

ARTICLE I

Impact Fees

Sec. 20-1-10. Findings.

A. The State Demographers Office projects that there will be a significant amount of new growth and development in the County over the next twenty (20) years, both County-wide and in the unincorporated area.

B. Projected new growth and development in the County will require a substantial expansion in roads, drainage infrastructure and County facilities if existing levels of service are to be maintained.

C. Under the current fiscal structure, additional revenues generated by the projected new growth and development in the County will not be adequate to fund the needed capital improvements necessary to accommodate the projected new growth and development if existing levels of service are to be maintained.

D. In order to address this problem, the Board of County Commissioners has determined that new land development activity shall bear a proportionate share of the cost of the provision of new road, drainage and County facilities capital improvements required by such development.

E. The Board of County Commissioners has determined that the imposition of road, drainage and County facilities impact fees are one of the preferred methods of regulating land development in order to ensure that new development bears a proportionate share of the costs of the capital improvements necessary to accommodate new development while at the same time maintaining the existing levels of service and promoting and protecting the public health, safety and welfare.

F. The Board of County Commissioners has the authority to adopt impact fees pursuant to the Colorado Constitution and Section 29-20-104.5, C.R.S.

G. In order to implement this policy, the County has adopted this Chapter, establishing road, drainage and County facilities impact fees.

H. The road, drainage, and County facilities impact fees assist in the implementation of, and are consistent with, the Comprehensive Plan found in Chapter 22 of this Code.

I. No individual landowner is required to provide any dedication or improvement unless credit against the appropriate impact fee is provided to meet the same need for capital facilities for which the road, drainage and County facilities impact fees are imposed pursuant to the terms of this Chapter. (Weld County Code Ordinance 2011-2)

Sec. 20-1-20. Short title, authority and application.

A. Title. This Chapter shall be known and may be cited as the "Weld County Impact Fee Ordinance."

B. Authority. The Board of County Commissioners has the authority to adopt this Chapter pursuant to the Colorado Constitution and Section 29-20-104.5, C.R.S.

C. Application. This Chapter shall apply to all lands within the unincorporated portion of the County.

D. Time of Collection. Collection of the impact fee imposed herein shall occur at the time of, or prior to, the issuance of a building permit, as allowed pursuant to Section 29-20-104.5(6), C.R.S. (Weld County Code Ordinance 2011-2)

Sec. 20-1-30. Intent and purpose.

A. Intent. This Chapter is intended to implement, and be consistent with, the Impact Fee Study prepared by Duncan Associates in October, 2010, or a subsequent, similar study, and the Comprehensive Plan found in Chapter 22 of this Code.

B. Purpose. The above-stated intent is accomplished in this Chapter by the establishment of a system for the imposition of impact fees to assure that new development contributes its proportionate share of the cost of providing, and benefits from the provision of, the capital improvements required to provide new development with the same level of service currently enjoyed by existing development. (Weld County Code Ordinance 2011-2)

Sec. 20-1-40. Rules of construction.

For the purpose of the administration and enforcement of this Chapter, unless otherwise stated in this Chapter, the following rules of construction shall apply:

A. In case of any difference of meaning or implication between the text of this Chapter and any caption, illustration, summary table or illustrative table, the text shall control.

B. The word *shall* is always mandatory and not discretionary and the word *may* is permissive.

C. Words used in the present tense shall include the future; and words used in the singular shall include the plural and the plural the singular, unless the context clearly indicates the contrary; use of the masculine gender shall include the feminine gender.

D. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions or events connected by the conjunction *and*, *or* or *either...or*, the conjunction shall be interpreted as follows:

1. *And* indicates that all the connected terms, conditions, provisions or events shall apply.

2. *Or* indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

3. *Either...or* indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

E. The word *includes* shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

F. All time periods contained within this Chapter shall be calculated on a calendar-day basis, including Sundays and legal holidays, but excluding the date of the decision in the event of an appeal. In the event the due date falls on a Sunday or legal holiday, the due date shall be extended to the next business day. (Weld County Code Ordinance 2011-2)

Sec. 20-1-50. Definitions.

