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## CHAPTER 7.5

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**Editor's Note:** Prior Chapter 29, "Zoning, Annexation and Development of Land," was renamed as "Fees" by Ord. No. 115, 1997. In order to retain the alphabetical integrity of the code, the chapter was renumbered to 7.5.

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**ARTICLE I.  
ADMINISTRATIVE FEES**

**Sec. 7.5-1. Establishment of administrative fees.**

In order to defray the cost of providing certain administrative services, as well as the cost of making available for public use certain City facilities, the City Manager may establish fees to be paid by the users of such services and facilities. Such fees may include, without limitation, fees for recreation and cultural services, cemeteries and the use of other City facilities. The City Manager shall include in his or her recommended budget an itemization of the fees currently being charged for such services and facilities, together with an estimate of the amount of annual revenue anticipated to be generated by such fees during the budget term.

(Ord. No. 115, 1997, 8-5-97)

**Sec. 7.5-2. Amounts of administrative fees.**

The amounts of the fees established under the authority of § 7.5-1 shall be determined by the City Manager according to the following criteria:

- (1) The amount of estimated revenue to be generated by each such fee shall not exceed the estimated cost of providing the service or facility for which such fee is charged;
- (2) Any distinctions made among feepayers, in terms of the amounts to be paid by such feepayers for the use of a particular service or facility, shall be reasonably related to a legitimate municipal purpose. Such distinctions may include, without limitation, reduced rates for senior citizens, youth, lower income residents and disabled persons;
- (3) In determining the extent to which the total cost of a particular service or facility should be recovered through the imposition of fees, the City Manager may consider, without limitation:
  - a. The nature of the facilities or services;
  - b. The nature and extent of the benefit to the feepayers;
  - c. The level of demand for a particular service or facility; and
  - d. Ease of collection.

(Ord. No. 115, 1997, 8-5-97)

**Sec. 7.5-3. Establishment of special surcharges.**

The City Manager may, from time to time, establish an administrative surcharge to be imposed at the time of issuance of a connection permit for utility services from the City outside of the Growth Management Area pursuant to Article X of Chapter 26, to be determined based upon projected demand for City streets, community parks and libraries to result from the development that is to receive utility services, which surcharge may be adjusted to reflect benefits to accrue to the City as a result of said development. The City Manager shall include in his or her recommended budget an itemization of the fees currently being charged for such services and facilities, together with an estimate of the amount of annual revenue anticipated to be generated by such fees during the budget term.

(Ord. 26, 2005, § 7, 3-15-05)

**Secs. 7.5-4—7.5-15. Reserved.**

**ARTICLE II.  
CAPITAL IMPROVEMENT EXPANSION FEES**

**DIVISION 1. GENERALLY**

**Sec. 7.5-16. Intent.**

The provisions of this Article are intended to impose certain fees to be collected at the time of building permit issuance in an amount calculated as shown herein for the purpose of funding the provisions of additional capital improvements as the City's population increases. The imposition of said fees is intended to regulate the use and devel-

opment of land by ensuring that new growth and development in the City bear a proportionate share of the costs of capital expenditures necessary to provide community park, library, police, fire and general government and transportation capital improvements. Said fees shall not be used to collect more than is necessary to fund such capital improvements. The fees provided for in this Article are based on the City's *Capital Improvement Expansion Cost Study*, dated May 21, 1996, as amended; the City's *Street Oversizing Impact Fee Study*, dated July 15, 1997, and *Street Oversizing Impact Fee Study Update*, dated November 28, 2000, as amended; and *The ITE Trip Generation Manual, 6th Edition*, 1997, published by the Institute of Traffic Engineers, as amended, which establish a fair and equitable allocation of costs and recognize past and future payments for new development, as well as credits for construction, dedication of land or cash contributions. Funds collected from said fees shall not be used to remedy existing deficiencies, but only to provide new capital improvements which are necessitated by new development. The amount of revenue generated by said fees shall not exceed the cost of providing the capital improvements for which they are imposed, and the same shall be expended solely to provide the specified capital improvements.

(Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 38, 1998, § 3, 3-17-98; Ord. No. 190, 2000, § 1, 1-2-01)

### **Sec. 7.5-17. Definitions.**

When used in this Article, the following words and terms shall have the following meanings:

*Building permit* shall mean the permit required for new construction and additions under Division 2.7 of the Land Use Code, or, if applicable, Section 29-5(a) of the Transitional Land Use Regulations, and the permit required for the installation of a mobile home pursuant to Subsection 18-8(b) of this Code; provided, however, that the term *building permit*, as used herein, shall not be deemed to include permits required for the following:

- (1) Land development projects (or portions thereof) of any housing authority organized under the provisions of Section 29-4-101 et seq., C.R.S., also known as "The City Housing Law."
- (2) The installation of any mobile home that replaces a previously existing mobile home on an existing mobile home lot under Subsection 18-8(b) of the Code.
- (3) Remodeling, rehabilitation or other improvements to an existing structure or rebuilding a damaged or destroyed structure unless: (a) in the case of a residential use, such remodeling, expansion or improvement results in the creation of one (1) or more new dwelling units, or (b) in the case of a commercial or industrial use, such remodeling, expansion or improvement increases the gross square footage of the existing structure(s).

*Capital improvements* shall mean the purchase or long-term lease or lease-purchase of real property, the construction of public facilities or the purchase or long-term lease or lease-purchase of equipment or materials needed to facilitate the operation of such facilities or the delivery of services therefrom, to the extent that such property, improvements, equipment or materials are identified in the City's capital improvements plan as being totally or partially financed by the imposition of capital improvement expansion fees. For the purposes of this provision, *long-term lease* or *lease-purchase* shall mean a lease or lease-purchase of not less than five (5), subject to annual appropriation. Amounts expended for capital improvements shall include amounts that are treated as capitalized expenses according to generally accepted accounting principles and shall not include costs associated with the operation, administration, maintenance or replacement of capital improvements.

*Capital improvements plan* shall mean that part of the City's Comprehensive Plan which contains:

- (1) Standards for levels of service for the specified capital improvements;
- (2) Proposed cost estimates and funding sources for such capital improvements; and
- (3) A proposed schedule for the acquisition and/or construction of such capital improvements.

*Commercial development* shall mean any development approved by the City, except development approved for residential, industrial and/or light industrial use.

*Developed parcel* shall mean that portion of a site which is approved by the City for development.

*Development* shall mean any man-made change to improved or unimproved real property.

*Duplex* shall mean a dwelling containing two (2) dwelling units.

*Dwelling* shall mean a building used exclusively for residential occupancy, including single-family dwellings, two-family dwellings and multi-family dwellings, and which contains: (a) a minimum of eight hundred (800) square feet of floor area, or (b) in the case of a dwelling to be constructed on the rear portion of a lot in the L-M-N, M-M-N, N-C-L, N-C-M, N-C-B, C-C-N, C-C-R, H-C or E zone districts, a minimum of four hundred (400) square feet of floor area, so long as a dwelling already exists on the front portion of such lot. The term *dwelling* shall not include hotels, motels, tents or other structures designed or used primarily for temporary occupancy. Any dwelling shall be deemed to be a principal building.

*Dwelling unit* shall mean one (1) or more rooms and a single kitchen and at least one (1) bathroom designed to occupy or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed use building.

*Feepayer* shall mean a person or entity who is obligated to pay a fee in accordance with the provisions of this Article.

*Industrial development* shall mean any development approved by the City for industrial or light industrial use.

*Multi-family structure* shall mean a dwelling containing three (3) or more dwelling units, not including hotels, motels, fraternity houses, sorority houses and similar group accommodations.

*Residential development* shall mean any development approved by the City for residential use.

*Site* shall mean the land on which development takes place.

*Street oversizing improvements* shall mean those capital improvements needed to construct arterial or collector streets in the City as shown on the City of Fort Collins Master Street Plan, excluding the local street portions of such streets. *Street oversizing improvements* shall include, without limitation, right-of-way acquisition; vehicle and bicycle lanes; curbs, gutters and other drainage structures; pedestrian ways; traffic control devices and signals; medians and median landscaping; and transit facilities, including, without limitation, transit stops and rolling stock, to the extent that such transit facilities are reasonably necessary to expand the City's transit system so as to provide transit services to fee payers, as that term is defined in § 7.5-17.

(Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 113, 1997, § 3, 8-5-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 38, 1998, § 3, 3-17-98; Ord. No. 65, 1999, § 1, 5-4-99; Ord. No. 4, 2000, § 1, 1-18-00)

#### **Sec. 7.5-18. Calculation of capital improvement expansion fees.**

For each category of capital improvements for which a capital improvement expansion fee is established under the provisions of this Article, the amount of each such capital improvement expansion fee shall be determined on a per dwelling unit basis according to the gross floor area of each such dwelling unit (in the case of residential development) or on the basis of each square foot of new construction (in the case of commercial or industrial development). The amount of the fee will be increased annually according to the Denver-Boulder Consumer Price Index for Urban Consumers, as published by the Bureau of Labor Statistics.

(Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97)

#### **Sec. 7.5-19. Imposition, computation and collection of fees.**

Payment of the fees imposed under the provisions of this Article shall be required as a condition of approval of all development in the City for which a building permit is required. The amount of such fees has been calculated using current levels of service and the data and methodologies described in *Capital Improvement Expansion Cost Study*, dated May 21, 1996, as amended; the City's *Street Oversizing Impact Fee Study*, dated July 15, 1997, and *Street Oversizing Impact Fee Study Update*, dated November 28, 2000, as amended; and *The ITE Trip Generation Manual*,

*6th Edition*, 1997, published by the Institute of Traffic Engineers, as amended. The fees due for such development shall be payable by the feepayer to the Department of Building and Zoning Director prior to or at the time of issuance of the first building permit for the property to be developed, except to the extent that an agreement deferring all or any portion of such payment has been executed by the City providing for a different time of payment approved by the City Council by resolution. If, during the period of any such deferral, the amount of the deferred fee is increased by ordinance of the City Council, the fee rate in effect at the time of payment shall apply. If the building permit for which a fee has been paid has expired, and an application for a new building permit is thereafter filed, any amount previously paid for a capital improvement expansion fee and not refunded by the City shall be credited against any additional amount due under the provisions of this Article at the time of application for the new building permit. (Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 38, 1998, § 3, 3-17-98; Ord. No. 190, 2000, § 2, 1-2-01; Ord. No. 130, 2002, § 12, 9-17-02; Ord. No. 104, 2004, § 1, 7-27-04)

**Sec. 7.5-20. Offsets and credits.**

(a) The City shall offset the reasonable costs of any capital improvements constructed, or real property dedicated, by or on behalf of any property owner or developer of real property from whom a fee is due and payable under this Article for that category of capital improvement, pursuant to the following requirements and any additional administrative regulations that may be established by the City Manager:

- (1) No offset or credit shall be given for the dedication or construction of capital improvements not shown on the City's capital improvements plan, or, in the case of the street oversizing capital improvement expansion fee, for any capital improvement other than a street oversizing improvement, unless otherwise agreed to by the City.
- (2) No offset or credit shall exceed the amount of the applicable fee(s) due from the property owner or developer; provided, however, that if the amount of the credit or offset due from the dedication or construction of a capital improvement is calculated to be greater than the amount of the fee due, nothing herein shall be construed as preventing the City from entering into a reimbursement agreement with the property owner or developer under other applicable provisions of this Code, whereby said property owner or developer may be reimbursed by subsequent property owners benefiting from the dedication or construction.
- (3) If an offset or credit has not been exhausted within ten (10) years of the date of issuance of the first building permit for which a fee was due and payable under the provisions of this Article, or within such other period as may be designated in writing by the City, such offset or credit shall lapse.
- (4) A property owner or developer claiming entitlement to an offset or credit shall apply for the same prior to or at the time of application for the issuance of any building permit for the development in question, which application shall be on a form provided by the City for such purpose. Upon receipt of such application, the Financial Officer or, in the case of the street oversizing capital improvement fee, the City Engineer, shall determine, in writing, the maximum value of the offset or credit that may be applied against fees due and payable from the applicant.

(b) Any offset or credit claimed under the provisions of this Section shall be applied in the following manner:

- (1) In the case of residential developments, the offset or credit shall be prorated among all residential structures in which the offset or credit is to be applied, and shall be applied at the time of filing and acceptance of the application for the building permit for each such structure.
- (2) In the case of commercial and industrial development, the offset or credit shall be applied to the fees due under the provisions of this Article at the time of issuance of the first building permit for such development, and thereafter to all subsequently issued building permits until the offset or credit has been exhausted.

(c) In his or her sole discretion, the City Manager may authorize alternative credit or offset agreements upon petition by a property owner or developer, in accordance with established administrative guidelines. (Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 38, 1998, § 3, 3-17-98)

**Sec. 7.5-21. Establishment of accounts.**

The Financial Officer shall establish separate accounts for each of the fees imposed under the provisions of this Article, into which shall be deposited all fees collected for each such category of capital improvement. Interest earned on each such account shall be considered funds of the account and shall be used solely for the purposes authorized for such funds as provided herein. The Financial Officer shall establish adequate financial and accounting controls to ensure that fees disbursed from each such account are utilized solely for the purposes authorized. (Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97)

**Sec. 7.5-22. Use of fee proceeds.**

(a) The fees collected for each category of capital improvement specified in Division 2 of this Article shall be used to finance or to recoup the costs of any capital improvements identified in the applicable capital improvements plan, except that fees collected for street oversizing improvements shall be used only to finance or recoup the costs of such improvements. Eligible costs which may be paid from revenues derived from such fees may include, without limitation, design, surveying and engineering fees; the cost of purchasing or leasing real property; construction costs; other capital improvement costs; and the costs of administering the capital improvement expansion fee program. The proceeds of such fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the City to finance such capital improvements. The City shall be entitled to retain four (4) percent of the fees collected under this Article to cover the costs associated with the collection of the same, and the administration, investment, accounting, expenditure and auditing of the funds collected.

(b) Fees collected under the provisions of this Article shall not be used to pay for any of the following expenses:

- (1) Costs incurred for the construction, acquisition or expansion of capital improvements or assets other than those identified in the applicable capital improvements plan or in the case of the street oversizing capital improvement expansion fee, any capital improvement other than a street oversizing improvement;
- (2) Costs incurred for the repair or maintenance of existing or new capital improvements or facilities expansions; or
- (3) Costs incurred for the ongoing administration or operation of the funded capital improvements.

(c) Annually, the City Manager shall present to the City Council a proposed capital improvement program for each capital improvement for which a capital improvement expansion fee is charged. Such program shall assign funds, including any accrued interest, from the several capital improvement expansion fee accounts to specific capital improvement projects and related expenses.

(Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 38, 1998, § 3, 3-17-98)

**Sec. 7.5-23. Appeals.**

(a) Any property owner or developer may appeal the following decisions to the City Manager, pursuant to the appeals procedure set forth in Article VI of Chapter 2 of this Code, and the specific requirements of Subsection (b), below:

- (1) The applicability of any fee to the development;
- (2) The amount of any such fee;
- (3) The availability, amount or application of any offset or credit; or

(4) The amount of any refund, as determined by the Financial Officer, under the provision of § 7.5-25 below.

(b) The burden of proof in any such hearing shall be on the applicant to demonstrate that the amount of fee or offset or credit was not properly calculated by the City. In the event of an appeal of the amount of a fee, the feepayer shall, at his or her expense, prepare and submit to the City Manager an independent fee calculation study for the fee in question. The independent fee calculation study shall follow the methodologies used in the *Capital Improvement Expansion Cost Study*, dated May 21, 1996, as amended, or the City's *Street Oversizing Impact Fee Study*, dated July 15, 1997, as amended, whichever is applicable. The independent fee calculation study shall be conducted by a professional in impact analysis. The burden shall be on the feepayer to provide the City Manager all relevant data, analysis and reports which would assist the City Manager in determining whether the capital improvement expansion fee should be adjusted. The City Manager shall modify said amount only if there is substantial competent evidence in the record that the City erred, based upon the methodologies contained in the *Capital Improvement Expansion Cost Study*, dated May 21, 1996, as amended, or the City's *Street Oversizing Impact Fee Study*, dated July 15, 1997, as amended, whichever is applicable.

(Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 38, 1998, § 3, 3-17-98; Ord. No. 129, 2002, § 2, 9-17-02)

#### **Sec. 7.5-24. Entitlement to refunds.**

(a) All fees collected pursuant to this Article shall be appropriated by the City Council for expenditure within seven (7) years from the date of payment of such fees and shall be expended by the City for purposes approved herein within ten (10) years of the date of payment. Any fees not so appropriated or expended shall be refunded, upon application, to the record owner of the property for which the impact fee was paid or, if the impact fee was paid by another governmental entity, to such governmental entity, together with interest calculated from the date of collection to the date of refund; provided, however, that the City shall retain an additional two (2) percent of the fee to offset the cost of refund.

(b) In determining whether fee revenues have been appropriated or expended within the requisite periods of time specified in subparagraph (a), monies in the applicable capital improvement expansion fee accounts shall be considered to be appropriated and expended on a first in, first out basis; that is, the first fees paid shall be considered the first fees appropriated and expended.

(c) Any application for a refund under the provisions of this Section shall be made within one hundred eighty (180) days of the expiration of the ten-year period following the date of payment of such fee, according to the procedures described in §§ 7.5-23 and 7.5-25. If a refund is due hereunder, the amount of such refund shall be divided proportionately among all applicants for refunds who have filed applications during said one-hundred-eighty-day period; provided, however, that in no event shall the amount of any refund exceed the amount of the fee paid on behalf of the property for which the refund is sought, plus interest at the rate of five (5) percent per annum.

(Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97)

#### **Sec. 7.5-25. Procedure to obtain refund.**

(a) All applications for refund under this Article shall be submitted to the Financial Officer. Each application shall be in a form established by the Financial Officer, and shall contain the following:

- (1) A copy of the dated receipt issued for payment of the fee;
- (2) A notarized, sworn statement that the applicant is the current owner of the real property for which the fee was paid and a certified copy of the current deed to such property.

(b) The Financial Officer shall determine if the application for a refund is sufficient on its face within five (5) working days. If the Financial Officer determines that the application is not sufficient, a written notice shall be mailed to the applicant within said period of time specifying the deficiencies. No further action shall be taken on the application until the deficiencies are remedied. Any such deficiencies must be remedied within twenty (20) days of the date of mailing of the notice from the Financial Officer, or prior to the expiration of the period of time for filing an appli-

cation for a refund under Subsection 7.5-24(c), whichever is later. If the application is determined sufficient, the Financial Officer shall notify the applicant, in writing, of the application's sufficiency and that the application is ready for review pursuant to the procedures and standards of this Section.

(c) Within ten (10) working days after the application is determined sufficient, the Financial Officer shall determine whether the City has appropriated and expended the fee(s) paid by the feepayer within the periods of time required under Subsection 7.5-24(a). If so, the application for refund shall be denied. If not, the applicant shall be entitled to a refund, except that the City shall retain an additional two (2) percent of the impact fee to offset the costs of administering the refund.

(d) The decision of the Financial Officer with regard to any refund may be appealed to the City Manager under the provisions of Subsection 7.5-23(b) and Article VI of Chapter 2 of this Code.

(Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 129, 2002, § 3, 9-17-02)

**Sec. 7.5-26. Deferral of fees for affordable housing.**

With respect to any building permit for a dwelling unit which is contained within or which constitutes an *affordable housing project* as defined in § 26-631, the fees established under this Article shall, upon the request of the applicant, be deferred until the date of issuance of a certificate of occupancy (whether temporary or permanent) for such unit or until the first day of December of the year in which the deferral was obtained, whichever first occurs. Notwithstanding any provision in this Chapter to the contrary, in the event that, during the period of deferral, the amount of the deferred fee is increased by ordinance of the City Council, the fee rate in effect at the time of the issuance of the building permit shall apply. At the time of application for any such deferral, the applicant shall pay to the City a fee in the amount of fifty dollars (\$50.) to partially defray the cost of administration. No person shall knowingly make any false or misleading statement of fact in order to obtain any deferral of fees under this Section.

