

ORDINANCE NO. 049, 2017  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTERS 7.5, 8 AND 24 OF THE CODE OF THE CITY OF FORT  
COLLINS CONCERNING REVISIONS TO TERMINOLOGY AND DECREASES AND  
PHASED INCREASES OF THE CAPITAL EXPANSION FEES AND AMENDING  
SECTION 3.3.2(G) OF THE LAND USE CODE TO REVISE RELATED TERMINOLOGY

WHEREAS, the City is a home rule municipality having the full right of self-government in local and municipal matters under the provisions of Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, among the home rule powers of the City is the power to regulate, as a matter of purely local concern, the development of real property within the City and establish impact fees for such development; and

WHEREAS, the City Council has determined that new development should contribute its proportionate share of providing the capital improvements that are typically funded with impact fees; and

WHEREAS, the City Council has broad legislative discretion in determining the appropriate funding mechanisms for financing the construction of public facilities in the City; and

WHEREAS, in early 2016, City staff initiated a comprehensive review of its various impact fees now charged to new development, including its community parkland, neighborhood parkland, police, fire protection, general government and street oversizing capital improvement expansion fees (collectively, "Capital Expansion Fees"); and

WHEREAS, as a result of that review, the City commissioned an impact fee study for the community parkland, neighborhood parkland, police, fire protection and general government capital improvement expansion fees that has resulted in the "Capital Expansion Fee Study" dated August 2016, which has identified the need to increase such Capital Expansion Fees by various amounts; and

WHEREAS, the City also commissioned an impact fee study for the street oversizing capital improvement expansion fee that has resulted in the "Transportation Capital Expansion Fee Study" dated April 2017, which has also identified the need to increase and decrease the street oversizing capital improvement expansion fees by various amounts depending on the type of development proposed; and

WHEREAS, City Council has nevertheless decided to only increase, beginning on October 1, 2017, the Capital Expansion Fees to seventy-five percent (75%) of the amounts recommended in the Capital Expansion Fee Study and the Transportation Expansion Fee to the lesser amount recommended in the Transportation Capital Expansion Fee Study; and

WHEREAS, the City Manager is directed to form a working-group of City staff and community stakeholders to review the Studies, to consider any future changes to the City's Capital Expansion Fees based on the Studies, and to present the recommendations of that working-group to the Council with any such proposed changes; and

WHEREAS, the City Council has also decided to appoint a member of City Council to act as a liaison for communications between the City Manager and his working-group and this Council; and

WHEREAS, in addition, some of the terminology used in Chapters 7.5, 8, and 24, and used in Section 3.3.2(G) of the Land Use Code, is also being revised; and

WHEREAS, for the foregoing reasons, the City Council has determined that it is in the best interest of the City and its citizens and necessary for the protection of the public's health, safety and welfare, that the Capital Expansion Fees be decreased and increased as hereafter provided.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the title of Section 7.5, Article II is hereby amended to read as follows:

## ARTICLE II. - CAPITAL EXPANSION FEES

Section 3. That Section 7.5-16 of the Code of the City of Fort Collins is hereby amended to read as follows:

### **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 development 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 parkland, police, fire protection, general government, neighborhood parkland 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 Expansion Fee Study*, dated August 2016, as amended; the City's *Transportation Capital Expansion Fee Study* dated April 2017, 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.

Section 4. That Section 7.5-17 of the Code of the City of Fort Collins is amended to read as follows:

**Sec. 7.5-17. Definitions**

...

*Capital expansion fee(s)* shall mean individually and collectively the fees established in §§ 7.5-28, 7.5-29, 7.5-30, 7.5-31, 7.5-32 and 7.5-71.

*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 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.

...

*Transportation expansion fee* shall mean the fee established in § 7.5-32.

