

I. Benefit Districts

1. Establishment of Benefit Districts

For the purpose of ensuring applicants/fee payers receive sufficient benefit for fees paid, all of the area within Larimer County is hereby designated as the regional park benefit district.

2. Expenditure

In-lieu fee funds will be spent within the regional park benefit district in which the development is located. In-lieu fees will only be spent for regional park land. Eligible expenditure items include the raw land for regional parks and the engineering and construction of capital improvements necessary to make the land usable for such purposes, including clearing and grading, drainage improvements, fences, parking, road access and utilities to the perimeter of the property, and other similar infrastructure improvements.

3. Establishment of Trust Funds

There is hereby established a regional park trust fund, into which in-lieu fees collected from development within the benefit district will be deposited by the county. Any proceeds in the regional park trust fund not immediately necessary for expenditure will be invested in interest-bearing assets. All interest on the proceeds and any income derived from investments will be retained in the trust fund. Records of the trust fund account will be available for public inspection in the Office of the Fee Administrator during normal business hours.

4. Intergovernmental Agreements

Each participating local government shall also establish a trust fund into which in-lieu fees collected will be deposited. The procedures for control and expenditure of these funds will be established in the intergovernmental agreements.

J. Review Every Two Years

At least once every two years, the Fee Administrator will recommend to the County Commissioners and to the governing bodies of the participating local governments whether any changes should be made to the land dedication or in-lieu fee schedules or capital expansion fee schedules to reflect changes in the factors that affect the schedules. The Fee Administrator will be assisted by the capital expansion Fee Administrators of the participating local governments. The purpose of this review is to analyze the effects of inflation on actual costs, to assess potential changes in needs, to assess any changes in the characteristics of land uses and to ensure that the exactions will not exceed a pro rata share.

15.1.7. Non-Regional Road Capital Expansion Fee

A. Findings

1. Successor Regulation

This non-regional road capital expansion fee (“non-regional road fee regulations”) is a successor to that Larimer County Road Capital Expansion Fee Regulation adopted by Larimer County in 2006.

2. New Growth in County

The Larimer County Transportation Master Plan 2017 (TMP) projects there will be a significant amount of new growth and development in Larimer County in the next 23 years.

3. Need for Capacity Expansion

The 2017 Transportation Capital Expansion Fee Study (TCEF) has determined that this new growth and development will require a substantial expansion in road capital facilities if adequate levels of service (LOS) are to be maintained on county roads.

4. Improvements Needed

The TMP has identified the cost of growth-related transportation improvements required to maintain adequate levels of service on county roads. In addition, the TCEF has divided Larimer County’s road system into “regional” and “non-regional” roads based on the use of the roads.

5. Proportionate Share Policy

In order to address this need, the County Commissioners have established a policy that future growth and new development will contribute its proportionate share of the costs of providing capital facilities for non-regional roads.

6. Non-Regional Transportation Capital Expansion Fee Preferred

The County Commissioners have also determined that the imposition of a non-regional road capital expansion fee is one of the preferred methods of regulating new growth and development in Larimer County in order to ensure new growth and development bears a proportionate share of the costs of capital facilities for non-regional roads necessary to accommodate that new growth and development while at the same time maintaining the adopted LOS on the non-regional road system and promoting and protecting the public health, safety and welfare.