Certain words or phrases unique to this Chapter shall be construed as herein set out unless it is apparent from the context that they have a different meaning.

Agricultural commercial means, for the purposes of this Chapter: (1) agricultural processing facilities for produce or livestock; (2) intensive, factory-style production of animals or animal products; or (3) commercial uses serving the agricultural sector (but does not include office uses). Typical uses include feedlots, dairies, factory farms, sales of agricultural equipment or supplies, commercial agricultural storage facilities, agri-entertainment facilities (i.e., roping arena, corn mazes, etc.) and similar uses.

Building permit means a building permit issued in accordance with Chapter 29 of this Code before any building or construction activity can be initiated on a parcel of land.

Commencement of development occurs upon the issuance of a building permit or, if a building permit is not required for the development, upon the approval for any development application that is the last application required prior to development or use of land.

Commercial as defined in accordance with Section 23-1-90 of this Code.

Dairy as defined in accordance with Section 23-1-90 of this Code.

Director means the Director of the Department of Planning Services.

Fee payer means a person commencing development who is obligated to pay an impact fee in accordance with the terms of this Chapter.

Hotel/motel as defined in accordance with Section 23-1-90 of this Code.

Impervious cover means the horizontal square footage of the parcel, or the portion of the parcel attributable to the construction covered by the building permit, covered with roofs, driveways, sidewalks, patios, swimming pools and other surface treatments that prevent the soil from absorbing rainfall.

Institutional/quasi-public means a governmental, quasi-public or institutional use or a nonprofit recreational use not located in a shopping center. Typical uses include elementary, secondary or higher educational establishments, day care centers, hospitals, mental institutions, nursing homes, assisted living facilities, fire stations, city halls, county court houses, post offices, jails, libraries, museums, places of religious worship, military bases, airports, bus stations, fraternal lodges, parks and playgrounds.

Kennel as defined in accordance with Section 23-1-90 of this Code.

Manufacturing/industrial means an establishment primarily engaged in the fabrication, assembly or processing of goods. Typical uses include laboratories, manufacturing plants, welding shops, wholesale bakeries, dry cleaning plants, bottling works and similar uses.

Mini-warehouse means an enclosed storage facility containing independent, fully enclosed bays that are leased to persons for storage of their household goods or personal property.

Mobile home as defined in accordance with Section 23-1-90 of this Code.

Mobile home park as defined in accordance with Section 23-1-90 of this Code.

Office as defined in accordance with Section 23-1-90 of this Code, but for the purpose of this Chapter, the term shall be deemed to exclude any use within a shopping center, and to include such uses as real estate, insurance, property management, investment, employment, travel, advertising, secretarial, data processing, photocopy and reproduction, telephone answering, telephone marketing, music, radio and television recording and broadcasting studios; professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions; interior decorating consulting services; medical and dental offices and clinics, including veterinarian clinics and kennels; and business offices of private companies, utility companies, trade associations, unions and nonprofit organizations and similar uses.

Person means 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.

Road capital improvement means the transportation planning, preliminary engineering, engineering design studies, land surveys, alignment studies, right-of-way acquisition, engineering, permitting and construction of all necessary features for any County arterial or collector road, undertaken to accommodate additional traffic resulting from new development, excluding site-related improvements and including but not limited to the following:

- a. Construction of new through-lanes;
- b. Construction of new bridges;
- c. Construction of new drainage facilities in conjunction with new road construction, excluding the installation of culverts, which are accounted for in the drainage impact fee;
- d. Purchase and installation of traffic signals, including new and upgraded signalization;
- e. Construction of curbs, gutters, sidewalks, medians and shoulders;
- f. Relocating utilities to accommodate new road construction;
- g. The construction and reconstruction of intersections;
- h. The widening of existing roads;
- i. Bus turnouts;
- j. Acceleration and deceleration lanes;

- k. Interchanges;
- l. Traffic control devices; and
- m. Construction of gravel to paved road.