(Ord. No. 95, 1996, 7-16-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 19, 1999, § 6, 2-16-99)

DIVISION 2. PARTICULAR PUBLIC FACILITIES

**Sec. 7.5-27. Library capital improvement expansion fee.**

(a) There is hereby established a library capital improvement expansion fee which shall be imposed pursuant to the provisions of this Article for the purpose of funding capital improvements related to the provision of general library services, as such improvements may be identified in the capital improvements plan for library services. Such fee shall be payable prior to the issuance of any building permit for a residential structure. The amount of such fee shall be determined per dwelling unit as follows:

700 sq. ft. and under	\$292.00
701 to 1,200 sq. ft.	415.00
1,201 to 1,700 sq. ft.	487.00
1,701 to 2,200 sq. ft.	560.00
2,201 sq. ft. and over	682.00

In the case of duplexes and multi-family structures, the amount of the fee for each dwelling unit shall be based upon the average size of the dwelling units contained within each such structure.

(b) All fees collected under this Section shall be deposited into a separate account within the capital improvement expansion fund to be known as the "library capital improvement expansion account." This account shall be an interest bearing account, and any interest income earned on the fees shall be credited to the account. Funds withdrawn from the library capital improvement expansion account shall be used only for the purposes specified in Subparagraph (a) of this Section and said expenditures shall be subject to the provisions of this Article.

(Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 95, 1996, 7-16-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 172, 1997, § 1, 11-4-97; Ord. No. 121, 1998, 7-21-98; Ord. No. 205, 1998, § 1, 11-17-98; Ord. No. 171, 1999, § 1, 11-16-99; Ord. No. 155, 2000, § 1, 11-7-00; Ord. No. 191, 2001, § 1, 11-20-01; Ord. No. 165, 2002, § 1, 11-19-02; Ord. No. 148, 2003, § 1, 11-18-03; Ord. No. 138, 2005, § 1, 11-15-05; Ord. No. 183, 2006 § 1, 11-21-06; Ord. 114, 2007, § 1, 11-20-07; Ord. No. 110, 2008, § 1, 10-21-08)

**Sec. 7.5-28. Community parkland capital improvement expansion fee.**

(a) There is hereby established a community parkland capital improvement expansion fee which shall be imposed pursuant to the provisions of this Article for the purpose of funding capital improvements related to the provision of community parks, as such improvements may be identified in the capital improvements plan for community parkland. Such fee shall be payable prior to the issuance of any building permit for a residential structure. The amount of such fee shall be determined per dwelling unit as follows:

700 sq. ft. and under	\$ 975.00
701 to 1,200 sq. ft.	1,382.00
1,201 to 1,700 sq. ft.	1,624.00
1,701 to 2,200 sq. ft.	1,869.00
2,201 sq. ft. and over	2,273.00

In the case of duplexes and multi-family structures, the amount of the fee for each dwelling unit shall be based upon the average size of the dwelling units contained within each such structure.

(b) All fees collected under this Section shall be deposited into a separate account within the capital improvement expansion fund to be known as the "community park land capital improvement expansion account." This account shall be an interest bearing account, and any interest income earned on the fees shall be credited to the account. Funds withdrawn from the community parkland facilities account shall be used only for the purposes specified in Subsection (a) of this Section and said expenditures shall be subject to the provisions of this Article.

(Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 95, 1996, 7-16-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 172, 1997, § 2, 11-4-97; Ord. No. 205, 1998, § 2, 11-17-98; Ord. No. 171, 1999, § 2, 11-16-99; Ord. No. 58, 2000, § 1, 6-6-00; Ord. No. 155, 2000, § 2, 11-7-00; Ord. No. 191, 2001, § 2, 11-20-01; Ord. No. 165, 2002, § 2, 11-19-02; Ord. No. 148, 2003, § 2, 11-18-03; Ord. No. 138, 2005, § 2, 11-15-05; Ord. No. 183, 2006 § 2, 11-21-06; Ord. 114, 2007, § 2, 11-20-07; Ord. No. 110, 2008, § 2, 10-21-08)

**Sec. 7.5-29. Police capital improvement expansion fee.**

(a) There is hereby established a police capital improvement expansion fee which shall be imposed pursuant to the provisions of this Article for the purpose of funding capital improvements related to the provision of police services, as such improvements may be identified in the capital improvements plan for police services. Such fee shall be payable prior to the issuance of any building permit for a residential, commercial or industrial structure. The amount of such fee shall be determined as follows:

700 sq. ft. and under	\$ 72.00
701 to 1,200 sq. ft.	102.00
1,201 to 1,700 sq. ft.	120.00
1,701 to 2,200 sq. ft.	139.00

2,201 sq. ft. and over	169.00
Commercial buildings (per 1,000 square feet)	149.00
Industrial buildings (per 1,000 square feet)	40.00

In the case of duplexes and multi-family structures, the amount of the fee for each dwelling unit shall be based upon the average size of the dwelling units contained within each such structure.

(b) All fees collected under this Section shall be deposited into a separate account within the capital improvement expansion fund to be known as the "police capital improvement expansion account." This account shall be an interest bearing account, and any interest income earned on the fees shall be credited to the account. Funds withdrawn from the police capital improvement expansion account shall be used only for the purposes specified in Subparagraph (a) of this Section and said expenditures shall be subject to the provisions of this Article.

(Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 95, 1996, 7-16-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 172, 1997, § 3, 11-4-97; Ord. No. 205, 1998, § 3, 11-17-98; Ord. No. 171, 1999, § 3, 11-16-99; Ord. No. 155, 2000, § 3, 11-7-00; Ord. No. 191, 2001, § 3, 11-20-01; Ord. No. 165, 2002, § 3, 11-19-02; Ord. No. 148, 2003, § 3, 11-18-03; Ord. No. 138, 2005, § 3, 11-15-05; Ord. No. 183, 2006 § 3, 11-21-06; Ord. 114, 2007, § 3, 11-20-07; Ord. No. 110, 2008, § 3, 10-21-08)

**Sec. 7.5-30. Fire protection capital improvement expansion fee.**

(a) There is hereby established a fire protection capital improvement expansion fee which shall be imposed pursuant to the provisions of this Article for the purpose of funding capital improvements related to the provision of fire services, as such improvements may be identified in the capital improvements plan for fire protection services. Such fee shall be payable prior to the issuance of any building permit for a residential, commercial or industrial structure. The amount of such fee shall be determined as follows:

700 sq. ft. and under	\$105.00
701 to 1,200 sq. ft.	149.00
1,201 to 1,700 sq. ft.	174.00
1,701 to 2,200 sq. ft.	201.00
2,201 sq. ft. and over	245.00
Commercial buildings (per 1,000 square feet)	215.00
Industrial buildings (per 1,000 square feet)	59.00

In the case of duplexes and multi-family structures, the amount of the fee for each dwelling unit shall be based upon the average size of the dwelling units contained within each such structure.

(b) All fees collected under this Section shall be deposited into a separate account within the capital improvement expansion fund to be known as the "fire protection capital improvement expansion account." This account shall be an interest bearing account, and any interest income earned on the fees shall be credited to the account. Funds withdrawn from the fire protection capital improvement expansion account shall be used only for the purposes specified in Subparagraph (a) of this Section and said expenditures shall be subject to the provisions of this Article.

(Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 95, 1996, 7-16-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 172, 1997, § 4, 11-4-97; Ord. No. 97, 1998, 6-2-98; Ord. No. 205, 1998, § 4, 11-17-98; Ord. No. 171, 1999, § 4, 11-16-99; Ord. No. 155, 2000, § 4, 11-7-00; Ord. No. 191, 2001, § 4, 11-20-01; Ord. No. 165, 2002, § 4, 11-19-02; Ord. No. 148, 2003, § 4, 11-18-03; Ord. No. 138, 2005, § 4, 11-15-05; Ord. No. 183, 2006 § 4, 11-21-06; Ord. 114, 2007, § 4, 11-20-07; Ord. No. 110, 2008, § 4, 10-21-08)

**Sec. 7.5-31. General governmental capital improvement expansion fee.**

(a) There is hereby established a general governmental capital improvement expansion fee which shall be imposed pursuant to the provisions of this Article for the purpose of funding capital improvements related to the provi-

sion of general governmental services, as such improvements may be identified in the capital improvements plan for general governmental services. Such fee shall be payable prior to the issuance of any building permit for a residential, commercial or industrial structure. The amount of such fee shall be determined as follows:

700 sq. ft. and under	\$133.00
701 to 1,200 sq. ft.	188.00
1,201 to 1,700 sq. ft.	221.00
1,701 to 2,200 sq. ft.	254.00
2,201 sq. ft. and over	309.00
Commercial buildings (per 1,000 square feet)	240.00
Industrial buildings (per 1,000 square feet)	66.00

In the case of duplexes and multi-family structures, the amount of the fee for each dwelling unit shall be based upon the average size of the dwelling units contained within each such structure.

