

**TOWN OF LOCHBUIE  
COUNTIES OF WELD AND ADAMS  
STATE OF COLORADO  
ORDINANCE NO. 2023-686**

**AN ORDINANCE OF THE TOWN OF LOCHBUIE, COLORADO, AMENDING THE  
LOCHBUIE MUNICIPAL CODE BY (A) THE ADDITION OF A NEW ARTICLE VI OF  
CHAPTER 4 ENTITLED "DEVELOPMENT IMPACT FEES AND FUNDS" TO  
IMPOSE REGIONAL TRANSPORTATION IMPACT FEES, PARKS AND TRAILS  
IMPACT FEES, AND MUNICIPAL FACILITIES IMPACT FEES AND (B) AMENDING  
SECTION 4-2-70(C) REGARDING THE DEVELOPMENT IMPACT FEE SPECIAL  
FUND**

**WHEREAS**, the Town of Lochbuie ("Town") is a Colorado statutory town that, pursuant to C.R.S. § Section 31-15-401, has general police powers and the authority to make regulations necessary for promotion of public health and safety; and

**WHEREAS**, pursuant to C.R.S. § 29-20-104.5, the Town may impose impact fees to fund expenditures by the Town which are intended to defray the projected impacts on capital facilities caused by proposed development; and

**WHEREAS**, the Town has undertaken and had completed a study to determine and quantify fees necessary to defray impacts generally applicable to a broad class of property that are proportionate and reasonably related to the capital improvement demands of new development within the Town; and

**WHEREAS**, the Town desires to adopt a new Article VI within Chapter 4 of the Municipal Code, which governs revenue and finance, to define the purpose, timing, process and amounts of applicable impact fees to be used for the development of roads, parks and trails, and municipal facilities.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LOCHBUIE, WELD AND ADAMS COUNTIES, COLORADO, AS FOLLOWS:**

**Section 1.** **Addition of New Article VI of Chapter 4.** A new Article VI of Chapter 4 of the Municipal Code for the Town of Lochbuie is hereby adopted to read in full as follows:

**Article VI – Impact Fees**

**Section 4-6-10. – Short title, authority, and applicability.**

- (a) Title. This Article shall be known and may be cited as the Lochbuie Impact Fee Ordinance or Impact Fee Ordinance.
- (b) Authority. The Town has the authority to adopt this Article pursuant to the Town's general

police powers, C.R.S. §§ 29-20-101, 31-15-401, 29-1-801 et seq., and other relevant laws of the state.

- (c) Application. This Article shall not apply to any new development within any portion of the Town subject to an agreement with the Town entered into before January 15, 2024, that limits the ability of the Town to assess the fees authorized hereunder unless and until such contractual limitations expire.

**Section 4-6-20. – Intent.**

The intent of this Article is to comply with the provisions of applicable laws concerning the imposition of impact fees, including but not limited to Section C.R.S. § 29-20-104.5, and the provisions of this Article shall be construed and enforced in accordance with such laws. The intent of this Article is to ensure that:

- (1) new development bears a proportionate share of the cost of capital facilities, as such term is defined in defined in C.R.S. § 29-20-104.5.
- (2) the impact fees imposed on new development are no greater than necessary to defray the impacts directly related to proposed new development, such impact being the costs of capital facilities to accommodate new development.
- (3) impact fees are not used to remedy any deficiency in Town capital facilities existing as of January 15, 2024.
- (4) monies collected from any impact fee are deposited, used and accounted for in accordance with state law.

**Section 4-6-30. – Definition.**

For the purposes of this Article, unless the context clearly requires a different meaning, the following term shall have the following meaning:

*Impact fees* mean the fees established by this Article for the following capital facilities, as such term is defined in C.R.S. § 29-20-104.5(4), capital facilities related to regional transportation (the regional transportation impact fee), regional parks and trails (the regional parks and trails impact fee), and municipal facilities (the municipal facilities impact fee).

**Section 4-6-40. – Development impact fees imposed.**

- (a) Imposition and time for payment. Any person who seeks a building permit from the Town for development other than for development which is exempt under the provisions of Section 4-6-50, shall be obligated to pay impact fees pursuant to the terms of this Article, any such development being deemed to generate impacts on the Town’s capital facilities. Such development includes:
  - a. construction of a new residential dwelling unit or non-residential structure;

- b. improvement or expansion of an existing non-residential structure; and
  - c. improvement or expansion of an existing residential structure which creates a new residential dwelling unit.
- (b) Amount. The amount of the impact fees due shall be determined and separately set by the Board of Trustees by resolution and based on an impact fee study commissioned or undertaken to recommend such impact fee amounts in accordance with the requirements of state law, and such impact fees may be amended from time to time for inflation as set forth in such resolution without further action required by the Board, and adjusted by further resolution of the Board of Trustees based on the results of any new relevant impact fee study and state law.
- (c) Accounting and disbursement. All impact fees paid to the Town as required by this Article shall be identified as impact fees and shall be promptly deposited in the appropriate account of the Town and accounted for and spent on capital facilities in accordance with the requirements of Section 4-2-70(c)(5) and state law.
- (d) For the purposes of this Article, and as contemplated by C.R.S § 29-20-103(1)(b), the Town hereby finds and determines that a “development permit” as referenced in such state law includes any development for which a building permit is required for a project that involves new water use or that may involve any new water use and the definition of development in (A) above contemplates such definition.
- (e) In accordance with C.R.S. § 29-20-104.5(6), the Town defers collection of the impact fees imposed hereunder until the issuance of a building permit.