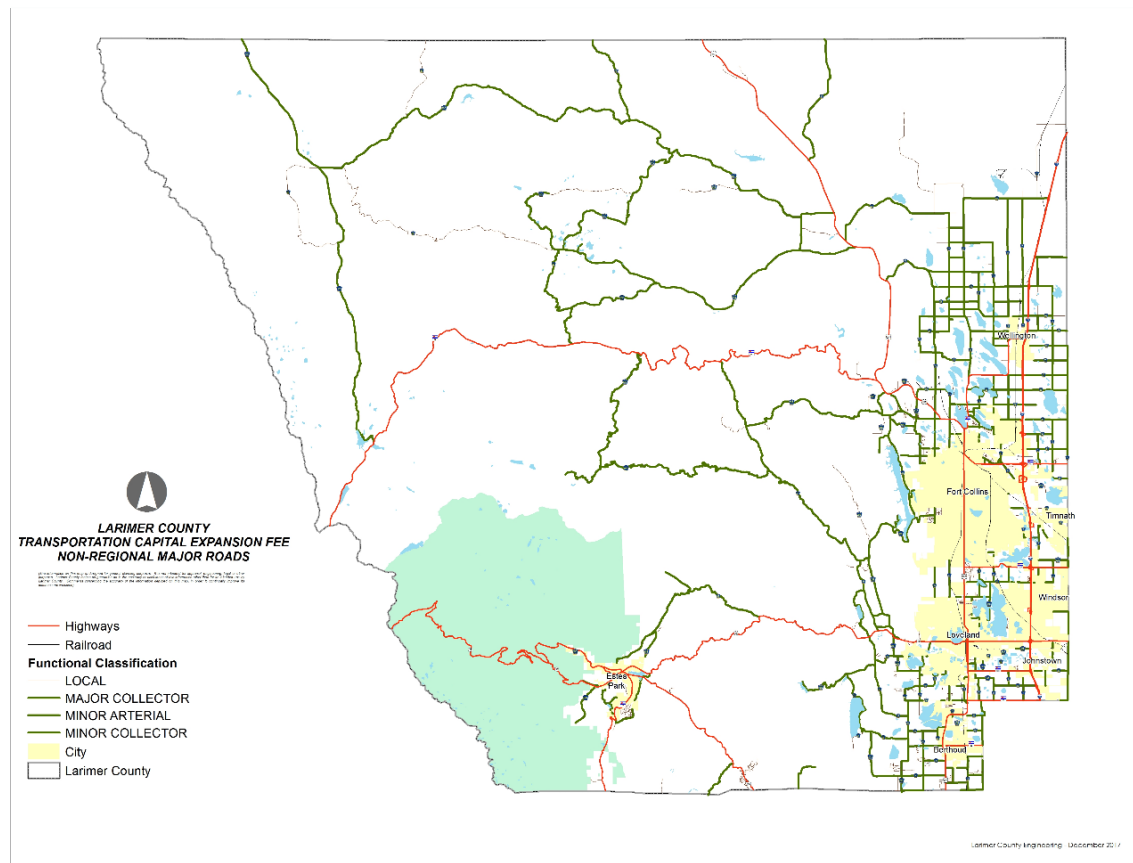
7. Consistent with Comprehensive Plan

A non-regional road capital expansion fee that contributes this proportionate share assists in the implementation of and is consistent with the Comprehensive Plan .

8. Compliance with Applicable Law

The County Commissioners have determined that the TMP, the TCEF, and this regulation comply with the requirements of C.R.S. § 29-20-104.5 and other applicable law.

Figure 15-1: Non-Regional Major Roads



B. Applicability

The non-regional road fee regulations apply to all lands in unincorporated Larimer County.

C. Intent and Purpose

1. Intent

These regulations are intended to implement and be consistent with the Comprehensive Plan and the TMP.

2. Purpose

The non-regional road fee regulations establish a system for the imposition of non-regional road capital expansion fees to assure that new development contributes its proportionate share of the cost of providing, and benefits from the provision of, non-regional road capital improvements.

3. Proportionate Allocation of Costs

These regulations are intended to be consistent with the principle of allocating a proportionate share of the costs of new public facilities to new growth and development. This fee approaches the problem of determining the proportionate share non-regional road capital expansion fee in a conservative and reasonable manner. This fee will only

partially capture the governmental expenditures associated with improving the roads on the non-regional road system.

4. Technical Support

These regulations are based primarily upon the TMP, the TCEF, the Comprehensive Plan, and other technical data collected in connection with those documents, all of which are incorporated herein by reference.

5. Compliance with Law

These regulations are intended to comply with the provisions of C.R.S. § 29-20-104.5 including without limitation the requirements: (i) that the non-regional road capital expansion fee not be calculated or used to fund existing deficiencies in the non-regional road system, and (ii) that no property owner be required to provide a dedication or improvement for the same improvements funded by the non-regional road capital expansion fee.

