

Division Seven - Infrastructure Availability and Financing

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Article 700

INFRASTRUCTURE AVAILABILITY AND FINANCING: TITLE AND CONTENTS

Sections:

110.700.00	Title
110.700.05	Contents

Section 110.700.00 Title. Division Seven of Chapter 110, Development Code, is entitled Infrastructure Availability and Financing.

Section 110.700.05 Contents. Division Seven consists of the following articles:

- (a) ARTICLE 700 INFRASTRUCTURE AVAILABILITY AND FINANCING: TITLE AND CONTENTS
- (b) ARTICLE 702 ADEQUATE PUBLIC FACILITIES MANAGEMENT SYSTEM
- (c) ARTICLE 704 ADEQUATE PUBLIC FACILITIES: SANITARY SEWER
- (d) ARTICLE 706 IMPACT FEES

[Amended by Ord. 1096, provisions eff. 7/28/00.]

Article 702

ADEQUATE PUBLIC FACILITIES MANAGEMENT SYSTEM

Sections:

110.702.00	Purpose
110.702.05	Applicability
110.702.10	Adequate Public Facilities Determination
110.702.15	Final Development Approval
110.702.20	Vesting for Adequate Public Facilities Determination
110.702.25	Exempt Projects
110.702.30	Applications
110.702.35	Timing of Adequate Public Facilities Determination
110.702.40	Adequate Public Facilities Determination Process
110.702.45	Standards for Adequate Public Facilities
110.702.50	Transferability
110.702.55	Period of Validity
110.702.60	Revocation of Determination of Adequate Public Facilities
110.702.65	Revocation Process
110.702.70	Modification of Project

Section 110.702.00 Purpose. The purpose of this article, Article 702, Adequate Public Facilities Management System, is to ensure that the public infrastructure necessary to support a development project will be available concurrently with the impacts of that development without causing the level of service at which the infrastructure is provided to fall below adopted standards.

[Amended by Ord. 873, provisions eff. 6/7/93.]

Section 110.702.05 Applicability. Unless otherwise specifically excluded by Section 110.702.20 or Section 110.702.25, the provisions of this article shall apply to all development requiring one of the approvals listed in Section 110.702.15.

- (a) Types of Infrastructure. The provisions of this article shall apply to the following types of infrastructure:
 - (1) Sanitary Sewer.

- (b) Supplemental Provisions. Supplemental provisions for the infrastructure listed in Subsection (a) of this section are contained in the following articles:
 - (1) Article 704, Adequate Public Facilities: Sanitary Sewer.

Section 110.702.10 Adequate Public Facilities Determination. All development subject to the provisions of this article shall require an adequate public facilities determination to ensure that infrastructure will be made available concurrent with the impacts of that development.

- (a) Positive Determination. If the adequate public facilities determination is positive, a Certificate of Adequate Public Facilities shall be issued.
- (b) Negative Determination. If the adequate public facilities determination is negative, the applicant shall be notified that a Certificate of Adequate Public Facilities cannot be issued. Grading or construction shall not begin nor shall the County issue a final development approval for a development project requiring an adequate public facilities determination until a Certificate of Adequate Public Facilities is issued.

Section 110.702.15 Final Development Approval. Final development approval as used in this article means the action required from the following list that effectuates the approval for the specific development project:

- (a) Tentative Parcel Map Approval (Article 606): the action is the recordation of a final map;
- (b) Tentative Subdivision Map Approval (Article 608): the action is the recordation of a final map;
- (c) Special Use Permit (Article 810): the action is the issuance of a grading permit, building permit or business license;
- (d) Development Agreement Approval (Article 814): the action is the recordation of the development agreement;
- (e) Site Plan Review: if not part of an approval process listed above, the action is the issuance of a grading permit, building permit or business license; or
- (f) Building Permit: the action is the issuance of the building permit.

[Amended by Ord. 873, provisions eff. 6/7/93; Ord. 1447, provisions eff. 9/9/10.]

Section 110.702.20 Vesting for Adequate Public Facilities Determination. Development projects that are vested for an adequate public facilities determination at the effective date of this article are not subject to the Adequate Public Facilities Management System. All of the following must be met in order for a development project to be vested for an adequate public facilities determination:

- (a) The development project has received final approval as defined in Section 110.702.15 prior to the effective date of this Development Code;
- (b) The applicant has expended substantial sums of money or incurred substantial obligations in reliance upon the final approval (substantial is defined as more than five (5) percent of the total project cost; monies spent or obligations incurred before the issuance of the final approval are not included); and
- (c) Construction on the development project has commenced by visually apparent activities on the ground and has continued on a reasonable schedule, taking into account such factors as weather, labor availability, and local market demand.