Shopping center/commercial means establishments engaged in the selling or rental of goods, services or entertainment to the general public. Such uses include, but are not limited to, shopping centers, discount stores, supermarkets, home improvement stores, pharmacies, automobile sales and service, banks, movie theaters, amusement arcades, bowling alleys, barber shops, laundromats, funeral homes, vocational or technical schools, dance studios, health clubs and golf courses.

Single-family detached means a single dwelling unit on an individual lot unattached to any other dwelling unit, including a manufactured home or a mobile home not located in a mobile home park.

Site-related road improvement means those road improvements that provide direct access to the development, and are needed directly by the development. Direct access improvements include, but are not limited to, the following:

- a. Driveways and roads providing direct access to and egress from the development;
- b. Right- and left-turn lanes leading to those driveways and roads;
- c. Traffic control measures for those driveways and roads; and
- d. Internal streets.

Square feet means a measurement of one (1) foot by one (1) foot. For the purpose of assessing road and County facilities impact fees, it is calculated by using the gross floor area of a building, measured from the exterior faces of exterior walls, excluding areas within the interior of a building that are utilized for vehicular maneuvering and parking. Structures without roofs or walls shall not be deemed to have square footage under the terms of this Chapter for the purpose of assessing road and County facilities impact fees.

Warehouse means an establishment primarily engaged in the display, storage and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment. Typical uses include wholesale distributors, storage warehouses, moving and storage firms, trucking and shipping operations and major mail processing centers. (Weld County Code Ordinance 2011-2)

Sec. 20-1-60. Imposition of fee.

A. Obligation to pay fees. Any person or governmental body who causes the commencement of development within unincorporated Weld County shall be obligated to pay impact fees, pursuant to the terms of this Chapter. The obligation to pay the fee shall run with the land.

B. Fee schedules. Any person who causes the commencement of development, except those persons exempted or preparing an Independent Fee Calculation Study pursuant to Section 20-1-80 below, shall pay impact fees in accordance with the fee schedules below, which will be adjusted annually for inflation.

Road Impact Fee Schedule

<i>Land Use Type</i>	<i>Unit</i>	<i>Fee per Unit</i>
Single-family detached	Dwelling	\$2,269.00
Multi-family	Dwelling	\$1,486.00
Mobile home park	Pad	\$1,392.00
Hotel/motel	Room	\$1,311.00
Shopping center/commercial	1,000 sq. ft.	\$3,146.00
Office	1,000 sq. ft.	\$2,075.00
Institutional/quasi-public	1,000 sq. ft.	\$1,074.00
Manufacturing/industrial	1,000 sq. ft.	\$2,043.00
Warehouse	1,000 sq. ft.	\$1,041.00
Mini-warehouse	1,000 sq. ft.	\$434.00
Agricultural commercial	1,000 sq. ft.	\$664.00

County Facilities Impact Fee Schedule

<i>Land Use Type</i>	<i>Unit</i>	<i>Fee per Unit</i>
Single-family detached	Dwelling	\$636.00
Multi-family	Dwelling	\$472.00
Mobile home park	Pad	\$642.00
Hotel/motel	Room	\$290.00
Shopping center/commercial	1,000 sq. ft.	\$608.00
Office	1,000 sq. ft.	\$302.00
Institutional/quasi-public	1,000 sq. ft.	\$188.00
Manufacturing/industrial	1,000 sq. ft.	\$152.00
Warehouse	1,000 sq. ft.	\$68.00
Mini-warehouse	1,000 sq. ft.	\$54.00
Agricultural commercial	1,000 sq. ft.	\$128.00

Drainage Impact Fee Schedule

<i>Land Use Type</i>	<i>Unit</i>	<i>Fee per Unit</i>
All land uses	Sq. ft. of impervious cover *	\$0.10

* The impervious area of streets or driveways within the public right-of-way adjacent to the parcel shall be included up to the centerline of the street. Gravel roads and driveways shall be counted as 50% impervious.