*Transportation improvements* shall mean those capital improvements needed to construct arterial or collector streets as shown in the City's adopted Master Street Plan, as amended, shall include, without limitation, the following capital improvements as described in said Master Street Plan or as described in the City's adopted Bicycle Master Plan and Pedestrian Master Plan, as these plans may be hereafter amended: 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 feepayers. However, *transportation improvements* shall not include the local street portion and related capital improvements required for a developed parcel under this Code and the Land Use Code.

Section 5. That Section 7.5-18 of the Code of the City of Fort Collins is hereby amended to read as follows:

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

For each category of capital improvements for which a capital expansion fee is established under the provisions of this Article, the amount of each such capital 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 transportation expansion fee shall be determined on the basis of square footage for residential development and based on type of use for other developments. The amount of each capital expansion fee, except for the transportation expansion fee, will be increased or decreased annually according to the Denver-Boulder Consumer Price Index for Urban Consumers, as published by the Bureau of Labor Statistics. The amount of the transportation expansion fee will be increased or decreased annually according to the Engineering News Record Denver Regional Construction Cost Index. In addition, the methodologies used to set each fee shall be reviewed and compared to the City's actual infrastructure costs at least once every five (5) years, and adjustments made in accordance with such review and with the provisions of § 7.5-16.

Section 6. That Section 7.5-19 of the Code of the City of Fort Collins is hereby amended to read as follows:

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

- (a) 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 the City's *Capital Expansion Fee Study*, dated August 2016, as amended; and the City's *Transportation Capital Expansion Fee Study* dated April 2017, as amended. Said fees shall be determined based upon the rate applicable at the time of submission of a completed building permit application. The fees due for such development shall be payable by the feepayer to the Building Official 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 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.

...

Section 7. That Section 7.5-20 of the Code of the City of Fort Collins is hereby amended to read as follows:

**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 transportation expansion fee, for any capital improvement other than a transportation improvement, unless otherwise agreed to by the City.

...

(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 transportation expansion 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.

...

Section 8. That Section 7.5-22 of the Code of the City of Fort Collins is hereby amended to read as follows:

**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 transportation 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, planning, design, surveying, permitting and engineering costs; the cost of purchasing or leasing real property; construction costs; other capital improvement costs; and the costs of administering the collection and expenditure of the fees. 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 transportation expansion fee, any capital improvement other than a transportation 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 and constructed 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 expansion fee is charged. Such program shall assign funds, including any accrued interest, from the several capital expansion fee accounts to specific capital improvement projects and related expenses.

Section 9. That Section 7.5-23 of the Code of the City of Fort Collins is hereby amended to read as follows:

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

...

- (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 City's *Capital Expansion Fee Study*, dated August 2016, as amended, or the City's *Transportation Capital Expansion Fee Study* dated April 2017, as amended, whichever is applicable. The independent fee calculation study shall be conducted by a professional in impact fee 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 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 City's *Capital Expansion Fee Study*, dated August 2016, as amended, or the City's *Transportation Capital Expansion Fee Study* dated April 2017, as amended, whichever is applicable.

Section 10. That Section 7.5-24 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-24. - Entitlement to refunds for nonappropriation/nonexpenditure.**

...

- (b) In determining whether fee revenues have been appropriated or expended within the requisite periods of time specified in Subsection (a), monies in the applicable capital expansion fee funds and 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.

...

Section 11. That Section 7.5-25 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5.25 – Procedure to obtain refund.**

...

- (d) With respect to refunds based upon abandonment, within ten (10) working days after the application is determined sufficient and site restoration has been completed as required pursuant to § 7.5-24.1, the applicant shall be entitled to a refund, except that the City shall retain an additional two (2) percent of the amount of the fee to be refunded to offset the costs of administering the refund.

...