(b) All fees collected under this Section shall be deposited into a separate account within the capital improvement expansion fund to be known as the "general governmental capital improvement expansion account." This account shall be an interest bearing account, and any interest income earned on the fees shall be credited to the account. Funds withdrawn from the general governmental capital improvement expansion account shall be used only for the purposes specified in subparagraph (a) of this Section and said expenditures shall be subject to the provisions of this Article. (Ord. No. 51, 1996, § 2, 5-21-96; Ord. No. 95, 1996, 7-16-96; Ord. No. 51, 1997, § 2, 3-18-97; Ord. No. 115, 1997, 8-5-97; Ord. No. 172, 1997, § 5, 11-4-97; Ord. No. 205, 1998, § 5, 11-17-98; Ord. No. 171, 1999, § 5, 11-16-99; Ord. No. 155, 2000, § 5, 11-7-00; Ord. No. 191, 2001, § 5, 11-20-01; Ord. No. 165, 2002, § 5, 11-19-02; Ord. No. 148, 2003, § 5, 11-18-03; Ord. No. 138, 2005, § 5, 11-15-05; Ord. No. 183, 2006 § 5, 11-21-06; Ord. 114, 2007, § 5, 11-20-07; Ord. No. 110, 2008, § 5, 10-21-08)

**Sec. 7.5-32. Street oversizing capital improvement expansion fee.**

There is hereby established a street oversizing capital improvement expansion fee which shall be imposed pursuant to the provisions of this Article for the purpose of funding street oversizing improvements related to the provision of transportation services. Such fees shall be payable prior to the issuance of any building permit for a residential, commercial or industrial structure. The amount of such fee shall be determined as follows:

**STREET OVERSIZING CAPITAL EXPANSION FEE SCHEDULE**

	<i>Average Weekday Vehicle Trips</i>	<i>Transportation Impact Fee Rate</i>
<b>Residential (per housing unit)</b>		
SF detached	9.55	\$2,694 per D.U.
MF & other housing	6.59	1,859 per D.U.
Hotel/motel	8.70	2,454 per room
Apartment	6.12	1,726 per D.U.
Retirement community	3.30	930 per D.U.
Assisted living	4.52	1,275 per D.U.
Congregate care facility	2.15	606 per D.U.
Residential condominium	5.86	1,653 per D.U.
Duplex	7.18	2,025 per D.U.
Townhome	5.86	1,653 per D.U.

Mobile home	4.92	1,305 per D.U.
<b>Nonresidential (per 1,000 sq. ft.)</b>		
Community/shopping center		
100K GLA	32.09	\$5.27/sq. ft.
500K GLA	38.65	6.36/sq. ft.
200K GLA	54.50	8.95/sq. ft.
50K GLA	91.65	10.35/sq. ft.
Movie theater	77.79	12.79/sq. ft.
Fitness/racquet club	17.14	3.03/sq. ft.
<i>Day care</i>	79.26	5.47/sq. ft.
Government office	68.93	12.18/sq. ft.
Post office	86.78	15.34/sq. ft.
Building materials/lumber	39.71	6.52/sq. ft.
Specialty retail	40.68	6.69/sq. ft.
Discount club	41.80	6.87/sq. ft.
Nursery (garden center)	36.08	6.38/sq. ft.
<i>Sit-down restaurant</i>	130.34	14.72/sq. ft.
<i>Fast food with drive-up</i>	496.12	34.24/sq. ft.
Car sales	37.50	6.62/sq. ft.
<i>Service station</i>	168.56/pump	11,632.23/pump
Wholesale tire store	20.36	3.60/sq. ft.
Self-service car wash	5.79/stall	399.57/stall
Supermarket	111.51	12.60/sq. ft.
<i>Convenience market</i>	737.99	50.93/sq. ft.
Furniture store	5.06	1.39/sq. ft.
Bank	189.95	12.19/sq. ft.
<i>Drive-in bank</i>	265.21	18.30/sq. ft.
Insurance building	11.45	2.02/sq. ft.
Manufacturing	3.85	1.06/sq. ft.
Warehousing	4.96	1.37/sq. ft.
Light industrial	6.97	1.92/sq. ft.
Mini-warehouse	2.50	0.69/sq. ft.
Business park	14.37	3.96/sq. ft.
General office		
200K GFA	11.54	3.19/sq. ft.
50K GFA	16.31	4.51/sq. ft.
10K GFA	24.39	6.73/sq. ft.
Recreational	3.64/ac	1,004.77/acre
City park	3.66/ac	1,010.30/acre
Golf course	5.04/ac	1,391.23/acre
Elementary school	1.02/student	281.56/student
Church/synagogue	9.11	2.52/sq. ft.
Library	54.00	14.90/sq. ft.
Hospital	16.78	4.63/sq. ft.

Nursing home	2.60/bed	716.87/bed
Medical clinic	31.45	8.68/sq. ft.

\*Notes:

1. Rate calculation for each item based on the product of Number of Weekday Trips, Trip Adjustment Factor and Cost Per Unit of Trip.
2. Italicized building types indicate that high pass-by trip adjustment factor is used when calculating SOS Rate.

(Ord. No. 38, 1998, § 4, 3-17-98; Ord. No. 190, 2000, § 3, 1-2-01; Ord. No. 191, 2001, § 7, 11-20-01; Ord. No. 142, 2002, 10-15-02; Ord. No. 148, 2003 § 7, 11-18-03; Ord. No. 197, 2004, 12-21-04; Ord. No. 138, 2005, § 7, 11-15-05; Ord. No. 183, 2006 § 7, 11-21-06; Ord. 114, 2007, § 7, 11-20-07; Ord. No. 110, 2008, § 7, 10-21-08)

**Secs. 7.5-33—7.5-45. Reserved.**

**ARTICLE III.  
SCHOOL LAND DEDICATION AND FEES IN LIEU OF LAND DEDICATION FOR  
SCHOOL SITE ACQUISITION PURPOSE**

DIVISION 1. GENERALLY

**Sec. 7.5-46. Intent.**

The provisions of this Article are intended to impose a requirement upon new residential development in the City that land be reserved for future dedication for school sites or, alternatively, that payments be made in lieu of such reservation and dedication. The imposition of such requirement is intended to regulate the use and development of land by ensuring that new growth and development in the City bear a proportionate share of the costs of acquiring and developing such sites, in relation to the amount of the real property needed to provide adequate schools to serve such developments. Funds collected from any fees in lieu of dedication imposed pursuant to this Article shall be used solely to fund the acquisition and development of such school sites and the planning of capital facilities to be developed thereon. All such amounts collected by the City shall be collected for the benefit of and remitted to the school districts serving the areas in which such fees are collected.

(Ord. No. 74, 1998, 5-19-98)

**Sec. 7.5-47. Definitions.**

When used in this Article, the following words and terms shall have the following meanings:

*Building permit* shall mean the permit required for construction of new dwelling units and additions to existing dwelling units under Division 2.7 of the Land Use Code or, if applicable, Section 29-5(a) of the Transitional Land Use Regulations and the permit required for the installation of a mobile home pursuant to Subsection 18-8(b) of this Code; provided, however, that the term *building permit*, as used herein, shall not be deemed to include permits required for the following:

- (1) Alteration or expansion of a dwelling unit not exceeding a net increase of one thousand (1,000) square feet of the existing dwelling unit.
- (2) Replacement of a dwelling unit in which the replacement does not exceed a net increase of one thousand (1,000) square feet of the dwelling unit being replaced.
- (3) The installation of any mobile home that replaces a previously existing mobile home on an existing mobile home lot under Subsection 18-8(b) of this Code.
- (4) Construction of an accessory building or structure.
- (5) Long-term care facilities or group homes as defined in the Land Use Code.

- (6) Land development projects (or portions thereof) that are subject to recorded covenants permanently restricting the age of all residents of all dwelling units such that the dwelling units may be classified as "housing for older persons" pursuant to the Federal Fair Housing Amendments Act of 1988.

*Dwelling unit* shall mean one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building.

*Land development project* or *project* shall mean: (1) any site specific development plan (as that term is defined in the Land Use Code); or (2) an amendment to any approved site specific development plan that will result in a population density or population greater than that contemplated by the original land development project.

*School district* shall mean a public school district having an intergovernmental agreement with the City concerning the imposition of land dedication or fees in lieu for school purposes.

*School site development* shall mean the preparation of a site for the construction or expansion of school facilities on such site and shall include, without limitation, survey work, grading and the installation of utilities. (Ord. No. 74, 1998, 5-19-98; Ord. No. 4, 2000, § 2, 1-18-00)

#### **Sec. 7.5-48. Land dedication or in-lieu fees imposed.**

(a) The owner or developer of every land development project in the City ("applicant") must file with the Financial Officer of the City, prior to the issuance of a building permit for any residential structure in such project, proof that the appropriate land reservation for future dedication has been made to the school district, or that the applicant has paid an in-lieu fee, in accordance with the provisions of this Article.

(b) Prior to or at the time that any proposed land development project is submitted to the City for review, the superintendent of the school district, or his or her designee, shall meet with the applicant for the purpose of determining whether the school district desires the reservation of any land for future dedication as a school site within the land development project. Any such dedication or in-lieu fee requirement shall be consistent with school district planning standards established by the school district. Said standards shall reflect, without limitation:

- (1) The student yields and technical and educational specifications for various school facilities (elementary, middle and high school levels), consistent with the policy of the Board of Education of the school district;
- (2) The capacity demand for each category of school facility resulting from the construction of dwelling units in the land development project; and
- (3) School site acreage requirements.

Any reservation of sites or land areas required under the provisions of this Article shall occur in the following fashion. At or before the time of final approval of any land development project by the City, the sites or land areas to be dedicated to the school district shall be reserved by designation on the plat submitted to the City for approval in connection with the land development project. On or before the date that the first building permit for the project is issued by the City, such reserved site or land area shall be dedicated to the school district. In the event that the school district determines, in its sole discretion, that the dedication of a reserved site is necessary prior to the issuance of any building permit for the project within which such site is located, the school district shall so notify the person(s) shown by the records of the Larimer County Assessor as being the then current owner(s) of such site. Said notice shall be sent by certified mail, return receipt requested, and a copy of said notice shall be provided to the City's Director of Community Planning and Environmental Services. Within sixty (60) days of the mailing of said notice, the reserved property that is the subject of the mailing shall be dedicated to the school district by the owner(s) thereof.