D. Level of Service Standard

The County Commissioners have determined that Larimer County’s non-regional road system will operate at LOS D or better in urban areas and LOS C or better in rural areas.

E. Imposition of County Fee

1. Time of Fee Obligation and Payment

- a. Any person or governmental body (unless exempted by intergovernmental agreement) who causes the commencement of traffic-generating development will be obligated to pay a non-regional road capital expansion fee consistent with the terms of this regulation.
- b. Except as described in subsection c. below, the fee will be determined and paid to the Fee Administrator at the time of issuance of a building permit, provided, however that the Fee Administrator may delay the duty to pay the fee until the issuance of a certificate of occupancy if the Fee Administrator determines that such delay will not result in a delay in construction of any non-regional road improvement in the benefit area where the property is located.
- c. For traffic-generating development that occurs as a result of a county approval, the fee will be determined and paid to the Fee Administrator at the time agreed upon by the County Commissioners and the applicant as a condition of Larimer County approval, but no earlier than the issuance of a development construction permit for the development containing Larimer County approved activity, if any.
- d. If any credits are due under §15.1.1.B, they will be determined at that time.
- e. If the building permit or approval is for less than the entire development or activity, the fee will be computed separately for the amount of development covered by the permit, or approval.
- f. If the fee is exacted for traffic-generating development that increases traffic impact because of a change in use, the fee will be determined by computing the difference between the fee applicable to the new traffic-generating development and fee applicable to the existing traffic-generating development.
- g. The obligation to pay the transportation capital expansion fee will run with the land.

- h. Any person who has agreed to pay a transportation capital expansion fee pursuant to a previous regulation, or as a condition of development approval, will be responsible for the payment of the fee under the terms of any such previous regulation or agreement, rather than the terms of this non-regional road fee.

2. Exemptions

The following types of development and activity are exempt from the terms of the non-regional road fee regulations. An exemption shall be claimed by the fee payer at the time of application for a building permit or development construction permit.

- a. Alteration of an existing building where no additional vehicular trips will be produced over and above that produced by the existing use.
- b. The construction of residential accessory buildings or structures that will not produce additional vehicular trips.
- c. The replacement of a destroyed or partially-destroyed building or structure of the same size and use, provided that no additional trips will be produced above those produced by the original use of the land.
- d. Any affordable housing development specifically exempted by the Board of County Commissioners pursuant to C.R.S. § 29-20-104.5(5).
- e. Home occupation with ten or fewer average daily trip ends, accessory rural occupation with ten or fewer average daily trip ends, and bed and breakfast with six or fewer guests.

3. Establishment of Fee Schedule

- a. Any person who causes the commencement of traffic-generating development, except those persons exempted under §15.1.7.E.2 or preparing an independent fee calculation study under §15.1.1.A, shall pay a non-regional road expansion fee in accordance with the road fee schedule.
- b. The fees in the road fee schedule shall be updated annually by the Fee Administrator to reflect changes in road construction costs during the previous year. The updated fees shall become effective on the first day of July. To calculate an updated fee, each fee in the road fee schedule shall be multiplied by a ratio, the numerator of which is the annual eight-quarter moving average in the Colorado Construction Cost Index Report prepared by the Colorado Department of Transportation and the denominator of which is the same index for a period one year earlier than the numerator. If the ratio is less than, or equal to 1.05, the fees in the road fee schedule shall be updated by the Fee Administrator without further action by the County Commissioners. If the ratio is greater than 1.05, the Fee Administrator shall report the ratio to the County Commissioners, and the County Commissioners shall determine the ratio that shall be used to update the fees. All obligations to pay the non-regional road capital expansion fee shall apply to the most recent update of the fees in the road fee schedule.
- c. If a fee is to be paid for mixed uses, then the fee will be determined according to the above schedule by apportioning the space committed to uses specified on the schedule.
- d. If the type of traffic-generating development for which a building permit or other approval is requested is not specified on the fee schedule, the Fee Administrator will

determine the fee on the basis of the fee applicable to the most nearly comparable development category on the non-regional road fee schedule. The Fee Administrator will be guided in the selection of a comparable land use by:

- i. Using trip generation rates contained in the most current edition of the report titled “Trip Generation,” prepared by the Institute of Transportation Engineers (ITE), articles or reports appearing in the ITE Journal, or studies or reports prepared by the U.S. Department of Transportation or Colorado Department of Transportation, and applying the formula in §15.1.7.F; or
- ii. Computing the fee by use of an independent fee calculation study as provided in §15.1.1.A.