Section 12. That Section 7.5-28 of the Code of the City of Fort Collins is hereby amended to read as follows:

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

- (a) There is hereby established a community parkland capital 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:

	Current	As of October 1, 2017
Resid., up to 700 sq. ft.	\$1,102.00	\$1,751.00
Resid., 701 to 1,200 sq. ft.	1,414.00	2,432.00
Resid., 1,201 to 1,700 sq. ft.	1,562.00	2,558.00
Resid., 1,701 to 2,200 sq. ft.	1,628.00	2,585.00
Resid., over 2,201 sq. ft.	1,743.00	2,881.00

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 the "community parkland capital expansion fee account" established in § 8-95. 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 capital expansion fee 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.

Section 13. That Section 7.5-29 of the Code of the City of Fort Collins is hereby amended to read as follows:

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

- (a) There is hereby established a police capital 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:

	Current	As of October 1, 2017
Resid., up to 700 sq. ft.	\$141.00	\$177.00
Resid., 701 to 1,200 sq. ft.	178.00	239.00
Resid., 1,201 to 1,700 sq. ft.	198.00	260.00
Resid., 1,701 to 2,200 sq. ft.	206.00	264.00
Resid., over 2,200+ sq. ft.	220.00	294.00
Commercial buildings (per 1,000 sq. ft.)	169.00	223.00
Industrial buildings (per 1,000 sq. ft.)	41.00	52.00

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 the "police capital expansion fee account" established in § 8-96. 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 expansion fee 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.

Section 14. That Section 7.5-30 of the Code of the City of Fort Collins is hereby amended to read as follows:

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

- (a) There is hereby established a fire protection capital 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:

	Current	As of October 1, 2017
Resid., up to 700 sq. ft.	\$281.00	\$377.00
Resid., 701 to 1,200 sq. ft.	357.00	509.00
Resid., 1,201 to 1,700 sq. ft.	395.00	554.00
Resid., 1,701 to 2,200 sq. ft.	410.00	563.00
Resid., over 2,200 sq. ft.	440.00	627.00
Commercial buildings (per 1,000 sq. ft.)	339.00	475.00
Industrial buildings (per 1,000 sq. ft.)	80.00	111.00

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 the "fire protection capital expansion fee account" established in § 8-97. 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 expansion fee 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.

Section 15. That Section 7.5-31 of the Code of the City of Fort Collins is hereby amended to read as follows:

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

- (a) There is hereby established a general governmental capital 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 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:

	Current	As of October 1, 2017
Resid., up to 700 sq. ft.	\$330.00	\$431.00
Resid., 701 to 1,200 sq. ft.	423.00	581.00
Resid., 1,201 to 1,700 sq. ft.	465.00	634.00

Resid., 1,701 to 2,200 sq. ft.	487.00	644.00
Resid., over 2,200 sq. ft.	523.00	716.00
Commercial buildings (per 1,000 sq. ft.)	803.00	1,088.00
Industrial buildings (per 1,000 sq. ft.)	188.00	257.00

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 the "general governmental capital expansion fee account;" established in § 8-93. 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 expansion fee 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.

Section 16. That Section 7.5-32 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-32. - Transportation expansion fee.**

There is hereby established a transportation expansion fee which shall be imposed pursuant to the provisions of this Article for the purpose of funding transportation 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. These fees shall be deposited in the "transportation improvements fund" established in § 8-87. The amount of such fee shall be determined as follows:

**TRANSPORTATION EXPANSION FEE SCHEDULE**

	<b>Current</b>	<b>As of October 1, 2017</b>
Resid., up to 700 sq. ft.	\$1,905.00	\$1,827.00
Resid., 701 to 1,200 sq. ft.	2,143.00	3,392.00
Resid., 1,201 to 1,700 sq. ft.	3,112.00	4,404.00
Resid., 1,701 to 2,200 sq. ft.	3,112.00	5,150.00
Resid., over 2,200 sq. ft.	3,112.00	5,520.00
Commercial	11,930.00	6,721.00
Office and Other Services	7,760.00	4,951.00
Industrial/Warehouse	1,130.00	1,598.00