(c) Any dedication required under this Article shall be accomplished by the execution of a general warranty deed by the property owner conveying to the school district land required to be dedicated, free and clear of all liens, encumbrances and exceptions except those approved in writing by the school district, including, without limitation, real property taxes, which shall be prorated to the date of conveyance. The property owner shall also provide to the school

district a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property. At the time of dedication, the dedicated site shall have overlot grading, direct access to a publicly dedicated street improved to City standards and utilities stubbed to the site. Upon completion of the conveyance in accordance with the provisions of this Section, the school district shall promptly certify to the City in writing that the dedication has been made.

(d) In the event that the dedication of sites or land areas for school site purposes within a particular land development project is not deemed feasible or in the best interests of the school district as determined by the superintendent, or his or her designee, the school district shall so notify the City's Director of Community Planning and Environmental Services in writing, and the City shall require the applicant to pay the in-lieu fees as provided in this Article. The amount of the in-lieu fees to be paid under the provisions of this Article shall be established by agreement with the school district and shall be equal to the full market value of the sites or land areas within a land development project that could be required to be reserved for future dedication for school site purposes under Subsection (b) above. Said fair market value shall be determined on the basis of the average value of developed sites for residential uses in the City as approved for development by the City, with curb, gutter, streets and utilities to the site, according to City engineering standards.

(Ord. No. 74, 1998, 5-19-98)

#### **Sec. 7.5-49. Appeals of amount of in-lieu fees.**

(a) Any property owner or developer may appeal to the City Manager, pursuant to the appeals procedure set forth in Article VI of Chapter 2 of this Code, and the specific requirements of Subsection (b) below, the amount of any in-lieu fee or any determination regarding the refund of a fee under the provisions of Subsection 7.5-50(c) below.

(b) In the event of an appeal of the amount of a fee, the feepayer shall, at his or her expense, prepare and submit to the City Manager an independent fee calculation study for the fee in question. The independent fee calculation study shall follow the criteria described in Subsection 7.5-48(d) above. The burden shall be on the feepayer to provide the City Manager all relevant data, analysis and reports which would assist the City Manager in determining whether the in-lieu fee should be adjusted. The City Manager shall modify the amount of a fee or refund of a fee only if there is substantial competent evidence in the record that the City erred, based upon the criteria contained in Subsection 7.5-48(d) above.

(Ord. No. 74, 1998, 5-19-98; Ord. No. 129, 2002, § 4, 9-17-02)

#### **Sec. 7.5-50. Use of funds by school district.**

(a) All in-lieu fees collected by the City on behalf of the school district shall be paid over to the school district quarterly, less a two-percent administrative fee. Upon receipt of the in-lieu fees from the City, the school district shall properly identify the fees and promptly deposit the fees into a trust fund to be established and held as a separate account by the school district. The school district shall be the owner of the funds in the account and shall comply with the provisions of Section 29-1-801 et. seq., C.R.S.

(b) The funds deposited into the account shall be earmarked and expended solely for the purposes of school site acquisition, expansion or development or for capital facilities planning. When expenditures from the account are made for the acquisition, expansion or development of elementary, middle school or junior high school sites, or for capital facilities planning related to such sites, such expenditures shall be made only for sites located within the senior high school feeder attendance area boundaries that include the land development project for which the payment was made. When expenditures from the account are made for the acquisition, expansion or development of high school sites, or for capital facilities planning related to such sites, the expenditures may be made for sites located anywhere within the City. Subject to the limitations contained in this Article, the time for, nature, method and extent of such planning or development shall be within the sole discretion of the school district.

(c) Any in-lieu fees which have not been expended by the school district for the purposes set forth in this Section within ten (10) years of the date of collection shall be refunded, with interest at the rate of six (6) percent per annum compounded annually, to the person(s) shown by the records of the Larimer County Assessor as being the then-current owner(s) of the property which was subject to the payment (the "property owner"), as of the ten-year anniver-

sary of the date of collection. Notice of such refund opportunity shall be mailed to the property owner's address as reflected in the records of the Larimer County Assessor at the end of the ten-year period. If the property owner does not file a written claim for such refund with the school district within ninety (90) days of the mailing of such notice, such refund shall be forfeited and shall revert to the school district to be utilized for future school site acquisition purposes within the City. The City Council may extend the ten-year expenditure deadline set forth herein upon the request of the school district for good cause shown and following public hearing.  
(Ord. No. 74, 1998, 5-19-98)

**Sec. 7.5-51. Annual audit and review by school district and City.**

(a) The school district and the City shall cause an audit to be performed annually of the in-lieu payments collected and expended in accordance with this Article. The audit shall be conducted in accordance with generally accepted accounting principles for governmental entities and may be a part of any general audit annually conducted by the school district. A copy of said audit shall be furnished to the City. The cost of the audit shall be paid from the school district's general fund.

(b) The City Council shall, at least every two (2) years, review and update, as necessary, the land dedication and in-lieu fee schedule requirements as set forth in the intergovernmental agreement. The City shall hold a public hearing before revising the dedication or in-lieu payment obligations imposed under the provisions of this Article.  
(Ord. No. 74, 1998, 5-19-98)

**Secs. 7.5-52—7.5-59. Reserved.**

**ARTICLE IV.  
FEES TO RECOVER DAMAGE TO INFRASTRUCTURE**

**DIVISION 1. GENERALLY**

**Sec. 7.5-60. Intent.**

The provisions of this Article are intended to impose certain fees to be collected at the time of issuance of various permits, in an amount calculated as shown herein, for the purpose of recovering costs expended by the City for the reduced life expectancy of City-owned and maintained infrastructure caused by the expected actions of the applicants for said permits in the course of completing their work. The imposition of said fees is intended to regulate the actions of permittees in limiting the damage sustained to such infrastructure, by keeping their damage-causing activities to a minimum. The revenues from said fees shall be added to funds of the City allocated for repairs, rehabilitation or replacement of the City-owned infrastructure, in order to provide for more frequent repair, rehabilitation and reconstruction necessitated by the reduction in life expectancy caused by the actions of the permittees.  
(Ord. No. 181, 1998, § 2, 10-20-98)

**Sec. 7.5-61. Fees.**

(a) A pavement impact fee will be assessed as follows:

<i>Square Feet of Excavation</i>	<i>Cost Per Square Foot</i>
1 to 100	\$3.85
101 to 500	2.75
501 to 3,000	2.20
Over 3,000	1.65

The pavement impact fee shall apply to open cuts of pavement surfaces for excavation only. Such fee shall not apply to pavement maintenance patches, excavations in advance of new pavement constructions, pavement reconstructions or pavement overlays. The City Engineer may reduce or waive the pavement impact fee in consideration of the permittee reconstructing or overlaying the existing pavement. The pavement impact fee established above will be tripled

for streets that have been constructed, reconstructed, overlaid or have received a sealcoat within the five (5) years immediately preceding the date of the application for the permit.

(b) A utility locate coring fee will be assessed at the rate of ten dollars (\$10.) per core. (Ord. No. 181, 1998, § 2, 10-20-98; Ord. No. 165, 2004, 11-16-04)

**Secs. 7.5-62—7.5-69. Reserved.**

**ARTICLE V.  
ACQUISITION AND DEVELOPMENT OF NEIGHBORHOOD PARKS\***

**Sec. 7.5-70. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section:

*Dwelling unit* shall mean one (1) or more rooms and a single kitchen designed for or occupied as a unit by one (1) family for living and cooking purposes located in a single-family or multi-family dwelling. In addition, each mobile home space, each fraternity house and each boarding or rooming house in the City shall be considered for the purposes of this Article to be a dwelling unit.

*Mobile home space* shall mean any place designed for the placement of a mobile home or trailer and improved with City utilities.

*Original permanent connection for utility service* shall mean the first time any dwelling unit is connected to any of the utilities furnished by the City not including temporary connections during a period of construction. If any existing structure is altered or changed to create more dwelling units than previously existed in such structure, then the time of connection of utility service to such additional dwelling units shall also be considered original permanent connection for utility service.

(Code 1972, § 82-1; Ord. No. 28, 1999, § 5, 3-2-99)

**Cross-reference**—Definitions and rules of construction generally, § 1-2.

**Sec. 7.5-71. Collection of neighborhood parkland fee.**

(a) Hereafter, payment of a neighborhood parkland fee in accordance with this Section shall be required as a condition of approval of all residential development for which a building permit is required, as those terms are defined in § 7.5-17 of this Code. The fees due for such development shall be payable by the feepayer to the Building Permits and Inspection Division Director prior to or at the time of issuance of the first building permit for the property to be developed, unless an agreement has been executed by the City which provides for a different time of payment. All such payments shall be deposited by the Financial Officer in the fund created in § 8-80. Only one (1) fee shall be charged for any dwelling unit. No additional fee for acquisition and development of neighborhood parks shall be charged for the same dwelling unit. If the building permit for which a fee has been paid has expired, and an application for a new building permit is thereafter filed, any amount previously paid for a capital expansion fee and not refunded by the City shall be credited against any additional amount due under the provisions of this Article at the time of application for the new building permit.

(b) The amount of the fee established in this Section shall be determined for each dwelling unit as follows:

700 sq. ft. and under	\$ 876.00
701 to 1,200 sq. ft.	1,240.00
1,201 to 1,700 sq. ft.	1,459.00
1,701 to 2,200 sq. ft.	1,677.00
2,201 sq. ft. and over	2,042.00

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\* **Cross-references**—Parks and Recreation Board, § 2-336, et seq.; neighborhood parkland fund, § 8-80; recreation fund created, § 8-83.

(c) If any such dwelling unit is contained within or constitutes an *affordable housing project* as defined in Chapter 26, Article IX of the Code, the fee established in this Section shall, upon the request of the applicant, be deferred until the date of issuance of a certificate of occupancy (whether temporary or permanent) for such unit(s) or until the first day of December of the year in which the deferral was obtained, whichever first occurs. Any person requesting such deferral shall, as a condition precedent to obtaining the deferral, secure the future payment of the deferred fee(s) by providing the City with a letter of credit or certificate of deposit in a form and amount acceptable to the City. At the time of application for any such deferral, the applicant shall pay to the City a fee in the amount of fifty dollars (\$50.) to partially defray the cost of administration. No person shall knowingly make any false or misleading statement of fact in order to obtain any deferral of fees under this Section.

