or county shall first comply with Section 20 [5-8-20 NMSA 1978] of the Development Fees Act and follow the public notice and hearing requirements for adopting a capital improvements plan and impact fee as provided in Section 21 [5-8-21 NMSA 1978] of that act, except:

(1) the headline for the notice by publication shall read as follows:

"NOTICE OF PUBLIC HEARING ON

ADOPTION OF LAND USE

ASSUMPTIONS AND

IMPACT FEES";

(2) the notice shall state that the municipality or county intends to adopt land use assumptions, a capital improvements plan and impact fees at the hearing and does not intend to hold separate hearings to adopt the land use assumptions, capital improvements plan and impact fees;

(3) the notice shall specify a date, not earlier than sixty days after publication of the first notice, and must state that if a person, by not later than the date specified, makes a written request for separate hearings, the governing body shall hold separate hearings to adopt the land use assumptions and capital improvements plan; and

(4) the notice shall provide the name and mailing address of the official of the municipality or county to whom a request for separate hearings shall be sent.

C. In addition to the requirements of Subsection B of this section, the municipality or county shall comply with all other requirements for adopting land use assumptions, a capital improvements plan and an impact fee.

History: Laws 1993, ch. 122, § 29.

5-8-30. Periodic update of land use assumptions and capital improvements plan required.

A. A municipality or county imposing an impact fee shall update the land use assumptions and capital improvements plan at least every five years. The initial five-year period begins on the day the capital improvements plan is adopted.

B. The municipality or county shall review and evaluate its current land use assumptions and shall cause an update of the capital improvements plan to be prepared in accordance with the Development Fees Act.

History: Laws 1993, ch. 122, § 30.

5-8-31. Hearing on updated land use assumptions and capital improvements plan.

The governing body of the municipality or county shall, within sixty days after the date it receives the update of the land use assumptions and the capital improvements plan, schedule and publish notice of a public hearing to discuss and review the update and shall determine whether to amend the plan.

History: Laws 1993, ch. 122, § 31.

5-8-32. Hearing on amendments to land use assumptions, capital improvements plan or impact fee.

A public hearing shall be held by the governing body of the municipality or county to discuss the proposed ordinance, order or resolution amending land use assumptions, the capital improvements plan or the impact fee. On or before the date of the first publication of the notice of the hearing on the amendments, the land use assumptions and the capital improvements plan, including the amount of any proposed amended impact fee per service unit, shall be made available to the public.

History: Laws 1993, ch. 122, § 32.

5-8-33. Notice of hearing on amendments to land use assumptions, capital improvements plan or impact fee.

A. The municipality or county shall publish notice of the hearing conforming to locally adopted regulations governing change-of-zone requests, except as otherwise provided in this section.

B. The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON AMENDMENTS

TO LAND USE ASSUMPTIONS, CAPITAL

IMPROVEMENTS PLAN OR

IMPACT FEES";

(2) the time, date and location of the hearing;

(3) a statement that the purpose of the hearing is to consider amendments to land use assumptions, capital improvements plan or impact fees;

(4) an easily understandable description and map of the service area on which the update is being prepared; and

(5) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the update.

History: Laws 1993, ch. 122, § 33.

5-8-34. Advisory committee comments on amendments.

The advisory committee created under Section 37 [5-8-37 NMSA 1978] of the Development Fees Act shall file its written comments with the applicable municipality or county on the proposed amendments to the land use assumptions, capital improvements plan or impact fees before the fifth business day before the date of the public hearing on the amendments.

History: Laws 1993, ch. 122, § 34.

5-8-35. Approval of amendments required.

A. The municipality or county, within thirty days after the date of the public hearing on the amendments, shall approve, disapprove, revise or modify the amendments to the land use assumptions, the capital improvements plan or impact fees.

B. An ordinance, order or resolution approving the amendments to the land use assumptions, the capital improvements plan or impact fees shall not be adopted as an emergency measure and such adoption must comply with the procedural requirements of the Development Fees Act.

History: Laws 1993, ch. 122, § 35.

5-8-36. Determination that no update of land use assumptions, capital improvements plan or impact fee is needed.

A. If at the time an update under Section 30 [5-8-30 NMSA 1978] of the Development Fees Act is required, the governing body determines that no changes to the land use assumptions, capital improvements plan or impact fees are needed, it may, as an alternative to the updating requirements of Sections 30 through 35 [5-8-30 through 5-8-35 NMSA 1978] of the Development Fees Act, publish notice of its determination conforming to locally adopted regulations governing change-of-zone requests, except as otherwise provided in this section.

B. The notice shall contain the following:

(1) a headline to read as follows:

"NOTICE OF DETERMINATION NOT TO

UPDATE LAND USE ASSUMPTIONS,

CAPITAL IMPROVEMENTS PLAN OR

IMPACT FEES";

(2) a statement that the governing body of the municipality or county has determined that no change to the land use assumptions, capital improvements plan or impact fees are necessary;

(3) an easily understandable description and a map of the service area in which the updating has been determined to be unnecessary;

(4) a statement that if, within a specified date, which date shall be at least sixty days after publication of the notice, a person makes a written request to the designated official of the municipality or county requesting that the land use assumptions, capital improvements plan or impact fees be updated, the governing body may accept or reject such request by following the requirements of Sections 30 through 35 of the Development Fees Act; and

(5) a statement identifying the name and mailing address of the official of the municipality or county to whom a request for an update should be sent.

