

ORDINANCE NO. 172, 2024
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 7.5 OF THE CODE OF THE CITY OF
FORT COLLINS TO REVISE THE CAPITAL EXPANSION FEES
AND TRANSPORTATION EXPANSION FEE
(ALTERNATIVE #1)

A. 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.

B. 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.

C. 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.

D. The City Council has broad legislative discretion in determining the appropriate funding mechanisms for financing the construction of public facilities in the City.

E. In 2023, 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 transportation capital improvement expansion fees (collectively, "Capital Expansion Fees").

F. 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 November 21, 2023, which has identified the need to increase and decrease such Capital Expansion Fees by various amounts.

G. The City also commissioned an impact fee study for the "Transportation Capital Expansion Fee Study" dated October 20, 2023, which also identified the need to increase and decrease the transportation expansion fees by various amounts depending on the type of development proposed.

H. The name of the applicable consumer price index changed from the "Denver-Boulder Consumer Price Index for Urban Consumers" to the "Denver-Aurora-Lakewood Consumer Price Index for Urban Consumers."

I. The fee studies and related staff work brought to light the need to add a category for “office and other services” to the definition of commercial development and include fees applicable to that development category.

J. City staff recommends adding the phrase “per 1,000 square feet” to the applicable sections of the fee charts.

K. 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.

In light of the foregoing recitals, which the Council hereby makes and adopts as determinations and findings, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. 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~~ **November 2023**, as amended; the City's *Transportation Capital Expansion Fee Study* dated ~~April 2017~~ **October 2023**, 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 2. Section 7.5-17 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 7.5-17. Definitions.

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

...

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) years, 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.

...

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

...

Section 3. 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 for non-residential development (in the case of commercial, office and other services, 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 the square footage and 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-Denver-Aurora-Lakewood-CO 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 4. 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~~ **November 2023**, as amended; and the City's *Transportation Capital Expansion Fee Study* dated ~~April 2017~~ **October 2023**, as amended. 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.

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Section 5. 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~~ **November 2023**, as amended, or the City's *Transportation Capital Expansion Fee Study* dated ~~April 2017~~ **October 2023**, 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 **November 2023**, as amended, or the City's *Transportation Capital Expansion Fee Study* dated April 2017 **October 2023**, as amended, whichever is applicable.

Section 6. 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:

	2023	As of March 1, 2024	As of January 1, 2025
Resid., up to 700 sq. ft.	\$2,977.00	\$3,144.00	\$2,198.00
Resid., 701 to 1,200 sq. ft.	3,985.00	4,208.00	3,328.00
Resid., 1,201 to 1,700 sq. ft.	4,351.00	4,595.00	3,736.00
Resid., 1,701 to 2,200 sq. ft.	4,396.00	4,642.00	4,019.00
Resid., over 2,201 sq. ft.	4,901.00	5,175.00	4,569.00

Section 7. 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, **office and other services**, or industrial structure. The amount of such fee shall be determined as follows:

	2023	As of March 1, 2024	As of January 1, 2025
Resid., up to 700 sq. ft.	\$289.00	\$305.00	\$392.00
Resid., 701 to 1,200 sq. ft.	391.00	413.00	594.00
Resid., 1,201 to 1,700 sq. ft.	425.00	449.00	667.00
Resid., 1,701 to 2,200 sq. ft.	431.00	455.00	717.00
Resid., over 2,200 sq. ft.	480.00	507.00	815.00
Commercial buildings (per 1,000 sq. ft.)	364.00	384.00	833.00
Office and Other Services (per 1,000 sq. ft.)		384.00	456.00
Industrial buildings (per 1,000 sq. ft.)	85.00	90.00	216.00

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Section 8. 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, **office and other services**, or industrial structure. The amount of such fee shall be determined as follows:

	2023	As of March 1, 2024	As of January 1, 2025
Resid., up to 700 sq. ft.	\$516.00	\$545.00	\$620.00
Resid., 701 to 1,200 sq. ft.	698.00	737.00	939.00
Resid., 1,201 to 1,700 sq. ft.	759.00	802.00	1,054.00
Resid., 1,701 to 2,200 sq. ft.	722.00	815.00	1,133.00
Resid., over 2,200 sq. ft.	859.00	907.00	1,288.00
Commercial buildings (per 1,000 sq. ft.)	650.00	686.00	1,316.00
Office and Other Services (per 1,000 sq. ft.)		686.00	720.00
Industrial buildings (per 1,000 sq. ft.)	452.00	161.00	341.00

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Section 9. 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, office and other services, or industrial structure. The amount of such fee shall be determined as follows:

	2023	As of March 1, 2024	As of January 1, 2025
Resid., up to 700 sq. ft.	\$703.00	\$742.00	\$765.00
Resid., 701 to 1,200 sq. ft.	948.00	1,001.00	1,159.00
Resid., 1,201 to 1,700 sq. ft.	1,035.00	1,093.00	1,301.00
Resid., 1,701 to 2,200 sq. ft.	1,051.00	1,110.00	1,400.00
Resid., over 2,200 sq. ft.	1,170.00	1,236.00	1,591.00
Commercial buildings (per 1,000 sq. ft.)	1,777.00	1,877.00	1,625.00
Office and Other Services (per 1,000 sq. ft.)		1,877.00	889.00
Industrial buildings (per 1,000 sq. ft.)	419.00	442.00	422.00

Section 10. 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, office and other services, 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

	2023	As of March 1, 2024	As of January 1, 2025
Resid., up to 700 sq. ft.	\$2,703.00	2,903.00	\$3,195.00
Resid., 701 to 1,200 sq. ft.	5,020.00	5,391.00	5,579.00
Resid., 1,201 to 1,700 sq. ft.	6,518.00	7,000.00	7,121.00
Resid., 1,701 to 2,200 sq. ft.	7,621.00	8,185.00	8,260.00
Resid., over 2,200 sq. ft.	8,169.00	8,774.00	9,171.00
Commercial (per 1,000 sq. ft.)	9,946.00	10,682.00	11,970.00
Office and Other Services (per 1,000 sq. ft.)	7,327.00	7,869.00	7,668.00
Industrial/Warehouse (per 1,000 sq. ft.)	2,365.00	2,540.00	3,914.00

Section 11. 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.

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

	2023	As of March 1, 2024	As of January 1, 2025
Resid., up to 700 sq. ft.	\$2,108.00	\$2,226.00	\$2,889.00
Resid., 701 to 1,200 sq. ft.	2,822.00	2,980.00	4,375.00
Resid., 1,201 to 1,700 sq. ft.	3,082.00	3,255.00	4,912.00
Resid., 1,701 to 2,200 sq. ft.	3,114.00	3,288.00	5,284.00
Resid., over 2,200 sq. ft.	3,470.00	3,664.00	6,006.00

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Introduced, considered favorably on first reading on November 19, 2024, and approved on second reading for final passage on December 3, 2024.

Mayor

ATTEST:

City Clerk

Effective Date: December 13, 2024
Approving Attorney: Jenny Lopez Filkins