[Amended by Ord. 873, provisions eff. 6/7/93.]

Section 110.702.25 Exempt Projects. The following development projects are exempt from the Adequate Public Facilities Management System:

- (a) Interior or exterior renovations, provided the use does not change and the size does not increase more than ten (10) percent of the total floor area;
- (b) Temporary construction trailers;
- (c) Relocation of temporary uses;
- (d) Signs;
- (e) Fences and walls;
- (f) Wells and septic tanks;
- (g) Driveway and parking lot resurfacing;
- (h) Single family dwellings built on individual lots created prior to the effective date of this article;
- (i) Agricultural uses;
- (j) Boundary Line Adjustments;
- (k) Abandonments;
- (l) Reversion to Acreage;
- (m) Amended maps, provided the amended map does not create additional parcels;
- (n) Large parcel (forty acres or larger) residential subdivisions, as defined in Article 612;
- (o) Attached accessory dwellings to a single family dwelling;
- (p) Replacement structures for those that were destroyed, provided the use does not change and the size does not increase; and
- (q) Temporary public facilities needed on an emergency or other essential basis to provide public facilities and services.

[Amended by Ord. 873, provisions eff. 6/7/93.]

Section 110.702.30 Applications. The applicant is responsible for providing sufficient information to enable the Washoe County Department of Community Development to make the adequate public facilities determination.

Section 110.702.35 Timing of Adequate Public Facilities Determination. Requests for an adequate public facilities determination shall be made as provided in this section.

- (a) **Preliminary Adequate Public Facilities Determinations.** The applicant may request a preliminary adequate public facilities determination at any point in the development review process as long as the project is, in the judgment of the

Director of Community Development, sufficiently defined to permit a determination to be made. The purpose of the preliminary adequate public facilities determination is to assure the applicant that capacity is available before he or she proceeds with more detailed project planning and that another project will not be approved that will consume the capacity during the detailed project planning. A preliminary adequate public facilities determination reserves capacity for one (1) year. Up to two (2) extensions of up to six (6) months each may be granted by the Director of Community Development, upon a finding that the applicant is diligently pursuing the application.

- (b) Final Adequate Public Facilities Determination. A final adequate public facilities determination shall be made at the time of the final development approval. A final determination is deemed effective and reserves capacity, upon payment of the capacity reservation fee, until its expiration date as set forth in Section 110.702.55.
- (c) Capacity Reservation Fee. A capacity reservation fee shall be collected pursuant to Section 110.702.35(b) and as set forth in Article 906: Fees. The capacity reservation fee may be refunded at any time at the discretion of the Director of Community Development. At the time a capacity reservation fee is refunded, the final adequate public facilities determination shall be deemed void. At the time any hook-up or initial service fees are paid, the full amount of the capacity reservation fee shall be applied toward the balance of any such fees.
- (d) Phased Projects. The applicant may request an adequate public facilities determination for all phases or only the initial phase or phases of a multi-phased project. A Certificate of Adequate Public Facilities for the initial phase or phases of a project shall not establish a vested right to continue subsequent phases for which an adequate public facilities determination has not been made.

[Amended by Ord. 873, provisions eff. 6/7/93.]

Section 110.702.40 Adequate Public Facilities Determination Process. The adequate public facilities determination shall be made by comparing the available capacity of the facility or service to the demand created by the proposed project. Available capacity will be determined by adding together the total excess capacity of existing facilities and the total capacity of any new facilities which meet the previously defined standards and subtracting any capacity committed through projects that are vested for an adequate public facilities determination pursuant to Section 110.702.20, exempt projects pursuant to Section 110.702.25, and projects having a previously issued Certificate of Adequate Public Facilities.

Section 110.702.45 Standards for Adequate Public Facilities. A Certificate of Adequate Public Facilities will be issued only if the proposed development does not lower the level of service for those infrastructure facilities included in Subsection (a) of Section 110.702.05 below the adopted standards as set forth in the supplemental provisions listed in Subsection (b) Section 110.702.05.