F. Independent Fee Calculation Study

1. General

- a. The non-regional road capital expansion fee may be computed by the use of an independent fee calculation study per §15.1.1.A based on the standards and calculations provided in this section.
- b. An independent fee calculation may be undertaken at the election of the fee payer, or upon the request of the Fee Administrator for any proposed land development activity that the Fee Administrator determines:
 - i. Is not listed on the fee schedule and is not comparable to any land use on the fee schedule, or
 - ii. Is likely to generate impacts costing substantially more to mitigate than the amount of the fee that would be generated by the use of the fee schedule, due to its nature, timing, or location.
- c. The preparation of the independent fee calculation study will be the responsibility of, and at the expense of, the electing party.
- d. Any person electing to perform an independent fee calculation study shall pay an application fee for administrative costs associated with the review and decision on such independent fee calculation study.

2. Formula

- a. The independent fee calculation study for the non-regional road capital expansion fee will be calculated using the following formula:

Total weekday vehicle trip ends x Trip rate adjustment factor for inbound trips, including pass-by x Average miles per trip x Trip length adjustment factor x Capital (Growth) cost per VMT.

Table 15-4: Road TCEF Input Factors

Non-Regional Average Miles per Trip	3.72
2018 Non-Regional Capital (Growth) Cost per VMT [1]	\$191.42
Regional Average Miles per Trip	0.23
Regional Capital (Growth) Cost per VMT [1]	\$257.16

Notes:

[1] Cost per VMT varies annually (§15.1.7.E.3.b) Contact TCEF Administrator for current rate.

Table 15-5: Nonresidential Development Trip Rate Adjustments

Nonresidential Development Type	Trip Rate Adjustment (%)	Trip Length Adjustment (%)
Industrial	50	86
Commercial	33	57
Office & Other Services	50	86

- b. The independent fee calculations will be based on data, information or assumptions in this Code or independent sources. Independent sources may be used, provided that:
 - i. The independent source is an accepted standard source of transportation engineering or planning data or information;
 - ii. The independent source is a local study on trip characteristics carried out by a qualified traffic planner or engineer under an accepted methodology of transportation planning or engineering; and
 - iii. The trip rate adjustment factor used in the independent fee calculation study shall be based on actual surveys conducted in Larimer County.

G. Use of Fees Collected

1. Establishment of Benefit Districts

- a. For the purpose of ensuring fee payers receive sufficient benefit for fees paid, one road benefit district is established that is the geographic entirety of Larimer County. The benefit districts have been revised from the 2006 Fee Study from four to one district.
- b. Transportation capital expansion fee funds will be spent within the single road benefit district.

2. Establishment of Trust Fund

There is hereby established the Larimer County Non-Regional Road Capital Expansion Fee Trust Fund for the purpose of ensuring that fees collected under this Code are designated for the accommodation of impacts reasonably attributable to the proposed traffic-generating development.

3. Requirements for Trust Fund

- a. All non-regional road capital expansion fees collected by the Fee Administrator under this Code shall be immediately deposited in the non-regional road capital expansion fee trust fund.
- b. All unspent funds in Larimer County’s existing county transportation capital expansion fee trust fund shall remain in those accounts until expended. Such funds shall be expended for purposes that comply with both the requirements of this Code and Larimer County transportation capital expansion fee regulation of under which those funds were collected.

- c. No monies from the trust fund shall be spent for periodic or routine maintenance, rehabilitation, or replacement of any facility of any type, or to address deficiencies in the non-regional road system existing on the effective date of this regulation.
- d. Any proceeds in the trust fund not immediately necessary for expenditure will be invested in an interest-bearing account. All income derived from these investments shall be retained in the trust fund until spent for the same purposes permitted for the remainder of the trust fund deposits.
- e. Proceeds collected and all interest accrued on such funds will be used solely for non-regional road capital facilities on the non-regional road system.
- f. Records of the trust fund accounts will be available for public inspection in the Fee Administrator's office during normal business hours.