Section 17. That Section 7.5-71 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 7.5-71. - Neighborhood parkland capital expansion fee.**

- (a) Payment of a neighborhood parkland capital expansion 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 these terms are defined in § 7.5-17. The fees due for such development shall be payable by the feepayer to the Building Official 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 in the “neighborhood parkland capital expansion fee fund” established 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 neighborhood parkland 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:

	Current	As of October 1, 2017
Resid., up to 700 sq. ft.	\$1,300.00	\$1,343.00
Resid., 701 to 1,200 sq. ft.	\$1,667.00	1,797.00
Resid., 1,201 to 1,700 sq. ft.	\$1,842.00	1,962.00
Resid., 1,701 to 2,200 sq. ft.	\$1,919.00	1,983.00
Resid., over 2,200 sq. ft.	\$2,056.00	2,210.00

...

- (e) The methodologies used to set the neighborhood parkland capital expansion fees shall be reviewed and compared to the City's actual infrastructure costs at least once every five (5) years, and adjustments made in accordance with such review and with the provisions of § 7.5-16.

Section 18. That Section 7.5-72 of the Code of the City of Fort Collins is hereby amended to read as follows:

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

In lieu of the payment of the neighborhood parkland capital expansion fee under § 7.5-71, 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 against the neighborhood parkland

capital expansion fee owed under § 7.5-71 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 against the neighborhood parkland capital expansion fee under § 7.5-71 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.

Section 19. That Section 8-80 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 8-80. - Neighborhood parkland capital expansion fee fund.**

There is hereby created a fund to account for the acquisition and development of neighborhood parks known as the neighborhood parkland capital expansion fee fund. Revenues deposited into the fund shall include the neighborhood parkland capital expansion fee collected pursuant to § 7.5-71. Expenditures from this fund shall be made for approved purposes for the acquisition, planning, design, surveying, permitting, engineering, construction and other capital costs for new neighborhood parks as provided in § 7.5-71, including purchases of new park site equipment and plantings.

Section 20. That Section 8-87 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 8-87. - Transportation improvements fund.**

There is hereby created a fund to account for construction of *transportation improvements*, as defined in § 7.5-17, to be known as the transportation improvements fund. Revenues deposited into this fund shall include all transportation expansion fees collected pursuant to Chapter 7.5 and all monies collected pursuant to Division 2 of Article III of Code Chapter 24. Expenditures shall be made as specified in Chapter 7.5 and Division 2 of Article III of Code Chapter 24.

Section 21. That Section 8-92 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 8-92. - Capital expansion fee fund.**

There is hereby created a fund to account for the acquisition, construction and development of capital improvements as defined in § 7.5-17. Revenues shall include all capital expansion fees collected pursuant to Chapter 7.5, but shall not include the neighborhood parkland capital expansion fee collected and deposited pursuant to § 7.5-71 and § 8-80 or the transportation expansion fee collected and deposited pursuant to § 7.5-32 and § 8-87. Expenditures from this fund shall be made solely for the applicable purposes described in Chapter 7.5.

Section 22. That Section 8-93 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 8-93. - General governmental capital expansion fee account.**

There is hereby created an account within the capital expansion fee fund to account for the acquisition, construction and development of capital improvements related to the provision of general governmental services, as described in the capital improvements plan for general governmental services. Revenues shall include all fees collected pursuant to § 7.5-3. Expenditures from this account shall be made solely for the purposes described in § 7.5-31(b) and according to all other applicable provisions of Chapter 7.5.

Section 23. That Section 8-95 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 8-95. - Community parkland capital expansion fee account.**

There is hereby created an account within the capital expansion fee fund to account for the acquisition, construction and development of capital improvements related to the provision of community parklands, as described in the capital improvements plan for community parkland. Revenues shall include all fees collected pursuant to § 7.5-28. Expenditures from this account shall be made solely for the purposes described in § 7.5-28(b) and according to all other applicable provisions of Chapter 7.5.