Section 110.702.50 Transferability. A Certificate of Adequate Public Facilities shall be specific to a parcel or parcels of land and may be transferred with the land. A Certificate of Adequate Public Facilities shall not be transferable to other parcels of land.

Section 110.702.55 Period of Validity.

- (a) Expiration Date. The final adequate public facilities determination expires when the permit with which it is associated expires. If the permit is extended, the adequate public facilities determination is extended for the same period of time.
- (b) Extension Due to Additional Permit or Approval. If, in order to construct a project that has received a final adequate public facilities determination pursuant to the provisions of this article, an applicant must first obtain an additional permit or approval from Washoe County or another governmental agency before applying for a building permit, then, upon submission of appropriate documentation to the Director of the Department of Community Development, any time limit for the final adequate public facilities determination specified in this article shall be extended for the amount of time between the date the applicant submitted an application for the additional permit or approval and the date the additional permit or approval was granted.

[Amended by Ord. 873, provisions eff. 6/7/93.]

Section 110.702.60 Revocation of Determination of Adequate Public Facilities. In order to prevent capacity from being held by projects that are not completed in a timely manner, an action to revoke the adequate public facilities determination may be commenced under the following circumstances:

- (a) Parcel Map Not Recorded in Timely Manner. A parcel map is not recorded within the time frame enumerated in NRS;
- (b) Final Map Not Recorded in Timely Manner. A final subdivision map is not recorded within time frame enumerated in NRS;
- (c) Special Use Permit. Any condition of a special use permit is not met;
- (d) Development Agreement Not Completed. Any condition of a development agreement is not met; or
- (e) Construction Not Completed in Timely Manner. In the case of an adequate public facilities determination related to a building permit or a site plan, construction is not completed within the time specified in the permit.

[Amended by Ord. 873, provisions eff. 6/7/93.]

Section 110.702.65 Revocation Process. The procedure for revocation of a determination of adequate public facilities shall be that used for the revocation of an Administrative Permit, described in Article 808, except that the revocation shall be made upon a finding of any one (1) or more of the following grounds:

- (a) Due Diligence to Record Maps. The applicant, or the applicant's successors, has not pursued with due diligence the recordation of the required maps;
- (b) Condition of Special Use Permit Not Completed. A condition of a special use permit has not been met;
- (c) Development Agreement Not Completed. A condition of a development agreement has not been met; and/or

- (d) Due Diligence to Complete Construction. In the case of an adequate public facilities determination related to a building permit or a site plan, the applicant, or the applicant's successors, has not pursued with due diligence the completion of construction.

[Amended by Ord. 873, provisions eff. 6/7/93.]

Section 110.702.70 Modification of Project. If the project is modified after the final adequate public facilities determination is made and if the modification changes infrastructure demands, the County may require a new adequate public facilities determination be made and the capacity reservation fee be recalculated for partial refund or additional payment of capacity reservation fees.

Article 704

ADEQUATE PUBLIC FACILITIES: SANITARY SEWER

Sections:

110.704.00	Purpose
110.704.05	Applicability
110.704.10	Level of Service
110.704.15	Status of Facilities
110.704.20	Included Facilities
110.704.25	Determination of Adequate Public Sanitary Sewer
110.704.30	Demand Calculations

Section 110.704.00 Purpose. The purpose of this article, Article 704, Adequate Public Facilities: Sanitary Sewer, is to provide supplemental regulations to Article 702, Adequate Public Facilities Management System for the efficient provision of sanitary sewer services to new development.

Section 110.704.05 Applicability. This article shall apply only to the unincorporated area of the County that is not within a city sphere of influence as designated pursuant to NRS 278.

[Amended by Ord. 873, provisions eff. 6/7/93.]

Section 110.704.10 Level of Service. The sanitary sewer system shall accommodate the projected peak flow, discharge treated wastewater that meets applicable state and federal standards, and maintain a reserve capacity of ten (10) percent.

Section 110.704.15 Status of Facilities. A project will be deemed as having adequate public sanitary sewer facilities if the level of service set forth in Section 110.704.10 meets any of the following provisions:

- (a) The facilities are in place at the time the final development approval is issued;
- (b) The facilities are under construction at the time the final development approval is issued;
- (c) The facilities are included in the County Capital Improvements Program, are scheduled to be completed within five (5) years, and are accompanied by identified specific funding sources; or
- (d) The facilities are guaranteed, in an enforceable agreement, to be in place concurrent with the impacts of development. This provision shall be interpreted to mean a developer may provide the facilities at the expense of the developer and in a manner enforceable by, and agreeable to, Washoe County.