(Code 1972, § 82-3; Ord. No. 82, 1993, § 1, 8-3-93; Ord. No. 66, 1994, § 1, 5-17-94; Ord. 63, 1995, § 1, 6-6-95; Ord. No. 51, § 4, 5-21-96; Ord. No. 105, 1996, §§ 2, 3, 9-3-96; Ord. No. 51, 1997, § 12, 3-18-97; Ord. No. 172, 1997, § 6, 11-4-97; Ord. No. 205, 1998, § 6, 11-17-98; Ord. No. 28, 1999, § 5, 3-2-99; Ord. No. 171, 1999, § 6, 11-16-99; Ord. No. 58, 2000, § 2, 6-6-00; Ord. No. 155, 2000, § 6, 11-7-00; Ord. No. 191, 2001, § 6, 11-20-01; Ord. No. 165, 2002, § 6, 11-19-02; Ord. No. 148, 2003, § 6, 11-18-03; Ord. No. 138, 2005, § 6, 11-15-05; Ord. No. 183, 2006 § 6, 11-21-06; Ord. 114, 2007, § 6, 11-20-07; Ord. No. 110, 2008, § 6, 10-21-08)

**Cross-reference**—Utilities, Ch. 26.

### **Sec. 7.5-72. Dedication of land in lieu of fee.**

In lieu of the payment of any fees required in this Article, an owner of lands may negotiate with the City for the dedication of lands to be used for neighborhood park purposes. If a satisfactory agreement is reached for the dedication of such lands, the price established for such lands may be credited on the fees to be charged under this Article and the agreement reached between the parties shall be set forth in writing and kept on file in the office of the City Clerk. Similarly, a credit on the fees to be charged under this Article may be given on account of the development of lands dedicated for neighborhood park purposes in such amount as may be negotiated for and agreed upon between the City and any developer. Nothing contained in this Section shall be construed to cancel or annul any agreement heretofore entered into by the City concerning the dedication of parkland and credits on fees of the type established by this Article, and all such agreements shall continue in full force and effect, and any credits remaining under such agreement shall apply toward the fee assessed by this Article.

(Code 1972, § 82-4; Ord. No. 51, § 4, 5-21-96; Ord. No. 28, 1999, § 5, 3-2-99)

### **Secs. 7.5-73—7.5-79. Reserved.**

## **ARTICLE VI. REGIONAL TRANSPORTATION CAPITAL IMPROVEMENT EXPANSION FEE DIVISION 1. GENERALLY**

### **Sec. 7.5-80. Intent.**

The provisions of this Article are intended to implement and be consistent with the master plans of the City including, without limitation, the Master Street Plan and the Larimer County Transportation Plan and the Larimer County Master Plan. This purpose is accomplished by the establishment of a system for the imposition of a regional transportation capital improvement expansion fee program to assure that new development contributes a proportionate share of the costs of providing, and benefits from the provision of, new capital improvements to the regional road system. The provisions of this Article are intended to be consistent with the principles for allocating the fair share of the costs of new public facilities to new users. The methods of calculating and imposing such requirements, as provided herein, are intended to ensure that new growth and development in the City bear a proportionate share of the costs of providing such improvements. It is anticipated that said requirements will only partially capture the governmental expenditures associated with improving the regional road system. The amount of revenue generated by said fee shall not exceed the cost of providing the real property acquisitions and the capital improvements for which they are imposed, and the same shall be expended solely to provide the specified new road capital improvements. The requirements provided for in this Article are based upon the technical data and conclusions contained in the Larimer County *Transportation Capital Expansion Fee and Park In-Lieu Fee Study*, a copy of which is on file in the Office of the City

Clerk. Funds collected from the fee imposed under the provisions of this Article shall not be used to remedy existing deficiencies, but only to provide the new facilities necessitated by new development.  
(Ord. No. 13, 2000, § 3, 2-15-00)

**Sec. 7.5-81. Definitions.**

When used in this Article, the following words and terms shall have the following meanings:

*Building permit* shall mean any development permit issued by the Building and Zoning Department before any building or construction activity is initiated on a parcel of land. *Building permit* does not include any permits for demolition, grading or the construction of a foundation.

*Capacity* shall mean the maximum number of vehicles which have a reasonable expectation of passing over a given section of a regional road in one (1) direction, or in both directions, during a given time period, under prevailing traffic conditions, expressed in terms of vehicles per day. *Capacity* is measured in this Article and the Larimer County *Transportation Capital Expansion Fee and Park In-Lieu Fee Study* during the weekday (Monday through Friday).

*County* shall mean Larimer County, Colorado.

*Existing traffic-generating development* shall mean the most intense use of land within the twelve (12) months prior to the time of commencement of traffic-generating development.

*Expansion* of the capacity of a regional road shall mean any widening, intersection improvement, signalization or other capital improvement designed to increase the existing regional road's capacity to carry vehicles.

*Fee Administrator* shall mean a person appointed by the City Manager to administer the fee program as provided in this Article.

*Feepayer* shall mean a person commencing traffic-generating development who is obligated to pay a regional transportation capital improvement expansion fee in accordance with the terms of this Article.

*Level of service (LOS)* shall mean a qualitative measure describing operational conditions, from "A" (best) to "F" (worst), within a traffic stream or at intersections, which is quantified for road segments by determination of a volume to capacity ratio (V/C), which is a measurement of the amount of capacity of a road which is being utilized by traffic. The maximum V/C for LOS "D" is 0.89.

*Non-site-related improvements* shall mean regional road capital improvements and right-of-way dedications for regional roads that are in the Regional Road CIP that are not site-related improvements.

*Participating local government* shall mean any municipality within Larimer County that has entered into an inter-governmental agreement with Larimer County to implement this regional transportation capital improvement expansion fee.

*Person* shall mean an individual, corporation, governmental agency or body, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest or any other entity.

*Regional road capital improvement* shall mean the transportation planning of, preliminary engineering, engineering design studies, land surveys, alignment studies, right-of-way acquisition, engineering, permitting and construction of all necessary features for any regional road on the Regional Road CIP, undertaken to accommodate additional traffic resulting from new traffic-generating development, including, but not limited to: (1) construction of new through lanes, (2) construction of new bridges, (3) construction of new drainage facilities in conjunction with new road construction, (4) purchase and installation of traffic signals, including new and upgraded signalization, (5) construction of curbs, gutters, sidewalks, medians and shoulders, (6) relocating utilities to accommodate new road construction, (7) the construction and reconstruction of intersections, (8) the widening of existing regional roads, (9) bus turnouts, (10) acceleration and deceleration lanes, (11) interchanges and (12) traffic control devices.

*Regional Road CIP* shall mean the twenty-year plan of expenditure developed by Larimer County for expanding those County-maintained arterial and collector roads in the unincorporated areas of the County that primarily serve traffic moving between cities.

*Regional road system* shall mean roadways identified by the participating local governments as major inter-urban travel corridors or as major corridors that connect urban areas to the interstate highway system, the Regional Road CIP, as shown on Figure 4 in the *Transportation Capital Expansion Fee and Park In-Lieu Fee Study*, a copy of which shall be maintained in the Office of the City Clerk.

*Site-related improvements* shall mean those road capital improvements and right-of-way dedications that provide direct access to the development. Direct access improvements are typically located within or adjacent to a development site and include, but are not limited to the following: (1) driveways and streets leading to and from the development; (2) right and left turn lanes leading to those driveways and streets; (3) traffic control measures for those driveways; and (4) internal streets. Credit is not provided for site-related improvements under the terms of this Article.

*Traffic-generating development* shall mean land development designed or intended to permit a use of the land that will contain or convert to more dwelling units or floor space than the most intensive use of the land within the twelve (12) months prior to the commencement of traffic-generating development in a manner that increases the generation of vehicular traffic.

*Traffic-generating development, commencement of* shall mean the point of approval of a site specific development (as that term is defined in Article 5 of the Land Use Code), or the issuance of a building permit, whichever occurs first after the effective date of this Division.

*Trip* shall mean a one-way movement of vehicular travel from an origin (one trip end) to a destination (the other trip end).

*Trip generation* shall mean the attraction or production of trips caused by a certain type of land development.

*Vehicle miles of travel (VMT)* shall mean the combination of the number of vehicles traveling during a given time period and the distance (miles) that they travel.  
(Ord. No. 13, 2000, § 3, 2-15-00)

## **Sec. 7.5-82. Imposition of fee.**

(a) *Time of fee payment.*

- (1) Any person or governmental body (unless exempted by intergovernmental agreement or ordinance of the City) who causes the commencement of traffic-generating development shall be obligated to pay a regional transportation capital improvement expansion fee, pursuant to the provisions of this Division. The fee shall be determined and paid to the Financial Officer at the time of issuance of a building permit for the development. If any credits are due pursuant to § 7.5-84, they shall also be determined at that time. The fee shall be computed separately for the amount of development covered by the permit, if the building permit is for less than the entire development. If the fee is imposed for a traffic-generating development that increases traffic impact because of a change in use, or the expansion of a use, the fee shall be determined by computing the difference in the fee schedule between the new traffic-generating development and the existing traffic-generating development. The obligation to pay the fee shall run with the land.
- (2) Any person who, prior to the effective date of this Article, agreed as a condition of development approval to pay a regional transportation capital improvement expansion fee shall be responsible for the payment of the fee under the terms of any such agreement.

(b) *Exemptions.* The following shall be exempt from the terms of this Division. An exemption must be claimed by the feepayer at the time of application for a building permit:

- (1) Alterations or expansions of existing buildings where no additional dwelling units are created, the use is not changed, and where no additional vehicular trips will be produced in excess of those produced by the existing use.
- (2) The construction of accessory buildings or structures which will not produce additional vehicular trips in excess of those produced by the principal building or use of the land.
- (3) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use, provided that no additional trips will be produced in excess of those produced by the original use of land.

