

CITY of ALBUQUERQUE

EIGHTEENTH COUNCIL

COUNCIL BILL NO. F/S O-09-71

ENACTMENT NO. _____

SPONSORED BY: Trudy E. Jones and Ken Sanchez

1 **ORDINANCE**

2 **AMENDING SECTION 14-19-3-12 ROA 1994, THE IMPACT FEE ORDINANCE**
3 **FOR DRAINAGE FACILITIES, TO PROVIDE FOR A TEMPORARY 100%**
4 **REDUCTION OF IMPACT FEES FOR GREEN PATH DEVELOPMENTS AND A**
5 **TEMPORARY 50% REDUCTION OF IMPACT FEES FOR ALL OTHER**
6 **DEVELOPMENTS; AMENDING SECTION 14-19-3-3 ROA 1994, TO ADD A**
7 **DEFINITION FOR “GREEN PATH DEVELOPMENTS”; AMENDING SECTION 14-**
8 **19-3-13(K) TO PROVIDE ADDITIONAL CRITERIA REGARDING COLLECTION**
9 **OF IMPACT FEES; AND AMENDING SECTION 14-19-3-20(K)(7)(f) TO EXTEND**
10 **THE PERIOD TO USE EXCESS CREDITS.**

11 **BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF**
12 **ALBUQUERQUE:**

13 **SECTION 1. Section 14-19-3-3 ROA 1994, is amended to add the following**
14 **definition in proper alphabetical order:**

15 **“GREEN PATH DEVELOPMENTS. Developments that receive city approved**
16 **building permits such that compliance with the building permit ensures that**
17 **the development meets one of the following criteria:**

18 **A. For new construction and major renovations of commercial,**
19 **institutional, and high-rise residential buildings: LEED Gold or LEED Silver**
20 **standards with a minimum of 6 Energy and Atmosphere points. 4 points**
21 **minimum shall be in Credit Option 1 - Optimize Energy Performance. 2**
22 **additional points shall be in Credit Option 1, Credit Option 2 – On-Site**
23 **Renewable Energy, and/or Credit Option 6 – Green Power as defined in LEED**
24 **for New Construction and Major Renovation, Version 2.2, Third Edition,**
25 **October 2007.**

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1 B. For commercial shell buildings: LEED Gold or LEED Silver standards
2 with a minimum of 6 Energy and Atmosphere points. 4 points minimum shall
3 be in Credit Option 1 – Optimize Energy Performance. 2 additional points shall
4 be in Credit Option 1, Credit Option 2 – On-Site Renewable Energy, Credit
5 Option 5.2 – Tenant Sub-Metering, and/or Credit Option 6 – Green Power as
6 defined in LEED for Core and Shell Development, Version 2.0, First Edition,
7 June 2006.

8 C. For tenant developments in commercial shell buildings: LEED Gold or
9 LEED Silver standards with a minimum of 6 Energy and Atmosphere points. 4
10 points minimum (3 if in Green Path shell) in Credit Options 1.1 through 1.4 –
11 Optimize Energy Performance. 2 additional points shall be in Credit Options
12 1.1 through 1.4, Credit Option 3 – Measurement and Payment Accountability,
13 and/or Credit Option 4 – Green Power as defined in LEED for Commercial
14 Interiors, Version 2.0, Third Edition, October 2006.

15 D. For one and two-family dwellings, for town homes, and for multi-family
16 residential buildings less than 4 stories: LEED or BGNM Silver with a minimum
17 Home Energy Rating System (HERS) index of 60 as defined in LEED for Homes
18 or National Green Building Standard, ICC 700, Version 2008, January 2008 or
19 National Green Building Standard, ICC 700 – 2008.”

20 SECTION 2. Section 14-19-3-12 ROA 1994, is amended by adding new
21 subsections (J), (K) and (L):

22 “(J) For Building Permits deemed complete subsequent to but within one
23 year of the effective date of this subsection (J), impact fees collected for
24 Green Path Developments pursuant to § 14-19-3-1 et seq. shall be calculated at
25 0% if (1) a certificate of occupancy for the development is issued by the City
26 within one year of the date of the Building Permit being deemed complete, and
27 (2) prior to the issuance of the City’s certificate of occupancy, a New Mexico
28 Registered Architect shall certify that the development has been constructed
29 in accordance with the City approved Building Permit in order to qualify as a
30 Green Path Development.