Section 110.704.20 Included Facilities. The analysis of the adequate public facilities for sanitary sewer systems shall include an analysis of the capacity of the treatment plant and its interceptors.

Section 110.704.25 Determination of Adequate Public Sanitary Sewer. The Department of Water Resources, or its successors, is responsible for determining if the provisions in Section 110.704.15 are met. If one (1) or more of the provisions are met, the Department of Water Resources shall so indicate in writing to the Department of Community Development. In the event a proposed project is reliant on any sanitary sewer facilities provided by a public or private purveyor other than Washoe County, the Determination of Adequate Public Sanitary Sewer provided by the Department of Water Resources shall be made pursuant to consultation and information provided by the duly authorized agent of that public or private purveyor.

[Amended by Ord. 873, provisions eff. 6/7/93.]

Section 110.704.30 Demand Calculations. If the Department of Water Resources is unable to make a determination using available information, it may request that the applicant submit a demand study prepared by a Nevada registered professional engineer.

[Amended by Ord. 873, provisions eff. 6/7/93.]

Article 706

IMPACT FEES

Sections:

110.706.00	Purpose
110.706.05	Regional Road Impact Fee

Section 110.706.00 Purpose. The purpose of this article, Article 706, Impact Fees, is to set forth regulations for imposition of impact fees adopted by ordinance to ensure that new development contributes its proportionate share of the cost of providing, and benefits from such provision of, required improvements to public infrastructure as identified in this article in accordance with NRS 278B.

[Added by Ord. 938, provisions eff. 2/15/96.]

Section 110.706.05 Regional Road Impact Fee.

- (a) Short Title, Authority and Application.
- (1) Title. This section shall be known and may be cited as the “Regional Road Impact Fee” (hereinafter “RRIF”) section.
 - (2) Authority. The Board of County Commissioners of Washoe County has the authority to adopt this section pursuant to NRS 278B.
 - (3) Application. This section shall apply to all lands within unincorporated Washoe County that are within the Service Area, as defined in the latest adopted Regional Road Impact Fee System General Administration Manual (herein after “GAM”) and pursuant to the Regional Road Impact Fee Interlocal Cooperative Agreement (hereinafter “RRIF Interlocal Cooperative Agreement”).
- (b) Intent and Purpose.
- (1) Intent is to Implement Regional CIP, Local Road CIPs and Local Master Plans. This section is intended to implement and be consistent with the Regional Road Impact Fee System Capital Improvements Plan (hereinafter “RRIF CIP”), the Washoe County Road Capital Improvements Plan (hereinafter “Local CIP”) and the Washoe County Master Plan, and the Local CIPs and Master Plans of the other two (2) Participating Local Governments.
 - (2) Purpose is to Establish Regionwide Impact Fee Program. The purpose of this section is to establish a Regionwide Impact Fee Program by the establishment of a comprehensive and Regionwide system for the imposition of road impact fees to assure that new development contributes its proportionate share of the cost of providing, and benefits from the provision of, the road capital improvements identified as needed to be built in the RRIF CIP which has been adopted as Washoe County’s

Local CIP, and the Local CIP of the other two (2) Participating Local Governments.

- (c) Liberal Construction, Severability and Penalty Provisions.
- (1) Liberal Construction. The provisions of this section shall be literally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.
- (2) Severability. If any subsection, phrase, sentence or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.
- (d) Adoption and Amendment of the Regional Road Impact Fee System General Administrative Manual. The latest GAM approved by Washoe County and by the Washoe County Regional Transportation Commission (RTC) incorporated by reference, is hereby adopted. The GAM shall contain appropriate definitions, an independent fee calculation study, exemptions, credits, appeals and review sections for the effective administration of the program. It may subsequently be amended by a resolution approved by the Regional Transportation Commission Board and the Governing Bodies of each Participating Local Government.