(c) *Establishment of a fee schedule.*

- (1) Any person who causes the commencement of traffic-generating development, except those persons exempted or preparing an independent fee calculation study pursuant to § 7.5-83, shall pay a regional transportation capital improvement expansion fee in accordance with a fee schedule approved by the City Council by ordinance, a copy of which fee schedule shall be maintained in the Office of the City Clerk.
- (2) If a fee is to be paid for mixed uses, then the fee shall be determined according to the above-referenced schedule by apportioning the space committed to the uses specified on the schedule.
- (3) If the type of traffic-generating development for which a building permit is required is not specified on the fee schedule, the Fee Administrator shall determine the fee on the basis of the fee applicable to the most nearly comparable type of land use on the fee schedule. The Fee Administrator shall be guided in the selection of a comparable type of land use by:
  - a. Using trip generation rates contained in the most current edition of the report titled *Trip Generation* prepared by the Institute of Transportation Engineers (ITE), articles or reports appearing in the ITE Journal, or studies or reports done by the U.S. Department of Transportation or Colorado Department of Transportation, and applying the formula set forth in Subsection 7.5-83(b); or
  - b. Computing the fee by use of an independent fee calculation study as approved in Section 7.5-83.

(Ord. No. 13, 2000, § 3, 2-15-00)

**Sec. 7.5-83. Independent fee calculation study.**

(a) *General.*

- (1) The transportation capital improvement expansion fee may be computed by the use of an independent fee calculation study at the election of the feepayer. It also shall be used upon the request of the Fee Administrator for: (a) any proposed land development activity that is not listed on the fee schedule and is not comparable to any land use on the fee schedule, or (b) any proposed land development activity for which the Fee Administrator concludes the nature, timing or location of the proposed development make it likely to generate impacts costing substantially more to mitigate than the amount that would be generated by the use of the fee schedule.
- (2) The preparation of the independent fee calculation study shall be the responsibility of the electing party.
- (3) Any person who requests to perform an independent fee calculation study shall pay an application fee for administrative costs associated with the review and decision on such independent fee calculation study.

(b) *Formula.*

- (1) The independent fee calculation study for the regional transportation capital improvement expansion fee shall be calculated by the use of the following formula:

$$\text{FEE} = \text{VMT} \times \text{NETCOST}/\text{VMT}$$

WHERE:

VMT	=	ADT x %NEW x ATL /2
ADT	=	Number of average daily trips generated
%NEW	=	Percent new trips
ATL	=	Average trip length in miles on the regional road system
2	=	For the portion of the trip allocated to the new development (one trip)
NETCOST/VMT	=	Net cost per vehicle-mile of travel as calculated in the <i>Transportation Capital Expansion Fee and Park In-Lieu Fee Study</i>

- (2) The fee calculation shall be based on data, information or assumptions contained in this Division or in independent sources. Independent sources may be used only if:
- The independent source is an accepted standard source of transportation engineering or planning data or information;
  - The independent source is a local study on trip characteristics carried out by a qualified traffic planner or engineer pursuant to an accepted methodology of transportation planning or engineering; or
  - The percent new trips factor used in the independent fee calculation study is based on actual surveys prepared in Larimer County.

(c) *Procedure.*

- An independent fee calculation study shall be undertaken through the submission of an application. A feepayer may submit such an application. The Fee Administrator shall submit such an application for: (a) any proposed land development activity that is not one of those types listed on the fee schedule and that is not comparable to any land use on the fee schedule, or (b) any proposed land development activity for which it is concluded the nature, timing or location of the proposed development make it likely to generate impacts costing substantially more to mitigate than the amount that would be generated by the use of the fee schedule.
- Within ten (10) working days of receipt of an application for independent fee calculation study, the Fee Administrator shall determine if the application is complete. If the Fee Administrator determines that the application is not complete, a written statement specifying the deficiencies shall be sent by mail to the person submitting the application. The application shall be deemed complete if no deficiencies are specified. The Fee Administrator shall take no further action on the application until it is deemed complete.
- When the Fee Administrator determines the application is complete, the application shall be reviewed, and the Fee Administrator shall render a written decision in twenty (20) working days on whether the fee should be modified, and if so, what the amount should be, based on the standards in § 7.5-83.

(d) *Standards.* If, on the basis of generally recognized principles of impact analysis, it is determined that the data, information and assumptions used by the applicant to calculate the independent fee calculation study satisfies the requirements of this Section, the fee determined in the independent fee calculation study shall be deemed the fee due and owing for the proposed traffic-generating development. If the independent fee calculation study fails to satisfy the requirements of this Section, the fee applied shall be that fee established for the traffic-generating development in § 7.5-84.

(e) *Appeal of independent fee calculation study decision.*

- A feepayer affected by the administrative decision of the Fee Administrator on an independent fee calculation study may appeal such decision to the City Manager pursuant to the appeals procedure set forth in Article VI of Chapter 2 of this Code, and the specific requirements of Subparagraph (2), below.
- In making his or her decision, the City Manager shall apply the standards in this Section. If the City Manager reverses the decision of the Fee Administrator, the City Manager shall direct the Administrator to recalculate the fee in accordance with his or her findings.

(Ord. No. 13, 2000, § 3, 2-15-00; Ord. No. 129, § 5, 9-17-02)

**Sec. 7.5-84. Credits.**

(a) *General standards.*

- (1) Any person initiating traffic-generating development may apply for credit against a regional transportation capital improvement expansion fee otherwise due, up to but not exceeding the full obligation for the fee proposed to be paid pursuant to the provisions of this Division, for any contribution, payment, construction or dedication of land accepted or received by Larimer County for any non-site-related capital road improvements on the regional road system identified in the Regional Road CIP.
- (2) Credits for contributions, payments, construction or dedication of land for non-site-related capital road improvements on the regional road system identified in the Regional Road CIP shall run with the land and shall be transferable within the same development. Credits shall not be transferable to other developments for credit against the regional transportation capital improvement expansion fee(s) due for such development, or for credit against fees required to be paid for other public facilities. The credit shall not exceed the amount of the transportation capital improvement expansion fee due and payable for the proposed traffic-generating development.
- (3) Larimer County may enter into a capital contribution front-ending agreement with any person initiating traffic-generating development who proposes to construct roads or dedicate right-of-way for non-site-related capital road improvements on the regional road system identified in the Regional Road CIP. To the extent that the costs of road construction or the fair market value of the right-of-way dedication of these regional road capital improvements exceeds the obligation to pay transportation capital improvement expansion fees for which a credit is provided pursuant to this Section, the capital contribution front-ending agreement may provide proportionate and fair share reimbursement.

(b) *Credit against fees.* Credit shall be in an amount equal to the value of the contribution or payment at the time it is made, the costs of the road construction at the time of its completion or the fair market value of the land dedicated for right-of-way at the time of dedication.

(c) *Procedure for credit review.*

- (1) The determination of any credit shall be undertaken through the submission of an application for a credit agreement, which shall be submitted to the Fee Administrator.
- (2) The application for a credit agreement shall include the following information:
  - a. If the application involves a credit for any contribution or payment, the following documentation must be provided:
    1. A certified copy of the development approval in which the contribution was agreed;
    2. If payment has been made, proof of payment; or
    3. If payment has not been made, the proposed method of payment.
  - b. If the application involves construction:
    1. The proposed plan of the specific construction prepared and certified by a duly qualified and licensed Colorado professional engineer;
    2. The projected costs for the suggested improvement, which shall be based on local information for similar improvements, along with the construction timetable for the completion thereof. Such estimated cost shall include the cost of construction or reconstruction, the cost of all labor and materials, the cost of all lands, property, rights, easements and franchises acquired, costs of plans and specifications, surveys of estimates of costs and of revenues, costs of professional services and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction.
  - c. If the application involves credit for the dedication of land:
    1. A drawing and legal description of the land;
    2. The appraised fair market value of the land at the date a building permit is proposed to be issued for the traffic-generating land development activity, prepared by a professional real estate appraiser who is a

member of the Member Appraisal Institute (MAI) or who is a member of Senior Residential Appraisers (SRA), and if applicable, a certified copy of the development permit in which the land was agreed to be dedicated.

- (3) Within ten (10) working days of receipt of the application for a credit agreement, the Fee Administrator shall determine if the application is complete. If it is determined that the application is not complete, the Fee Administrator shall send a written statement to the applicant outlining the deficiencies. The Fee Administrator shall take no further action on the application until all deficiencies have been corrected or otherwise settled.
- (4) Once the Fee Administrator determines that the application is complete, it shall be reviewed within twenty (20) working days. The application shall be approved if it complies with the standards in § 7.5-84.
- (5) If the application is approved by the Fee Administrator, a credit agreement shall be prepared and signed by the applicant and the County. It shall specifically outline the contribution, payment, construction or land dedication, the time by which it shall be paid, completed or dedicated, and any extensions thereof, and the dollar credit the applicant shall receive, for the contribution, payment, construction or dedication.

(d) *Appeal of credit decision.* A feepayer affected by the decision of the Fee Administrator regarding credits may appeal such decision to the City Manager pursuant to the appeals procedure set forth in Article VI of Chapter 2 of this Code. In making his or her decision, the City Manager shall apply the standards in this Section. If the City Manager reverses the decision, the City Manager shall direct the Fee Administrator to readjust the credit in accordance with his or her findings.

(Ord. No. 13, 2000, § 3, 2-15-00; Ord. No. 129, 2002, § 6, 9-17-02)

#### **Sec. 7.5-85. Benefit districts.**

(a) *Establishment.* For the purpose of further ensuring that feepayers receive sufficient benefit for fees paid, all of the area within Larimer County is hereby designated as the Regional Transportation Capital Improvement Expansion Fee Benefit District (the "Benefit District"); provided, however, that the expenditure of fee revenues shall be made only for those regional road improvements approved by the City Council by ordinance or resolution, as provided in subsection (b) below.