31 (K) For Building Permits deemed complete subsequent to but within one
32 year of the effective date of this subsection (K), impact fees collected on all
33 developments pursuant to § 14-19-3-1 et seq., other than those listed in

1 subsection (J), shall be calculated at 50% if a certificate of occupancy for the
2 development is issued by the City within one year of the date of the Building
3 Permit being deemed complete.

4 (L) The provisions of subsections (J) and (K) shall not apply if at any time
5 between April 1, 2009 and the effective date of those subsections a building
6 permit was in effect or deemed complete for a building on the same parcel of
7 land and intended to serve the same function as a building permit deemed
8 complete subsequent to but within one year of the effective date of this
9 subsection.”

10 SECTION 3. Section 14-19-3-13(K) ROA 1994 is amended to read as
11 follows:

12 “(K) For one year from the effective date of O-09-71, the impact fees shall
13 be due and payable at the time of issuance of the certificate of occupancy by
14 the City or within one year of the date of the Building Permit being deemed
15 complete, whichever occurs first. The applicability of the reduction will be
16 determined at the time of collection. Impact fees for mobile homes shall be
17 collected at the time of issuance of a building permit or issuance of a
18 certificate of occupancy. After one year from the effective date of O-09-71, the
19 impact fees for developments other than mobile homes shall be due and
20 payable at the time of issuance of a building permit.”

21 SECTION 4. Section 14-19-3-20(K)(7)(f) is amended to read as follows:

22 “(f) Excess credits must be applied for, used, sold, or redeemed, if at all,
23 within seven years after their issuance; provided that excess credits issued
24 prior to or within one year of the effective date of subsections 14-19-3-12(J)
25 and (K) shall be permitted to be used, sold or redeemed within nine years after
26 their issuance.”

27 SECTION 5. Unser Crossings is a commercial development bounded by
28 Unser Boulevard on the east, Central Avenue on the north, 86th Street on the
29 west, and Bridge Boulevard on the south, and is more particularly described
30 as Lots 1-14 as shown on Plat of Unser Crossings filed for record September
31 18, 2008 in Book 2008c, at Page 209 as Document # 2008103544 In R-08-96 the
32 City Council appropriated \$1,800,000 to provide funding for certain offsite
33 improvements in the right-of-way adjacent to or near Unser Crossings,

1 including the design, construction, installation, equipping or modification of
2 curbs and gutters, traffic signals, bike lanes, traffic lanes, pedestrian
3 crossings and refuges, and pavement extensions, with an emphasis on
4 providing better pedestrian access, calming traffic, and accommodating
5 transit. R-08-96 represented an agreed upon incentive to encourage the
6 development of Unser Crossings. It was not intended that Unser Crossings
7 would receive a benefit under R-08-96 as well as an additional reduction in
8 impact fees.

9 The provisions of this amendment shall not apply to any property within
10 the boundaries which define Unser Crossings except for that property
11 currently owned by Doughty Enterprises, Inc. and described as Tracts 7 and 8
12 of the Amended Plat of the V.E. Barrett Subdivision comprising 4.545 and
13 4.087 acres respectively.

14 SECTION 6. The Administration is directed to track and monitor the fiscal
15 impact of this legislation for a period of two years following enactment. The
16 collected data shall include but are not limited to: calculation of what would
17 have been a full impact fee; the actual reduced impact fee; and the difference.
18 Projects qualifying for "Green Path" shall be identified in the data collected.
19 The information shall be presented by residential versus non-residential,
20 infrastructure type, and by impact fee service area. The collected data shall
21 also include all available data regarding estimated jobs created and retained,
22 and estimated gross receipts taxes and the multiplier (consistent with the
23 August 12, 2009 Fiscal Impact Analysis) that are attributable to this legislation.
24 The Administration is directed to submit a report of this information to Council
25 within 30 days following the 6-month, 1-year, and 2-year periods after the
26 enactment of this legislation.

27 SECTION 7. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
28 clause, word or phrase of this ordinance is for any reason held to be invalid or
29 unenforceable by any court of competent jurisdiction, such decision shall not
30 affect the validity of the remaining provisions of this ordinance. The Council
31 hereby declares that it would have passed this ordinance and each section,
32 paragraph, sentence, clause, word or phrase thereof irrespective of any
33 provision being declared unconstitutional or otherwise invalid.

1 **SECTION 8. COMPILATION.** Sections 1 through 4 of this ordinance shall
2 be incorporated in and made part of the Revised Ordinance of Albuquerque,
3 New Mexico, 1994.

4 **SECTION 9. EFFECTIVE DATE.** This ordinance shall take effect five days
5 after publication by title and general summary.

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