C. Inflation adjustment. On or before April 1st of each calendar year, the Board of County Commissioners shall consider adjusting each fee amount in this Section by the rate of inflation. The *rate of inflation* shall mean the percentage change from the prior calendar year in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder-Greeley, all items, all urban consumers or its

successor index. Fee changes resulting from an inflation adjustment shall take effect April 1, of each year.

D. Fee payment. The fee shall be determined and paid to the Department of Planning Services at the time of issuance of a building permit for the development, or if a building permit is not required for the development use, upon the County's approval of any development or use that is the last application required prior to development or use of the land. The fee shall be computed separately for the amount of construction activity covered by the permit if the building permit is for less than the entire development. More specifically, impact fees for roads and County facilities will be assessed on new buildings or expansion of buildings, except as described in Subsection E. below, or unless there is an Independent Fee Calculation Study. Drainage fees are assessed on square feet of impervious cover, whether buildings or otherwise.

E. Redevelopment or change of use. If the fee is imposed for a development that increases impact because of a redevelopment, replacement or change in use, the fee shall be determined by computing the difference in the fee schedule between the new development and the previously existing development, defined as the most intensive use of the property on or after January 1, 2002.

F. Credits. The amount of impact fees due shall be reduced by the amount of any credits due pursuant to Section 20-1-90 below.

G. Any person who, prior to the effective date of this Chapter and as a condition of development approval, agreed to pay the types of impact fees required herein, shall be responsible for the payment of the fees under the terms of any such agreement. To the extent that such payments are for the same types of facilities covered by the impact fees imposed by this Chapter, credit shall be provided for such payments pursuant to Section 20-1-90.

H. Administrative appeal. The administrative decision of the Planning Department calculating the fees in accordance with the fee schedule may be appealed to the Director by filing with the Director, within ten (10) days of the date of the written decision, a written position statement stating and specifying briefly the grounds of the appeal. The only grounds for administrative appeal to the Director is an appeal of the Land Use Type. The Director shall then have power to affirm or modify the decision of the Department. The Director shall make written findings of fact and conclusions of law, and apply the definitions of the land use categories in this Chapter and the provisions of this Section. The applicant may appeal the decision of the Director to the Board of County Commissioners according to the appeal procedures set forth in Section 2-4-10 of this Code. Upon receipt of either the Director's or Board of County Commissioners' decision, the applicant may then conduct an Independent Fee Calculation Study as further described in Section 20-1-80 below. (Weld County Code Ordinance 2011-2)

Sec. 20-1-70. Exemptions.

The following shall be exempt from the terms of this Chapter. An exemption must be claimed by the fee payer at the time of issuance of a building permit. The Director shall determine the validity of any claim for exemption.

A. Any residential remodeling, enlargement, addition, replacement or construction of accessory structures that does not result in the creation of any additional dwelling units, shall be exempt from road and County facilities impact fees, but not drainage impact fees.

B. Any development for which a completed application for a building permit was submitted prior to the effective date of the Weld County Impact Fee Ordinance, provided that the construction

proceeds according to the provisions of the permit and the permit does not expire prior to the completion of the construction.

C. Projects built by the federal government and the State. (Weld County Code Ordinance 2011-2)

Sec. 20-1-80. Independent fee calculation.

A. The intent of an Independent Fee Calculation Study is to determine appropriate impact fees for land uses that are not typical of the generalized land uses listed in the impact fee schedules. It shall not be grounds for an independent fee calculation that the initial occupant of the development will not generate as much impact as is assumed by the fee schedules, but that unique and permanent features of the development will result in lower impacts over the long term.

B. The impact fee may be computed by the use of an Independent Fee Calculation Study at the election of the fee payer, if the applicant believes it can be demonstrated. The nature of the proposed development makes it likely that the impacts generated will cost substantially less to mitigate than the amount of the fee that would be generated by the use of the fee schedule.

C. The preparation of the Independent Fee Calculation Study shall be the sole responsibility and expense of the electing party.