(b) *Expenditure.* Transportation capital improvement expansion fee funds shall be spent within the Benefit District within which the traffic-generating development paying the fee is located. The expenditure of transportation capital improvement expansion fee funds collected within the City shall be limited to those regional road capital improvement projects included in the Regional Road CIP and approved by the City Council by ordinance or resolution, which projects shall be determined by the City Council to be of substantial benefit to the residents of the City. If, within any period of three (3) consecutive years from the date that the first transportation capital expansion fee revenues are forwarded to the County's Fee Administrator by the participating local governments, all of said participating local governments, including the City, have been unable to agree upon a plan for expenditure of such funds, all unexpended monies theretofore transmitted to the County's Regional Road Impact Fee Administrator shall be returned to the participating local governments, together with a proportionate share of the accrued interest on said funds. The City shall then refund any such funds received from the County to the feepayers, or their successors in interest (if the development subject to the fee has been sold by the feepayer), pursuant to the following procedures:

- (1) A refund application shall be submitted within one (1) year following the end of the seventh year from the date on which the building permit was issued on the proposed development. The refund application shall include the following information:
  - a. A copy of the dated receipt issued for payment of the fee;
  - b. A copy of the building permit; and
  - c. Evidence that the applicant is the successor in interest to the feepayer, if relevant.
- (2) Within ten (10) working days of receipt of the refund application, the Fee Administrator shall determine if it is complete. If the Fee Administrator determines the application is not complete, a written statement specifying

the deficiencies shall be forwarded by mail to the person submitting the application. Unless the deficiencies are corrected, the Fee Administrator shall take no further action on the refund application.

- (3) When the Fee Administrator determines the refund application is complete, it shall be reviewed within twenty (20) working days, and shall be approved if it is determined the feepayer has paid a fee which has not been spent within the period of time permitted under this Section. The refund shall include the fee paid plus interest earned on the fee.

(c) *Appeal of refund decision.* A feepayer affected by the Fee Administrator's decision regarding refunds may appeal such decision to the City Manager pursuant to the appeals procedure set forth in Article VI of Chapter 2 of this Code. In making his or her decision, the City Manager shall apply the standards in this Section. If the City Manager reverses the decision of the Fee Administrator, the City Manager shall direct the Administrator to readjust the refund in accordance with his or her findings.

(d) *Establishment of trust fund.* There is hereby established the Regional Transportation Capital Expansion Fee Trust Fund for the purpose of assuring that feepayers receive sufficient benefit for regional transportation expansion fees paid. All regional transportation capital improvement expansion fees collected by the Financial Officer pursuant to this Division shall be paid over to the County by the City, less a two-percent administration fee, on a quarterly basis; provided, however, that all such regional road impact fee revenues shall be held in an interest-bearing account by the City for one (1) year from the date of collection of the same before being forwarded, together with accrued interest thereon, to the Regional Impact Fee Administrator. Upon receipt, said fee revenues shall be forthwith deposited by the County into a Regional Transportation Capital Improvement Expansion Fee Trust Fund (the "Trust Fund"). Any proceeds in the 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 Trust Fund. Records of the Trust Fund accounts shall be available for public inspection in the County's Regional Road Impact Fee Administrator's office, during normal business hours. All monies within the Trust Fund shall be expended only as provided in this Article.

(Ord. No. 13, 2000, § 3, 2-15-00; Ord. No. 129, 2002, § 7, 9-17-02)

**Sec. 7.5-86. Refund of fees not spent.**

Any fees collected by the City and delivered to the County shall be returned by the County to the feepayer or the feepayer's successor in interest (if the development subject to the fee has been sold by the feepayer) if the fees have not been spent within seven (7) years from the date the building permit for the development was issued, along with the interest earned on the fee. Fees shall be deemed to be spent on the basis of the first fee collected shall be the first fee spent. The refund shall be administered by the County's Regional Road Impact Fee Administrator.

(Ord. No. 13, 2000, § 3, 2-15-00)

**Sec. 7.5-87. Review every three years.**

At least once every three (3) years, the Fee Administrator shall recommend to the City Manager whether any changes should be made to the regional transportation component of Larimer County's *Transportation Capital Expansion Fee and Park In-Lieu Fee Study*, the Regional Road CIP and this Division. For making this determination, the Fee Administrator shall consult with the Regional Road Impact Fee Administrator of the other participating local governments. The purpose of this review shall be to analyze the effects of inflation on actual costs, to assess potential changes in needs, to assess any changes in the characteristics of land uses and to ensure that the regional transportation capital expansion fees will not exceed a pro rata share. Before any modifications of this Division shall be effective they shall be approved by the Board of County Commissioners and the governing bodies of all participating local governments.

(Ord. No. 13, 2000, § 3, 2-15-00)

**Secs. 7.5-88—7.5-89. Reserved.**

**ARTICLE VII.**  
**PASSENGER FACILITY CHARGE**

**Sec. 7.5-90. Definitions.**

When used in this Article, the following words and terms shall have the following meanings:

*Airport* shall mean the area of the Fort Collins-Loveland Municipal Airport.

*Charge Effective Date* shall mean the date on which the passenger facility charge is effective as provided in § 7.5-92 of this Article.

*Enplaned passenger* shall mean a *domestic*, territorial or international revenue passenger enplaned at the Airport in a scheduled or nonscheduled aircraft in interstate, intrastate or foreign commerce, provided that *enplaned passenger* shall not include a passenger enplaning to a destination receiving essential air service compensation as provided by 14 C.F.R. 158.9 or a passenger both enplaning and deplaning at the Airport.

*FAA* shall mean the *Federal Aviation Administration*, Department of Transportation, United States of America.

*Fort Collins* or *City* shall mean the City of Fort Collins, a home rule municipal *corporation* created pursuant to Colorado state law.

*Manager* shall mean the Airport Manager for the Airport.

*Passenger facility charge* shall mean the charge imposed on enplaned passengers pursuant to Section 7.5-92 of this Article.

(Ord. No. 168, 2003, § 1, 12-16-03)

**Sec. 7.5-91. Findings and purpose.**

The City Council hereby makes the following findings:

- (1) The City, together with the City of Loveland, owns and controls that certain Airport and air navigation facility located in Larimer County, State of Colorado, and known as the Fort Collins-Loveland Municipal Airport (the "Airport").
- (2) The Airport promotes a strong economic base for the community; assists and encourages world trade opportunities; and is of vital importance to the health, safety and welfare of the State of Colorado.
- (3) The Airport is a commercial service airport as that phrase is defined in 14 C.F.R. Part 158, as adopted by the FAA, being a public airport enplaning two thousand five hundred (2,500) or more scheduled air passengers per year.
- (4) The deregulation of the airline industry, the restructuring of airline ownerships, and fluctuating market changes in the field of commercial aviation have placed new financial challenges on the City.
- (5) The operation of the Airport as a public facility attracting scheduled airline passenger service by airline carriers at the Airport imposes financial responsibility on the City for Airport facilities and operations.
- (6) The City will require substantial expenditure for capital investment, operation, maintenance and development of the Airport facilities to meet the future demand for passenger air travel.
- (7) The Congress of the United States has authorized the adoption of a passenger facility charge program by local airports pursuant to the Aviation Safety and Capacity Expansion Act of 1990 (pub. L. 101-508, Title IX, Subtitle B, November 5, 1990) (hereinafter the "Act").
- (8) It is in the City's best economic interest and in the interest of airline passengers that the City adopt a passenger facility charge program as identified in this Article to maintain and further expand the transportation facilities of the City.

(9) In establishing and implementing the passenger facility charge program, the passengers using the Airport should contribute to a greater degree toward the development of Airport facilities used by passengers and continued development thereof.

(10) The fees implemented by this Article are reasonable for the use of the Airport and aviation facilities by the general public.

(11) The purpose of this Article is to enact a passenger facility charge program consistent with the above findings, and this Article shall be liberally construed to effectuate the purpose expressed herein.

(Ord. No. 168, 2003, § 1, 12-16-03)

**Sec. 7.5-92. Imposition of passenger facility charge.**

(a) Commencing not later than the first day of the second month, thirty (30) days after the approval by the FAA of the City's passenger facility charge program authorized by this Article, or on such date thereafter as the passenger facility charge can be collected as determined by the Manager, there shall be imposed at the Airport a passenger facility charge of four dollars and fifty cents (\$4.50).

(b) The collection of the passenger facility charge authorized by this Article shall terminate on the date determined pursuant to regulations adopted by the FAA.

(c) The Manager or designee is authorized to execute the FAA application for authorization of the City's passenger facility charge program, including the assurances contained therein as well as all other documents necessary for implementation and operation of the passenger facility charge program on behalf of the City.

(Ord. No. 168, 2003, § 1, 12-16-03)

**Sec. 7.5-93. Eligible projects.**

The passenger facility charge collected pursuant to this program shall be expended only for projects approved by resolution of both the City Councils of Fort Collins and Loveland and determined by the FAA to be eligible under the Act and rules and regulations adopted by the FAA pursuant thereto.

(Ord. No. 168, 2003, § 1, 12-16-03)

**Sec. 7.5-94. Compliance with FAA requirements.**

The passenger facility charge authorized by this Article shall be collected and distributed pursuant to the rules and regulations adopted by the FAA pursuant to the Act.

(Ord. No. 168, 2003, § 1, 12-16-03)

**Sec. 7.5-95. Violations.**

In the event any airline or other entity violates any term or condition of this Article, the City may exercise any rights or remedies allowed by law or equity.

(Ord. No. 168, 2003, § 1, 12-16-03)

**Sec. 7.5-96. Savings clause.**

In the event any phrase, clause, sentence, paragraph or Section of this Article is declared invalid for any reason, the remainder of this Article shall not be invalidated but shall remain in full force and effect, all parts of this Article being declared separable and independent of all others. In the event that a judgment is entered, and all appeals exhausted, which judgment finds, concludes or declares this Article is unconstitutional or is otherwise invalid, the passenger facility charge authorized by this Article shall be suspended and terminated as of the date of declaration of unconstitutionality.

(Ord. No. 168, 2003, § 1, 12-16-03)