H. Refund of Fees Not Spent

1. General

Pursuant to the process established in §15.1.1.C, any non-regional road capital expansion fees collected, together with interest earned on such fees, will be returned to the fee payer or the fee payer's successor in interest (if the development subject to the fee is sold by the fee payer), if the fees have not been spent within ten years from the date the first building permit for the traffic-generating development was issued (or, if the Fee Administrator agreed to delay collection of the fee until the issuance of a certificate of occupancy, then within ten years from the date of the certificate of occupancy). Fees will be spent on the basis of the first fee collected being the first fee spent.

2. Prior Rights Continue

Any person entitled to a refund pursuant to the terms of the non-regional transportation capital expansion fee regulation of 2006 shall retain any such rights notwithstanding the replacement of that earlier regulation with this regulation, and the adoption of this regulation shall not affect the dates upon which any such refund may become due or the procedures that the claimant shall follow in order to obtain a refund.

I. Mistake or Misrepresentation

- 1. If the non-regional road impact fee is calculated and paid based on a mistake or misrepresentation, it shall be recalculated.
- 2. Any amounts overpaid by a fee payer shall be refunded by Larimer County within 30 days after the Fee Administrator's acceptance of the recalculated amount, with interest since the date of such overpayment at the same rate applicable to trust fund deposits since the initial payment was made.
- 3. Any amounts underpaid by the fee payer shall be paid to Larimer County within 30 days after the Fee Administrator's notification of the calculated amount, with interest since the date of such underpayment at the same rate applicable to trust fund deposits since the initial payment was made.
- 4. In the case of an underpayment to Larimer County, Larimer County shall not issue any additional permits or approvals for the project for which the fees were previously paid until such underpayment is corrected, and if amounts owed to Larimer County are not paid within 60 days after the Fee Administrators notification of the recalculated amount, Larimer County may also repeal any permits issued in reliance on the previous payment

of such fees and refund fees received, with interest since the date of the payment, to the then current owner of the land.

J. Review Every Five Years

At least once every five years, the Fee Administrator will recommend to the County Commissioners whether any changes should be made to the non-regional road component of the TCEF or this regulation. The Fee Administrator will be assisted by their counterparts in participating local governments. The purpose of this review is to analyze the effects of inflation on actual costs; to assess potential changes in needs; to assess any changes in the characteristics of land uses; and to ensure that the non-regional road capital expansion fees will not exceed a proportionate share of the costs of addressing the impacts of growth and development on non-regional roads as required by applicable law. Any recommended modifications of this regulation as a result of the review shall only be effective following approval by the County Commissioners.

K. Automatic Annual Adjustments

The provisions of §15.1.7.l shall not affect the provisions of §15.1.7.E.3.b, which provide for annual adjustments to the fee schedule to reflect changes in construction costs without further action by the County Commissioners.

L. Severability

If one or more provisions of this regulation are invalidated by any court of law, those provisions shall be severed from the remainder of this regulation, the validity of the remainder of this regulation shall not be affected, and the invalidated provisions shall be deemed to have been replaced with provisions as close as possible to the intent of the original provisions while correcting for the cause of the invalidation.

15.1.8. Regional Road Capital Expansion Fee

A. Findings

1. Successor Regulation

This regional road capital expansion fee (“regional road fee regulations”) is a successor to that Larimer County Road Capital Expansion Fee Regulation adopted by Larimer County in 2006.

2. New Growth in County

The Larimer County Transportation Master Plan 2017 (TMP) projects there will be a significant amount of new growth and development in Larimer County in the next 23 years.

3. Need for Capacity Expansion

The 2017 Transportation Capital Expansion Fee Study (TCEF) has determined that this new growth and development will require a substantial expansion in road capital facilities if adequate levels of service (LOS) are to be maintained on county roads.

4. Improvements Needed

The TMP has identified the cost of growth-related transportation improvements required to maintain adequate levels of service on county roads. In addition, the TCEF has divided