**Section 4-6-50. – Exemptions.**

The following types of development shall be exempted from payment of the impact fees. Any claim for exemption shall be made no later than the time when the applicant applies for the building permit. Any claim for exemption not timely made shall be waived. The Town Administrator or his or her designee shall determine the validity of any claim for exemption pursuant to the standards set forth below.

- (1) Development for which a complete application for a building permit was submitted prior to January 15, 2024. The decision of the Town with respect to completeness is final.
- (2) Replacing existing residential unit with new unit. Reconstruction, expansion, alteration or replacement of a previously existing residential unit (including without limitation replacement of dwelling unit destroyed by catastrophe that does not create any additional residential dwelling units). Construction of a new residential dwelling unit is not exempt.
- (3) Accessory structures. Construction of unoccupied accessory structures related to a residential dwelling unit.
- (4) Government. Development by the Federal, the State or the Town government.

- (5) Development without greater impact. Development for which the person otherwise obligated to pay such fee(s) can demonstrate will create no greater impact over and above that existing prior to the proposed development.

**Section 4-6-60. – Expenditure of impact fees.**

- (a) Expenditures limited to facilities for which impact fee imposed. The monies collected from each of the three (3) categories of impact fees shall be used only to finance or recoup the costs of capital facilities within such fee category as contemplated by state law and no monies shall be spent for routine maintenance, rehabilitation, or operation of capital facilities or to remedy deficiencies in capital facilities existing on January 15, 2024.
- (b) Annual impact fee capital facilities budget. As part of the annual budgeting process, the Town Administrator or his or her designee shall present to the Town Board a proposed budget for Town capital facilities for the ensuing year. This capital facilities budget shall recommend assigning monies from each Development Impact Fee Fund accounting to specific capital facilities. Based on this recommendation, the Town Board shall approve an annual capital facilities budget and assign monies from the Development Impact Fee Fund accounts for the specific capital facilities identified. Any monies, including any accrued interest, not assigned to specific capital facility projects and not expended, shall be retained and accounted for in the Development Impact Fee Fund account until the next fiscal year.

**Section 4-6-70. -Miscellaneous provisions.**

- (a) No individual landowner shall be required to provide any site specific dedication or improvement to meet the same need for capital facilities for which any impact fee authorized hereunder is imposed.
- (b) Requirements to construct improvements; other obligations. Nothing in this Article shall restrict the Town from requiring any applicant for a development permit to construct reasonable capital facility improvements designed and intended to serve the needs of the applicant's project. The impact fees charged pursuant to this Article shall be in addition to any other fees, charges, tolls or requirements applicable to development, including, by way of example and not limitation, public land dedication, tap fees and building permit fees.
- (c) Administrative costs. The Town shall be entitled to retain not more than two percent (2%) of the impact fees collected as payment for the expenses of collecting the fees and administering this Article and fees collected.

**Section 2. Repeal and replace subsection (c)(5) of Section 4-2-70.** Subsection (c)(5) of Section 4-2-70 of the Municipal Code for the Town of Lochbuie is hereby repealed and replaced to read in full as follows:

- (1) Development Impact Fee Funds. The Town shall maintain Development Impact Fee Funds for the purpose of ensuring that impact fees collected pursuant to Article

6 of this Chapter 4 are designated for the accommodation of capital facility impacts reasonably attributable to the new impact-generating development that paid the fees.

- (A) The Development Impact Fee Funds shall be:
  - a regional transportation impact fee fund,
  - a regional parks and trails impact fee fund, and
  - a municipal facilities impact fee fund.
- (B) The Development Impact Fee Funds shall be promptly deposited and maintained within a Town interest-bearing account and shall be managed and spent in conformity with C.R.S. § 29-1-801 *et seq.*
- (C) Interest earned on monies in the separate accountings shall be considered part of such accounting and shall be subject to the same restrictions on use applicable to the impact fees deposited in such account.
- (D) Monies in each Development Impact Fee Funds shall be considered to be spent in the order collected, on a first-in/first-out basis.
- (E) Information detailing the allocation within the Development Impact Fee Funds by dollar amount of each of the funds identified in (A) above, the average annual interest rate on each such accounting, and the total amount disbursed from each such accounting during the most recent fiscal year shall be published on the Town's website at least once annually in conformity with the requirements of state law, particularly C.R.S. § 29-1-803.

**Section 3.** **Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Board of Trustees hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, subsection, sentence, clause, or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

**Section 4.** **Safety Clause.** The Board of Trustees hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town of Lochbuie, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relationship to the proper legislative object sought to be obtained.

**Section 5.** **Repealer.** All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

**Section 6. Effective Date.** This Ordinance shall take effect thirty (30) days after publication, as provided by C.R.S. § 31-16-105 and §§ 1-3-60 and 2-2-110 of the Lochbuie Municipal Code.

ADOPTED by a vote of 7 in favor, 0 against and 0 abstaining, AND ORDERED PUBLISHED by title only this 5th day of December, 2023.

TOWN OF LOCHBUIE, COLORADO

  
Michael Mahoney, Mayor

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Lochbuie at its meeting of December 5, 2023, and ordered published by title only one time by *The Brighton Blade* newspaper on December 14, 2023.

  
Heather Bowen, Town Clerk