Fees identified in the RRIF CIP shall be adjusted pursuant to the procedures enumerated below:

- (1) That except as provided in subsection (2), below, Cost in Dollars per Vehicle Mile Travelled, (“\$/VMT”) and “Fees” of the RRIF CIP shall be increased automatically every twelve months by the RTC RRIF Administrator:
- (i) By a percentage equal to the average annual percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding five (5) calendar years; or
- (ii) By 4.5 percent, whichever is less.
- (2) No increase authorized by subsection (1), above, shall occur within a twelve month period following action by the County to:
- (i) Adopt any revisions to the Regional Road Impact Fee land use assumptions in accordance with NRS 278B.290; or
- (ii) Adopt any ordinance that amends the Regional Road Impact Fee System Capital Improvement Plan; or
- (iii) Otherwise increase the impact fee.
- (e) Adoption of the Regional Road Improvement Fee System Capital Improvement Plan (“RRIF CIP”). Washoe County has the responsibility to adopt the latest edition of the RRIF CIP by ordinance as specified in the GAM.

- (f) Service Area and Benefit Districts. Service area and benefit district boundaries are described in the latest adopted edition of the GAM. Fees associated with the service areas are the latest adopted edition of the RRIF CIP.
- (g) Impact Fees. The amount of the impact fees shall be determined by the Local RRIF Administrator in accordance with the applicable provisions of the latest adopted edition of the GAM and the application of the fee schedule identified in the relevant table of the latest adopted edition of the RRIF CIP.
- (h) Use of Funds.
 - (1) Establishment of Trust Fund. There is hereby established the Washoe County Regional Road Impact Fee Trust Fund (hereinafter "Washoe County RRIF Trust Fund") and the RTC Regional Road Impact Fee Trust Fund (hereinafter "RTC RRIF Trust Fund") for the purpose of ensuring that feepayers receive sufficient benefit for regional road impact fees paid.
 - (2) Deposit in Trust Fund/General Requirements for Trust Fund.
 - (i) All regional road impact fees collected by Washoe County's RRIF Administrator pursuant to this section shall be immediately deposited in the Washoe County RRIF Trust Fund.
 - (ii) Any proceeds in the Washoe County RRIF Trust Fund not immediately necessary for expenditure shall be invested in an interest-bearing account. All income derived from these investments shall be retained in the Washoe County RRIF Trust Fund until transferred to the RTC RRIF Trust Fund. Record of the Washoe County RRIF Trust Fund accounts shall be available for public inspection in the Local Government RRIF Administrator's Office, during normal business hours.
 - (iii) No less frequently than quarterly, and pursuant to the RRIF Interlocal Cooperative Agreement, the Washoe County RRIF Administrator shall transfer the impact fee funds in the Washoe County RRIF Trust Fund to the RTC RRIF Administrator, who shall deposit these funds in the RTC RRIF Trust Fund. All proceeds in the RTC RRIF Trust Fund not immediately necessary for expenditure shall be invested in an interest bearing account. Records of the RTC RRIF Trust Fund accounts shall be available for public inspection in the RTC RRIF Administrator's Office, during normal business hours.
 - (3) Limitations on Expenditures.
 - (i) Impact fee monies shall only be expended from funds drawn from the RTC RRIF Trust Fund.
 - (ii) Funds shall only be expended on those projects selected by the RTC Board and approved by the RTC Board and the Participating Local Governments in the RRIF Interlocal Cooperative Agreement.

- (iii) The expenditure of impact fee funds shall be limited to those road capital improvement projects included in the RRIF CIP.
 - (iv) For the purposes of determining whether impact fee funds have been spent or encumbered, the first fees collected shall be considered the first monies spent or encumbered.
 - (v) If impact fee funds transferred to the RTC RRIF Trust Fund are required to be refunded pursuant to Section VIII of the RRIF Manual, they shall be returned by the RTC RRIF Administrator to the Local RRIF Administrator for refund.
- (i) Requirement for Initiating Resolution to Amend Article. The requirement of Section 110.818.05, Requirements for Application, does not apply to the amendment of this section.
 - (j) Effective Date of Regional Road Impact Fee Section. The RRIF section shall become effective thirty (30) days after this section and similar Ordinances are adopted by the other two participating local governments.

[Added by Ord. 938, provisions eff. 2/15/96. Amended by Ord. 1066, provisions eff. 7/9/99; Ord. 1201, provisions eff. 6/27/03; Ord.1307, provisions eff. 7/7/06; Ord. 1348, provisions eff. 11/2/07; Amended by Ord. 1550, provisions eff. 2/6/15.]

[Section 110.706.10 Southeast Truckee Meadows Specific Plan Impact Fee repealed by Ord. 1568, provisions eff. 11/6/15.]