Section 24. That Section 8-96 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 8-96. - Police capital expansion fee account.**

There is hereby created an account within the capital expansion fee fund to account for the acquisition, construction and development of capital improvements related to the provision of police services, as described in the capital improvements plan for police services. Revenues shall include all fees collected pursuant to § 7.5-29. Expenditures from this account shall be made solely for the purposes described in § 7.5-29(b) and according to all other applicable provisions of Chapter 7.5.

Section 25. That Section 8-97 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 8-97. - Fire protection capital expansion fee account.**

There is hereby created an account within the capital expansion fee fund to account for the acquisition, construction and development of capital improvements related to the provision of fire protection services to City residents, as described in the capital improvements plan for fire protection. Revenues shall include all fees collected pursuant to § 7.5-30. Expenditures from this account shall be made solely for the purposes described in § 7.5-30(b) and according to all other applicable provisions of Chapter 7.5.

Section 26. That Section 24-111 of the Code of the City of Fort Collins is hereby amended to read as follows:

## **Sec. 24-111. Definitions**

...

*Exemption* shall mean the granting of a partial or complete waiver of the transportation expansion fee not to exceed fifty thousand dollars (\$50,000.).

...

*Transportation expansion fee* shall mean the fee established in § 7.5-32.

*Transportation fund* shall mean the transportation improvement fund established in § 8-87.

*Transportation improvements* shall mean those capital improvements needed to construct arterial or collector streets in the City as shown on the City's adopted Master Street Plan, as amended, shall include, without limitation, the following capital improvements when described in said Master Street Plan or as described in the City's adopted Bicycle Master Plan and Pedestrian Master Plan, as these plans may be hereafter amended: 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 *feepayers*, as this term is defined in § 7.5-17. However, *transportation improvements* shall not include the local street portion and related capital improvements required for a developed parcel under this Code and the Land Use Code.

Section 27. That Section 24-112 of the Code of the City of Fort Collins is hereby amended to read as follows:

### **Sec. 24-112. - Transportation improvements reimbursement program.**

- (a) The transportation expansion fee revenue collected pursuant to §§ 7.5-19 and 7.5-32 and deposited in the transportation fund shall be utilized to pay certain costs associated with and necessary for the following transportation improvements: (1) increasing the width of streets and sidewalks from local access status to arterial or collector status; (2) acquiring the necessary right-of-way to accommodate the expansion of such streets and sidewalks; (3) providing traffic signalization when required because of collector or arterial status; and (4) expanding the City's transit system. Payments for such purposes may be made directly by the City or in the form of reimbursements to the developers of real property in the City according to the provisions of this Division. Those categories of cost which will be eligible for reimbursement from the transportation fund shall be determined by the City Engineer, who shall maintain an itemization of the same in the form of administrative guidelines. The City shall not participate in the cost of these or any other transportation improvements required solely for the special use and benefit of the adjacent development, including, without limitation, any acceleration or deceleration lanes, double left-turn lanes, or traffic-control signals that are required by the transportation impact study for the development or by the Traffic Engineer. Notwithstanding the foregoing, monies from the transportation funds may be utilized to pay for all traffic-control signals associated with arterial-arterial intersections and for one (1) such signal per collector-arterial intersection per mile. Monies

expended from the transportation fund shall not be used to pay for the cost of increasing the depth of the local access portion of any street required to be constructed to arterial or collector standards.