D. Any person who requests an Independent Fee Calculation Study shall pay an application fee for administrative costs associated with the review and decision on such study; the fee for this review is cited in Chapter 5, Appendix D of this Code.

E. Independent Fee Calculation Study requirements.

1. An Independent Fee Calculation Study for road impact fees shall provide independent sources of data for determining appropriate trip generation rate, new trip factor and average length of a trip on the County's arterial and collector road system. The Independent Fee Calculation Study shall provide independent data not used in the impact fee study for all three (3) of these travel demand characteristics. The independent sources shall be (1) an accepted standard source of transportation engineering or planning data or (2) a local study on travel demand characteristics carried out by a qualified traffic planner or engineer pursuant to an accepted methodology of transportation planning or engineering.

2. An Independent Fee Calculation Study for County facilities impact fees shall provide independent sources of data for determining appropriate functional population per development unit for the proposed development, using the methodology set forth in the impact fee study.

3. An Independent Fee Calculation Study for drainage impact fees shall provide independent sources of data for determining appropriate measures of impervious cover to be added by the proposed development.

F. Procedures.

1. An Independent Fee Calculation Study shall be undertaken through the submission of an application for an independent fee calculation.

2. Within ten (10) days of receipt of an application for Independent Fee Calculation Study, the Director shall determine if the application is complete. If the Director 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 Director shall take no further action on the application until it is deemed complete.

3. When the Director determines that the application is complete, the application shall be reviewed by the Director with the assistance of the Department of Public Works staff, and the Director shall render a written decision in forty-five (45) days on whether the fee should be modified and, if so, what the amount should be, based upon the standards below.

G. 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 that the Independent Fee Calculation Study satisfy 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. The adjustment shall be set forth in a fee agreement. If the Independent Fee Calculation Study fails to satisfy the requirements of this Section, the fee applied shall be that fee established for the development in the fee schedule.

H. Appeal of Independent Fee Calculation Study decision. A fee payer affected by the administrative decision of the Director on an Independent Fee Calculation Study may appeal such decision to the Board of County Commissioners, by filing with the Director within ten (10) days of the date of the written decision a written notice stating and specifying briefly the grounds of the appeal. The Board of County Commissioners, after hearing, shall have the power to affirm or reverse the decision of the Director. In making its decision, the Board of County Commissioners shall make written findings of fact and conclusions of law, and apply the standards in this Section. If the Board of County Commissioners reverses the decision of the Director, it shall instruct the Director to recalculate the fee in accordance with its findings. In no case shall the Board of County Commissioners have the authority to negotiate the amount of the fee or waive the fee. The decision of the Board of County Commissioners shall be final and not subject to further administrative appeal. (Weld County Code Ordinance 2011-2)

Sec. 20-1-90. Credits.

A. Any person commencing development may apply for credit against impact fees otherwise due, up to but not exceeding the full obligation for impact fees proposed to be paid pursuant to the provisions of this Chapter, for any contributions, construction or dedication of land accepted or received by the County for capital improvements of the same type as are eligible for expenditure of the impact fees.

B. Credits for contributions, construction or dedication of land for eligible improvements may be transferable within the same development, but shall not be used to offset impact fees for other types of public facilities. The credit shall not exceed the amount of the impact fees due and payable for the proposed development.

C. The County may enter into a Capital Contribution Front End Agreement with any person commencing development who proposes to construct eligible capital improvements. To the extent that the fair market value of the construction of these capital improvements exceeds the obligation to pay impact fees for which a credit is provided pursuant to this Section, the Capital Contribution Front End Agreement shall provide proportionate and fair-share reimbursement for such excess contribution.

D. The credit agreement shall be completed in accordance with an improvements agreement prior to recording the final plat associated with the parcels created.

E. Credit shall be in an amount equal to fair market value of the land dedicated for right-of-way at the time of dedication, the fair market value of the construction at the time of its completion or the value of the contribution or payment at the time it is made.