C. The advisory committee shall file its written comments on the need for updating the land use assumptions, capital improvements plan and impact fees before the fifth business day before the earliest notice of the governing body's decision that no update is necessary is mailed or published.

D. If by the date specified in Paragraph (4) of Subsection B of this section, a person requests in writing that the land use assumptions, capital improvements plan or impact fees be updated, the governing body shall cause, accept or reject an update of the land use assumptions and capital improvements plan to be prepared in accordance with Sections 30 through 35 of the Development Fees Act.

E. An ordinance, order or resolution determining the need for updating land use assumptions, capital improvements plan or impact fees shall not be adopted as an emergency measure and its adoption must comply with the procedural requirements of the Development Fees Act.

History: Laws 1993, ch. 122, § 36.

5-8-37. Advisory committee.

A. On or before the date on which the order, ordinance or resolution is adopted under Section 19 [5-8-19 NMSA 1978] of the Development Fees Act, the governing body of a municipality or county shall appoint a capital improvements advisory committee.

B. The advisory committee shall be composed of not less than five members who shall be appointed by a majority vote of the governing body. Not less than forty percent of the membership of the 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.

C. The advisory committee serves in an advisory capacity and shall:

(1) advise and assist the municipality or county in adopting land use assumptions;

(2) review the capital improvements plan and file written comments;

(3) monitor and evaluate implementation of the capital improvements plan;

(4) file annual reports with respect to the progress of the capital improvements plan and report to the municipality or county any perceived inequities in implementing the plan or imposing the impact fee; and

(5) advise the municipality or county of the need to update or revise the land use assumptions, capital improvements plan and impact fee.

D. The municipality or county shall make available to the advisory committee any professional reports with respect to developing and implementing the capital improvements plan.

E. The governing body of the municipality or county shall adopt procedural rules for the advisory committee to follow in carrying out its duties.

History: Laws 1993, ch. 122, § 37.

5-8-38. Duties to be performed within time limits.

If the governing body of the municipality or county does not perform a duty imposed under the Development Fees Act within the prescribed period, a person who has paid an impact fee or an owner of land on which an impact fee has been paid has the right to present a written request to the governing body of the municipality or county stating the nature of the unperformed duty and requesting that it be performed within sixty days after the date of the request. If the governing body of the municipality or county finds that the duty is required under the Development Fees Act and is late in being performed, it shall cause the duty to commence within sixty days after the date of the request and continue until completion.

History: Laws 1993, ch. 122, § 38.

5-8-39. Records of hearings.

A record shall be made of any public hearing provided for by the Development Fees Act. The record shall be maintained and be made available for public inspection by the municipality or county for at least ten years after the date of the public hearing.

History: Laws 1993, ch. 122, § 39.

5-8-40. Prior impact fees replaced by fees under Development Fees Act.

An impact fee that is in place on the effective date of the Development Fees Act shall be replaced by an impact fee imposed under that act by July 1, 1995. Any municipality or county having an impact fee that has not been replaced under that act by July 1, 1995 shall be liable to any party who, after the effective date of that act, pays an impact fee that exceeds the maximum permitted under that act by more than ten percent for an amount equal to two times the difference between the maximum impact fee allowed and the actual impact fee imposed, plus reasonable attorneys' fees and court costs.

History: Laws 1993, ch. 122, § 40.

5-8-41. No effect on taxes or other charges.

The Development Fees Act does not prohibit, affect or regulate any tax, fee, charge or assessment specifically authorized by state law.

History: Laws 1993, ch. 122, § 41.

5-8-42. Moratorium on development prohibited.

A moratorium shall not be placed on new development for the sole purpose of awaiting the completion of all or any part of the process necessary to develop, adopt or update impact fees.

History: Laws 1993, ch. 122, § 42.

5-8-43. Purpose; transfer of development rights.

A. The purpose of this section is to:

(1) clarify an application of existing authority;

(2) provide guidelines for counties and municipalities to regulate transfers of development rights consistent with comprehensive plans;

(3) encourage the conservation of ecological, agricultural and historical land; and

(4) require public notification of transfers of development rights.

B. A municipality or county may, by ordinance, provide for voluntary transfer of all or partial development rights from one parcel of land to another parcel of land.

C. The ordinance shall identify on a zoning map areas from which development rights may be transferred and areas to which development rights may be transferred.

D. The ordinance shall provide for:

(1) the voluntary transfer of a development right from one parcel of land to increase the intensity of development of another parcel of land;

(2) joint powers agreements, if applicable, for administration of transfers of development rights across jurisdictional boundaries;

(3) the method of transfer of development rights, including methods of determining the accounting for the rights transferred;

(4) the reasonable rules to effect and control transfers and ensure compliance with the provisions of the ordinance; and

(5) public notification to the areas to which development rights may be transferred.

E. Transference of a development right shall be in writing and executed by the owner of the parcel from which the development right is being transferred and acknowledged by the transferor. A development right shall not be subject to condemnation.

F. As used in this section, "development right" means the rights permitted to a lot, parcel or area of land under a zoning ordinance or local law respecting permissible use, area, density or height of improvements executed thereon, and development rights may be calculated and allocated in accordance with density or height limitations or any criteria that will effectively quantify a development right in a reasonable and uniform manner.

G. Nothing in this section shall be construed to authorize a municipality or a county to impair existing property rights.

History: Laws 2003, ch. 229, § 1.

ANNOTATIONS

Cross references. — For property law in general, *see* Chapter 47 NMSA 1978.

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