- (b) The City Council shall, by resolution, adopt criteria to evaluate the community benefit of streets in a development project to determine whether transportation improvements are needed. If the City determines that the construction of transportation improvements do not convey a measurable community benefit according to such criteria, then no monies expended by the developer for such transportation improvements shall be eligible for reimbursement by the City, and the street construction requirements for the development shall be limited to those reasonably necessary to offset the traffic impacts of the development. All collector and arterial streets, if required, shall be constructed to such specifications as shall be necessary in the judgment of the City Engineer based on traffic safety considerations, and taking into account the transportation impact of the development upon such arterial or collector street. No such arterial street shall be constructed to a width of less than thirty-six (36) feet.
- (c) The City shall have no obligation to make reimbursement payments for transportation improvements unless funds for such payments shall first have been budgeted and appropriated from the transportation fund by the City Council; provided, however, that, to the extent that funds are not available for such reimbursement, the City shall not require construction, at the developer's expense, of any oversized portion of streets not reasonably necessary to offset the traffic impacts of the subject development, unless otherwise agreed upon by the City and the developer. The City shall have no obligation to make payment for transportation improvements unless a written request for such payment in form acceptable to the City and providing reasonable detail and proof of the expenses incurred shall have been submitted to the City within ninety (90) days of written City acceptance of such completed improvements.
- (d) In order to limit the reimbursement payments under this Section to the amount budgeted and appropriated, the City may make the following payments from the transportation fund subject to the limitations as contained in Subsection (c) above:
  - (1) Upon acceptance and approval by the City of a payment request for transportation funds, the City may pay a percentage of the amount requested. The percent of initial payment shall be determined by the City Engineer prior to the start of the applicable budget year.
  - (2) At the close of the submittal period for the applicable budget year, the City will proportionally reimburse any remaining revenues from that budget year to development projects that had received a percentage reimbursement. Such proportionate reimbursement shall be based upon the following ratio:

$$\frac{\text{Total revenues budgeted and appropriated}}{\text{Total of requested payments for transportation improvements}} =$$

Proportionate reimbursement of  
each requested payment

Section 28. That Section 24-113 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 24-113. - Fee waiver, appeals.**

- (a) *Exceptional hardship* . The City Engineer, upon application of any interested party, may waive or otherwise adjust any of the fees established in Division 1 of Article II in Code Chapter 7.5, in order to prevent manifest injustice. No such waiver shall be granted unless, by reason of extraordinary and exceptional situations or conditions of the property which is the subject of the fee, the strict application of this Division would result in peculiar and exceptional hardship upon the owner of such property; provided, however, that such relief may be granted without substantially impairing the intent and purposes of this Division. No such hardship shall be founded upon ability or inability to pay the fee.

...

Section 29. That Section 3.3.2(G) of the Land Use Code is hereby amended to read as follows:

**(G) *City Participation in Certain Street Improvements.***

- (1) If a street within or adjacent to the development is improved as an arterial or collector street rather than as a local street, the developer making such improvements shall be reimbursed in accordance with the provisions of Section 24-112 of the City Code.
- (2) If an off-site street is improved to a width in excess of thirty-six (36) feet, and provided that such excess width is not required because of the traffic impacts of the development, the City Engineer shall compute the extra expense caused by such street being improved to such excess width. Such extra expense shall be paid by the City out of the Transportation Improvements Fund established in § 8-87. The City's obligations to participate in such costs shall be limited to those funds budgeted and appropriated for the payment requested. The participation of the City shall be limited to the costs of design, construction and right-of-way acquisition as limited pursuant to Section 24-112 of the City Code and costs of curbs, gutters or sidewalks exceeding local standards.


...

Section 30. That the City Manager is hereby directed to form a working-group of City staff and community stakeholders to review the Studies, to consider any future changes to the City's Capital Expansion Fees based on the Studies, and to present the recommendations of that working-group to the Council with any such proposed changes. The Council also hereby appoints Councilmember Ross Cunniff to act as liaison for communications between the City Manager and his working-group and the Council.



Introduced, considered favorably on first reading, and ordered published this 16th day of May, A.D. 2017, and to be presented for final passage on the 6th day of June, A.D. 2017.




  
Mayor

ATTEST:

  
City Clerk

Passed and adopted on final reading on the 6th day of June, A.D. 2017.



  
Mayor

ATTEST:

  
City Clerk