F. The determination of any credit shall be undertaken through the submission of an application for credit agreement, which shall be submitted to the Director at the time of final platting. The application for a credit agreement shall include the following information:

1. If the proposed application involves a credit for any contribution, the following documentation must be provided.

- a. A certified copy of the development approval in which the contribution was agreed.
- b. If payment has been made, proof of payment.
- c. If payment has not been made, the proposed method of payment.
- d. Weld County Improvements Agreement, if applicable.

2. If the proposed application involves credit for the dedication of land, the following documentation must be provided.

- a. A drawing and description of the land submitted by a Professional Land Surveyor (PLS).
- b. The appraised fair market value of the land, or the appraised value of the land as shown on the County Assessor's records on, or prior to, the date a building permit application is proposed to be issued for the traffic-generating land development activity, prepared by a Certified General Appraiser, if applicable, a certified copy of the development permit in which the land was agreed to be dedicated. If the County disagrees with the appraisal, the County shall pay for an independent appraisal. If the County and the land owner still disagree on the value of the land, the property shall be appraised by a third appraiser chosen by the land owner's appraiser and the County's appraiser. The third appraisal shall be binding on both parties, and the cost of the appraisal shall be split evenly.

3. If the proposed application for credit agreement involves construction, the following documentation must be provided:

- a. The proposed plan of the specific construction prepared and certified by a duly qualified and licensed Colorado engineer or contractor, in accordance with County standards and specifications.
- b. 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, financing charges, interest prior to and during construction and for one (1) year after completion of construction, 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.

G. Within ten (10) days of receipt of the proposed application for credit agreement, the Director shall determine if the application is complete. If it is determined that the proposed agreement is not complete, the Director shall send a written statement to the applicant outlining the deficiencies. The Director shall take no further action on the proposed application for credit agreement until all deficiencies have been corrected or otherwise settled.

1. Once the Director determines that the proposed application for credit agreement is complete, it shall be reviewed within thirty (30) days. The application for credit agreement shall be approved if it complies with the standards above.

2. If the application for credit agreement is approved by the Director, 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 completed, dedicated or paid, and any extensions thereof, and the dollar credit the applicant shall receive for the contribution, payment or construction.

H. A fee payer affected by the decision of the Director regarding credits may appeal such decision to the Board of County Commissioners by filing with the Director, within ten (10) days of the date of the written decision, a written notice stating and specifying briefly the grounds of the appeal. The Board of County Commissioners, after a hearing, shall affirm or reverse the decision of the Director based on the standards in this Section. If the Board of County Commissioners reverses the decision, it shall direct the Director to readjust the credit in accordance with its findings. The decision of the Board of County Commissioners shall be final and not subject to further administrative appeal. (Weld County Code Ordinance 2011-2)

Sec. 20-1-100. Use of funds.

A. Benefit districts. For the purpose of further ensuring fee payers receive sufficient benefit for fees paid, impact fees collected shall be earmarked to be spent on the type of facility for which the fee was collected, and in the same benefit district in which the fees were collected. The benefit districts shall be configured as follows:

1. Road impact fees will have four (4) benefit districts, defined as the portion of the unincorporated area located within the following boundaries:

a. Benefit District 1 is the area west of U.S. Highway 85 and north of U.S. Highway 34 and U.S. Highway 34 Bypass.

b. Benefit District 2 is the area east of U.S. Highway 85 and north of U.S. Highway 34.

c. Benefit District 3 is the area west of U.S. Highway 85 and south of U.S. Highway 34.

d. Benefit District 4 is the area east of U.S. Highway 85 and south of U.S. Highway 34.

2. County facilities impact fees will have one (1) benefit district, defined as the entire area of the County.

3. Drainage impact fees will have one (1) benefit district, defined as the unincorporated area of the County.

B. Accounting. All impact fees collected by the County shall be immediately deposited into an interest-bearing account in the appropriate impact fee fund. The County shall record the name and address of each fee payer, the date and amount of impact fees paid, and the benefit district, if applicable. All income derived from these investments shall be retained in the appropriate benefit district fund and spent according to the same requirements as the impact fee funds themselves. Record of each fund account shall be available for public inspection.

C. Eligible expenditures. Impact fee funds shall only be spent on capital improvements that expand the capacity of County facilities to accommodate growth. Impact fees shall not be used for operations and maintenance purposes or for the rehabilitation or replacement of existing facilities, provided that if existing facilities are replaced with facilities that have additional capacity, impact fees can be used to fund the portion of the project related to the capacity expansion.

1. Road impact fee funds from each benefit district shall only be spent on road capital improvements, as that term is defined in this Chapter. Said road capital improvements shall be located within the boundaries of the same benefit district, unless the Board of County Commissioners makes specific findings that a project located outside the benefit district will provide substantial benefit to development within the benefit district.

2. County facilities impact fee funds shall only be spent on the construction or enlargement of County-owned facilities, excluding emergency medical services, roads or drainage facilities, for the purpose of providing additional capacity to accommodate growth in the County.

3. Drainage impact fee funds shall only be spent on capital improvements in the unincorporated area that will expand the capacity of County drainage facilities to accommodate stormwater flows.

D. Annual recommendation for fee expenditure. Each year, at the time the annual budget is reviewed, the Department of Public Works shall recommend appropriations to be spent from the impact fee funds to the Board of County Commissioners. After review of the recommendation, the Board of County Commissioners shall approve or modify the recommended expenditures of the fund monies. Any amounts not appropriated from the impact fee funds, together with any interest earnings, shall be carried over to the following fiscal period. (Weld County Code Ordinance 2011-2)

Sec. 20-1-110. Refund of fees.

A. Any fees collected shall be returned to the fee payer or the fee payer's successor in interest if the fees have not been spent within ten (10) years from the date the building permit for the development was issued. Fees shall be deemed to be spent on the basis of the first fee collected shall be the first fee spent. The refund of fees not spent shall be administered by the Director, and shall be undertaken through the following process:

1. A refund application shall be submitted within one (1) year following the end of the tenth year from the date on which the building permit was issued on the proposed development. The refund application shall include evidence of payment of the fee, a copy of the building permit and evidence that the applicant is the successor in interest to the fee payer.

2. Within ten (10) days of receipt of the refund application, the Director shall determine if it is complete. If the Director determines the refund 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 Director shall take no further action on the refund application.

3. When the Director determines that the refund application is complete, it shall be reviewed within thirty (30) days, and shall be approved if it is determined the fee payer or a successor in interest 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 any interest earned.

B. Any fees collected may be refunded to the fee payer if no work has been done under a building permit issued in accordance with Chapter 29 of this Code. The Director shall not authorize the refunding of any fees collected except upon written application for such refund filed by the original fee payer not later than one hundred eighty (180) days after the date of the fee collection.

C. A fee payer affected by a decision of the Director on a refund may appeal such decision to the Board of County Commissioners by filing with the Director, within ten (10) days of the date of the written decision, a written notice stating and specifying briefly the grounds of the appeal. The Board of County Commissioners, after a hearing, shall affirm or reverse the decision of the Director based on the standards in this Section. If the Board of County Commissioners reverses the decision of the Director, it shall direct the Director to readjust the refund in accordance with its findings. In no case shall the Board of County Commissioners have the authority to negotiate the amount of the refund. The decision of the Board of County Commissioners shall be final and not subject to further administrative appeal. (Weld County Code Ordinance 2011-2)

Sec. 20-1-120. Periodic review.

At least once every five (5) years, the Director shall recommend to the Board of County Commissioners whether any changes should be made to the Impact Fee Study and the Weld County Road Impact Fee Ordinance. The purpose of this review is to analyze changes in actual costs, to assess potential changes in needs, to assess any changes in the characteristics of land uses, and to ensure that the impact fees will not exceed a proportionate share of the capital costs attributable to growth. (Weld County Code Ordinance 2011-2)